

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CHS. 81 and 83 ]

#### Proposed Amendments to the Pennsylvania Rules of Disciplinary Enforcement 102, 201, 204, 205, 208, 212, 216, 217, 218, 219, 221, 301, 321, 401, 402, 403, 502, 521, and 531 and Pennsylvania Rule of Professional Conduct 1.17

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) is considering recommending to the Supreme Court of Pennsylvania (“Court”) that the Court amend the Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) and Pennsylvania Rules of Professional Conduct (“RPC”), as set forth in Annex A. The focal point of this omnibus package is the proposal to amend Pa.R.D.E. 219 governing annual registration and assessment of attorneys, administrative suspension, and administrative status changes.

#### EXPLANATORY REPORT

*Pa.R.D.E. 219. Annual registration and assessment. Administrative suspension. Administrative changes in status.*

Current Pa.R.D.E. 219 addresses the annual attorney registration process and the consequences of an attorney’s failure to complete that process. The rule also governs certain status changes. The Board recently undertook a full review of the rule, following which the Board determined that the rule lacks some critical procedural information and is not well-organized. The comprehensive revisions are intended to improve readability, consistency, and flow of information and ensure that all aspects of the registration process and the requirements pertaining to status changes are addressed so that attorneys can more easily understand and fulfill their annual license obligations.

The proposal changes the rule’s title to “Annual registration and assessment. Administrative suspension. Administrative changes in status.” The new title more accurately describes the scope of the rule. Subdivisions (a) through (g) govern the registration process and the consequences of an attorney’s failure to complete registration. Subdivisions (h) and (i) govern administrative status changes processed by the Attorney Registration Office (“ARO”) and set forth the requirements necessary for an attorney to assume a different status. Subdivision (j) governs status changes for judges who sit on courts as specified under the rule and who are assigned “judge status” by the ARO.

- Subdivision (a) sets forth the registration period and specifies which license statuses are required to register and which license statuses are exempt.

- Subdivision (b) sets forth the requirement to pay the annual assessment, how it is to be paid, and the amount for active status, inactive status, and limited licenses. The Note informs how the total assessment is apportioned among the Board, IOLTA Board, and Pennsylvania Lawyers Fund for Client Security.

- Subdivision (c) sets forth the requirement to electronically file an annual registration form and further

provides that upon written request and for good cause shown, the ARO shall grant an exemption from the electronic filing requirement and allow a paper filing.

- Paragraphs (c)(1)(i)—(vii) set forth the information required to be provided by the attorney on the registration form. Proposed paragraph (c)(1)(vi) maintains the current requirement that the attorney indicate whether he or she is covered by professional liability insurance, along with a new requirement that the attorney identify the professional liability insurance carrier.

- Paragraph (c)(3) maintains the requirement that every attorney who files the form notify the ARO of changes in contact information, license status in other jurisdictions, and change in professional liability coverage, within 30 days of the change.

- Paragraph (c)(4) is new and requires every attorney regardless of registration status, to provide contact information to the ARO and update the information within 30 days of any change. This includes attorneys who cannot or are not required to annually register, such as disbarred, suspended, administratively suspended, and retired attorneys.

- Subdivision (d) provides that the ARO will issue a license card or certificate to acknowledge completion of registration and payment of the annual assessment.

- Subdivision (e) addresses incomplete registration.

- Subdivision (f) addresses late payment penalties and sets forth the dates when such are assessed. The subdivision further informs that the Board will charge a collection fee for any payment that has been returned to the Board unpaid.

- Subdivision (g) governs administrative suspension, which is the result of failure to comply with the registration requirements, failure to comply with CLE requirements, or failure to comply with Pa.R.D.E. 208(g) (non-payment of costs and fees). This subdivision also addresses notice to the attorney of the order of administrative suspension and the restrictions on an attorney’s practice during the time that the attorney fails to satisfy the deficiency that led to the administrative suspension.

- Subdivision (h) governs administrative changes to active status. These are requests to the ARO from attorneys who have been administratively suspended, retired, or on inactive status for three years or less and seek active status. Paragraphs (h)(1)(4) guide the attorney through the requirements to resume active status. Paragraph (h)(5) sets forth those categories of attorneys who are excluded from resuming active status under the procedures set forth in (h). Included in paragraph (h)(5) is a formerly admitted attorney who, on the date of the request for active status, has an outstanding obligation to the Pennsylvania Lawyers Fund for Client Security, as an attorney who owes monies to the Fund should not be permitted to resume active status until the Fund is reimbursed.

- Subdivision (i) governs administrative changes from active status to inactive status, active or inactive status to retired status, administrative suspension to inactive status, and administrative suspension to retired status. A notable change is that an attorney on administrative suspension is permitted to assume retired status. The new language further provides that if the administratively suspended attorney assumes retired status and

then attempts to assume active status within three years, that attorney must pay all outstanding arrears and satisfy all deficiencies in connection with the transfer to administrative suspension.

- Subdivision (j) addresses judge status and provides that judges serving on certain courts are assigned judge status by the ARO (which exempts them from annual registration under subdivision (a)(2)). The language in this subdivision is substantially based on current Pa.R.D.E. 219(n), with a few additions to conform to office procedures and help ARO track individuals on this status.

- Paragraph (j)(2) directs that at the conclusion of judicial service, an attorney on judge status must within 20 days, notify ARO in writing of the conclusion of judicial service and within 60 days, elect either active status or retired status.

- Paragraph (j)(3) sets forth the procedure to assume active status. The former judge must provide a notice in writing of any discipline imposed within six years by the Court of Judicial Discipline and any proceeding before either the Court of Judicial Discipline or Judicial Conduct Board that settled within six years on the condition that the judge resign from judicial office or enter into a rehabilitation program. In addition to this notice, the former judge must provide a signed waiver of confidentiality of the record described in the notice for the limited purpose of making the record available to the Board in any subsequent proceeding. The requirement to provide the notice and waiver is in the current rule.

- Paragraph (j)(4) sets forth the procedure to assume retired status.

- Paragraph (j)(6) provides that an individual on judge status who fails to elect a new registration status within 60 days of concluding judicial service shall be placed on retired status by the ARO.

#### *Conforming Amendments*

The Board proposes amending the following rules to conform to changes to Pa.R.D.E. 219 and to address certain inconsistencies and gaps in the current rules.

#### *Pa.R.D.E. 102. Definitions.*

- The proposed amendments define the following terms: active status, disability inactive status, disbarment, emeritus status, inactive status, judge status, permanent resignation, retired status, and suspension. Many of these terms are used frequently throughout the rules and defining them will enhance the reader's understanding. The proposal makes minor edits to existing terms.

#### *Pa.R.D.E. 201. Jurisdiction.*

- Minor edits to paragraph (a)(3) add "temporary suspension" and "disability inactive status" to the disciplinary jurisdiction provisions regarding acts prior to that status or subsequent thereto. In the current rule, there may be confusion as to whether the term "suspension" includes "temporary suspension" and whether the phrase "transfer to inactive status" means disability inactive status by Court order. Throughout this proposal, changes are made to add "temporary suspension" and "disability inactive status" where necessary and appropriate.

- Minor edits to paragraphs (a)(4) and (5) to change "district justice" to "magisterial district judge," which is the correct terminology.

#### *Pa.R.D.E. 204. Types of discipline.*

- Minor edits to subdivision (c) to clarify "disability inactive status" and to conform to the new titles of Pa.R.D.E. 218 and 219.

#### *Pa.R.D.E. 205. The Disciplinary Board of the Supreme Court of Pennsylvania.*

- Subdivision (c) of this rule sets forth the Board's powers and duties. The proposed amendments to paragraphs (c)(17), (18), and (19) give the Board the power and duty to establish, assess and collect expenses, late payment penalties, and administrative fees; to assess and collect reinstatement filing fees, administrative fees based on the imposition of discipline or transfer to disability inactive status, and penalties on unpaid taxed expenses and administrative fees; and to establish, charge and collect a collection fee for payment returned to the Board unpaid. While these powers currently exist and are set forth in various Enforcement Rules, it is appropriate to consolidate them within subdivision (c).

- Minor edit to paragraph (c)(7)(iii) to conform to the new title of Pa.R.D.E. 218.

#### *Pa.R.D.E. 208. Procedure.*

- Minor edit to paragraph (f)(1) to conform to proposed Pa.R.D.E. 219.

- The proposed amendments to subdivision (g) change the title to "Costs and fees" and rearrange the order of information in the current rule to set forth the administrative fee schedule in paragraph (g)(3), followed by the notification in paragraph (g)(4) that failure to pay taxed expenses and administrative fees within 30 days after the date of the entry of the order taxing such expenses under certain circumstances will be deemed a request to be administratively suspended.

- The proposal adds a Note to inform that the Board charges a collection fee for any payment that has been returned to the Board unpaid. As described above, the Board has the power to charge the collection fee. The Note serves as a reminder.

#### *Pa.R.D.E. 212. Substituted service.*

- Minor edit to conform to proposed Pa.R.D.E. 219.

#### *Pa.R.D.E. 216. Reciprocal discipline and disability.*

- Minor edit to subdivision (a) to conform to proposed Pa.R.D.E. 219.

#### *Pa.R.D.E. 217. Formerly admitted attorneys.*

- Minor edits to add "temporary suspension" and "disability inactive status" where necessary throughout the rule, in order to clarify that the rule provisions govern attorneys on these statuses.

#### *Pa.R.D.E. 218. Reinstatement proceeding.*

- The proposal changes the title of the current rule to "Reinstatement proceedings."

- Subdivision (a) lists those attorneys who must petition and be reinstated by Court order. The proposal clarifies language pertaining to sale of a law practice, adds transfer to disability inactive status except as pursuant to Pa.R.D.E. 301(c), and adds a Note that an attorney who has been on retired status, inactive status, or administrative suspension for three years or less may be eligible for reinstatement to active status under proposed Pa.R.D.E. 219(h), which governs administrative changes in status.

- A revision to subdivision (c) adds “disability inactive status” to those attorneys required to petition for reinstatement under the subdivision. This added language is appropriate and consistent with Pa.R.D.E. 301(h), which provides that a disabled attorney may not resume active status until reinstated by the Court upon petition for reinstatement. A minor edit to paragraph (c)(2) clarifies existing language.

- Minor edit to subdivision (d) to clarify language.

- Revisions to subdivision (f) include an edit to the filing fee schedule in paragraph (f)(1) to clarify “disability inactive status” under Pa.R.D.E. 301; an edit to paragraph (f)(2) to clarify that the petitioner-attorney shall pay the necessary expenses incurred in the investigation and processing of the petition and in any proceeding that results in the grant, denial or withdrawal of the petition; and a Note that the Board charges a collection fee for any payment that has been returned to the Board unpaid.

- Minor edit to paragraphs (g)(1) and (2)(iii) to add “temporary suspension.”

- Current subdivision (h) is deleted and subsumed into proposed Pa.R.D.E. 219(h).

- Paragraph (i)(1) provides that the Board may transmit to president judges a notice of any action by the ARO administratively reinstating an attorney to active status. This changes the current rule language related to a “certification filed with the Court Prothonotary,” which is not the current process.

*Pa.R.D.E. 221. Funds of clients and third persons. Mandatory overdraft notification.*

- Minor edit to paragraph (g)(1) to conform to proposed Pa.R.D.E. 219.

- The proposal adds new subdivision (q) related to the financial accounts and information required to be listed on the annual registration form filed by attorneys. This information is required under current Pa.R.D.E. 219(d)(1)(iii)—(v); however, the inclusion of the detailed financial information in the annual registration section of the rules makes the rule very lengthy. Placing the language in Pa.R.D.E. 221 is logical as it concerns financial information. Proposed Pa.R.D.E. 219(c)(1)(iii) sets forth that financial accounts and information must be provided on the registration form and directs the reader to new Pa.R.D.E. 221(q) to obtain the specifics of the required financial information.

- The proposal adds new subdivision (r) to define “funds subject to RPC 1.15” and “funds of a third person.”

*Pa.R.D.E. 301. Proceedings where an attorney is declared to be incapacitated or severely mentally disabled.*

- Minor edits to add “disability “ to the phrase “inactive status” in order to clarify that an attorney transferred to inactive status by Court order under this rule is transferred to disability inactive status.

*Pa.R.D.E. 321. Appointment of conservator to protect interests of clients of absent attorney.*

- Minor edit to add “disability” to “inactive status.”

*Pa.R.D.E. 401. Expenses.*

- Minor edits to conform to new titles of Rules 208 and 219.

*Pa.R.D.E. 402. Access to Disciplinary Information and Confidentiality.*

- Minor edits to add “disability” to “inactive status.”

*Pa.R.D.E. 403. Emeritus Status.*

- Minor edits to conform to proposed Pa.R.D.E. 219.

*Pa.R.D.E. 502, 521, and 531. Pennsylvania Lawyers Fund for Client Security rules.*

- Minor edits to conform to proposed Pa.R.D.E. 219.

*RPC 1.17. Sale of Law Practice.*

- Minor edit to conform to proposed Pa.R.D.E. 219.

Interested persons are invited to submit written comments, suggestions or objections by mail, email or facsimile to the Executive Office, 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](mailto:Dboard.comments@pacourts.us) on or before March 18, 2022.

*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 A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

##### Subchapter A. RULES OF PROFESSIONAL CONDUCT

#### § 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

#### CLIENT-LAWYER RELATIONSHIP

##### Rule 1.17. Sale of Law Practice.

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(f) In the case of a sale by reason of disability, if a proceeding under Rule 301 of the Pennsylvania Rules of Disciplinary Enforcement has not been commenced against the seller, the seller shall file the notice and request for transfer to voluntary inactive status, as of the date of the sale, pursuant to **Enforcement** Rule [ 219(j) thereof ] **219(i)(1)**.

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##### 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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**“Active status.”** The license status of an attorney who is admitted in Pennsylvania and is registered as active under Enforcement Rule 219 (relating to

annual registration and assessment). An attorney on active status is eligible to practice law in Pennsylvania.

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*“Administrative suspension.”* The license [ Status ] status of an attorney, after Court order under Enforcement Rule 219(g), who: failed to pay the annual [ fee and/or file the form ] assessment and file the form required by subdivisions [ (a) ] (b) and [ (d) ] (c) of Enforcement Rule 219; failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education and was reported to the Court by the Pennsylvania Continuing Legal Education Board under Rule 111(b), Pa.R.C.L.E. [ , for having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education ]; failed to pay any [ expenses taxed ] costs and fees pursuant to Enforcement Rule 208(g); or failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender or legal services programs, a military attorney, or attorney spouse of an active-duty service member. An attorney on administrative suspension status is ineligible to practice law in Pennsylvania.

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*“Attorney participant in defender or legal services programs.”* An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 311 (relating to limited admission of participants in defender or legal services programs).

*“Attorney Registration Office.”* The administrative division of the Disciplinary Board which governs the annual registration of every attorney admitted to, or engaging in, the practice of law in this Commonwealth, with the exception of attorneys admitted to practice pro hac vice under [ Pa.B.A.R. ] Pennsylvania Bar Admission Rule 301.

*“Attorney spouse of an active-duty service member.”* An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 304 (relating to limited admission of spouses of active-duty members of the United States Uniformed Services).

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*“Censure.”* Public censure by the Supreme Court under Enforcement Rule 204(a)(3) (relating to types of discipline).

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*“Disability inactive status.”* The license status of an attorney who: has been transferred to this status by order of the Court under Enforcement Rule 301(c) after having been judicially declared incapacitated by another court; has been declared incapacitated by order of the Court under Enforcement Rule 301(d) from continuing the practice of law; is transferred to disability inactive status by order of the Court under Enforcement Rule 301(e) after contending during a pending disciplinary proceeding that he or she is suffering from a disability by reason of physical or mental infirmity or illness that makes it impossible for the attorney to prepare an adequate defense; or has been placed on disability inactive status in another jurisdiction and is

transferred to disability inactive status by reciprocal order of the Court under Enforcement Rule 216. The term “disability inactive status” includes any transfer to inactive status based on disability under Rule 216 or 301. An attorney on disability inactive status is ineligible to practice law in Pennsylvania.

*“Disbarment.”* A type of discipline in which the Court withdraws the offending attorney’s privilege to practice law for an unspecified period of at least five years with no basis for an expectation to resume the practice of law.

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*“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, 515 Pa. LXIX, and effective on April 1, 1988, as amended from time to time by special order of the Court.

*“Emeritus status.”* The license status of an attorney admitted in Pennsylvania who has elected emeritus status, pursuant to Enforcement Rule 403, in order to provide the type of pro bono services authorized by Rule 403 and is current on all registration requirements under that rule.

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*“Foreign legal consultant.”* A person or the license status of a person who holds a current license as a foreign legal consultant issued under [ Rule 341 of the ] Pennsylvania Bar Admission [ Rules ] Rule 341 (relating to the licensing of foreign legal consultants).

*“Formerly admitted attorney.”* A disbarred, suspended, temporarily suspended, administratively suspended, permanently resigned, retired, [ or ] inactive, or disability inactive attorney.

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*“Inactive status.”* The license status of an attorney who is admitted in Pennsylvania and has either elected inactive status under Enforcement Rule 219 (relating to annual registration and assessment) or has sold his or her practice by reason of disability pursuant to Rule 1.17(f) of the Pennsylvania Rules of Professional Conduct. An attorney on inactive status is ineligible to practice law in Pennsylvania.

*“Informal admonition.”* [ Private informal admonition ] A type of private discipline administered by Disciplinary Counsel.

*“Judge status.”* The license status of a justice or judge serving on the following Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and a justice or judge serving an appointment for life on any federal court.

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*“Limited In-House Corporate Counsel.”* An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 302 (relating to limited admission of in-house corporate counsel).

*“Military attorney.”* An attorney or the license status of an attorney holding a limited admission to practice

under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).

**“Permanent resignation.” The license status of an attorney who has elected to permanently resign from the Pennsylvania bar under Enforcement Rule 404. An attorney on permanent resignation status is ineligible to practice law in Pennsylvania.**

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**“Private reprimand.” [ Private reprimand ] A type of private discipline imposed by the Board.**

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**“Public [ Reprimand ] reprimand.” [ Public reprimand ] A type of discipline imposed by the Board.**

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**“Retired status.” The license status of an attorney admitted in Pennsylvania who elects this status after having ceased the practice of law in Pennsylvania. An attorney on retired status is ineligible to practice law in Pennsylvania.**

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**“Suspension.” A type of discipline in which the Court withdraws the offending attorney’s privilege to practice law for a period not exceeding five years. A suspended attorney may resume the practice of law only upon the entry of an order of the Court reinstating the attorney to active status.**

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**Subchapter B. MISCONDUCT**

**Rule 201. Jurisdiction.**

(a) The exclusive disciplinary jurisdiction of the Supreme Court under these rules extends to:

\* \* \* \* \*

(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, **temporary suspension**, administrative suspension, permanent resignation, or transfer to or assumption of retired, [ or ] inactive **or disability inactive** status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the Disciplinary Rules, these rules or rules of the Board adopted pursuant hereto.

(4) Any attorney who is a justice, judge or **magisterial district [ justice ] judge**, with respect to acts prior to taking office as a justice, judge or **magisterial district [ justice ] judge**, if the Judicial Conduct Board declines jurisdiction with respect to such acts.

(5) Any attorney who resumes the practice of law, with respect to nonjudicial acts while in office as a justice, judge or **magisterial district [ justice ] judge**.

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**Rule 204. Types of discipline.**

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(c) A reference in these rules to disbarment, suspension, temporary suspension, administrative suspension, permanent resignation, or transfer to or assumption of retired, [ or ] inactive **or disability inactive** status, shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license. A respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

(1) shall be deemed to be a formerly admitted attorney for purposes of Rule 217 (relating to formerly admitted attorneys); and

(2) shall not be entitled to seek reinstatement under Rule 218 (relating to reinstatement **proceedings**) or Rule 219 (relating to [ **annual registration of attorneys** ] **administrative changes in status**) and instead must reapply for a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302.

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

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

\* \* \* \* \*

(7) To assign:

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(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 **proceedings**) of a formerly admitted attorney who has not been suspended or disbarred.

\* \* \* \* \*

(17) **To establish, assess and collect;**

**(i) the necessary expenses incurred in the investigation and prosecution of a proceeding that results in the imposition of discipline, or the investigation and processing of a petition for reinstatement and in any proceeding resulting therefrom;**

**(ii) late payment penalties under Enforcement Rule 219(f)(1) for failure to timely complete annual registration; and**

**(iii) administrative fees for status changes where a petition for reinstatement is not required.**

**(18) To assess and collect reinstatement filing fees, administrative fees based on the imposition of a type of discipline or transfer to disability inactive status under Enforcement Rule 301(e), and penalties on unpaid taxed expenses and administrative fees.**

**(19) To establish, charge and collect a collection fee for any payment under paragraphs (17) and (18) that has been returned to the Board unpaid.**

(20) To exercise the powers and perform the duties vested in and imposed upon the Board by law.

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**Rule 208. Procedure.**

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

(1) Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to these rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief. A copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel. If Disciplinary Counsel cannot make personal service after reasonable efforts to

locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to an employee, agent or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by the respondent-attorney pursuant to **Enforcement** Rule [ **219(d)** ] **219(c)**. Service is complete upon delivery or mailing, as the case may be. The Court, or any justice thereof, 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. The Court, or any justice thereof, may, before or after issuance of the rule, issue:

(i) such orders to the respondent-attorney, and to such financial institutions or other persons as may be necessary to preserve funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled in manifest violation of the Disciplinary Rules;

(ii) an order directing the president judge of the court of common pleas in the judicial district where the respondent-attorney maintains his or her principal office for the practice of law or conducts his or her primary practice, to take such further action and to issue such further orders as may appear necessary to fully protect the rights and interests of the clients of the respondent-attorney when:

(A) the respondent-attorney does not respond to a rule to show cause issued after service of the petition pursuant to subdivision (f)(1); or

(B) Disciplinary Counsel's petition demonstrates cause to believe that the respondent-attorney is unavailable to protect the interests of his or her clients for any reason, including the respondent-attorney's disappearance, abandonment of practice, incarceration, or incapacitation from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants.

Where the Court enters an order under (f)(1)(ii), the Board shall promptly transmit a certified copy of the order to the president judge, whose jurisdiction and authority under this rule shall extend to all client matters of the respondent-attorney.

Where the Court enters an order under (f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Court Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

\* \* \* \* \*

(g) *Costs and fees.*—

(1) [ **The** ] **Unless otherwise directed by the Supreme Court, [ in its discretion may direct that ] the respondent-attorney shall pay** the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline **or transfer to disability inactive status [ shall be paid by the respondent-attorney ]**. All expenses taxed under this paragraph pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be

paid by the respondent-attorney within 30 days after notice transmitted to the respondent-attorney of taxed expenses. In all other cases, expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney.

(2) In the event a proceeding is concluded by informal admonition, private reprimand or public reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney. All expenses taxed by the Board under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. The expenses which shall be taxable under this paragraph shall be prescribed by Board rules.

[ (3) **Failure to pay taxed expenses within 30 days after the date of the entry of the order taxing such expenses in cases other than a suspension that is not stayed in its entirety or disbarment will be deemed a request to be administratively suspended pursuant to Rule 219(l).**

(4) **In addition to the payment of any expenses under paragraph (1) or (2), the respondent-attorney shall pay upon final order of discipline an administrative fee pursuant to the following schedule:**

<b>Informal Admonition:</b>	<b>\$250</b>
<b>Private Reprimand:</b>	<b>\$400</b>
<b>Public Reprimand:</b>	<b>\$500</b>
<b>Public Censure:</b>	<b>\$750</b>
<b>Suspension (1 year or less):</b>	<b>\$1,000</b>
<b>Suspension (more than 1 year):</b>	<b>\$1,500</b>
<b>Disbarment:</b>	<b>\$2,000</b>
<b>Disbarment on Consent:</b>	<b>\$1,000</b>
<b>Transfer to Inactive Status following discipline</b>	<b>\$1,000</b>

(i) **Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment prior to the commencement of the hearing, the fee imposed shall be reduced by 50%.**

(ii) **Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment subsequent to the commencement of the hearing, the Board in its discretion may reduce the fee by no more than 50%. ]**

**(3) In addition to the payment of any expenses under paragraph (1) or (2), the respondent-attorney shall pay upon assessment an administrative fee pursuant to the following schedule:**

<b>Informal Admonition:</b>	<b>\$250</b>
<b>Private Reprimand:</b>	<b>\$400</b>
<b>Public Reprimand:</b>	<b>\$500</b>
<b>Public Censure:</b>	<b>\$750</b>
<b>Suspension (1 year or less):</b>	<b>\$1,000</b>
<b>Suspension (more than 1 year):</b>	<b>\$1,500</b>
<b>Disbarment:</b>	<b>\$2,000</b>
<b>Disbarment on Consent:</b>	<b>\$1,000</b>
<b>Disability Inactive under Rule 301(e):</b>	<b>\$500</b>

**(i) Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment prior to the commencement of the hearing, the fee imposed shall be reduced by 50%.**

**(ii) Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment subsequent to the commencement of the hearing, the Board in its discretion may reduce the fee by no more than 50%.**

**(4) Failure to pay taxed expenses and administrative fees within 30 days after the date of the entry of the order taxing such expenses in cases other than a suspension that is not stayed in its entirety or disbarment will be deemed a request to be administratively suspended pursuant to Enforcement Rule 219(g)(3).**

*(5) Assessed Penalties on Unpaid Taxed Expenses and Administrative Fees.*

(i) Failure to pay taxed expenses within thirty days of the assessment becoming final in accordance with subdivisions (g)(1) [ and ] or (g)(2), [ and/or ] or failure to pay administrative fees assessed in accordance with subdivision [ (g)(4) ] (g)(3) within thirty days of notice transmitted to the respondent-attorney, shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court of Pennsylvania, from time to time.

(ii) Monthly penalties shall not be retroactively assessed against unpaid balances existing prior to the enactment of the rule; monthly penalties shall be assessed against these unpaid balances prospectively, starting 30 days after the effective date of the rule.

(iii) The Disciplinary Board for good cause shown, may reduce the penalty or waive it in its entirety.

**Note: The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.**

\* \* \* \* \*

**Rule 212. Substituted service.**

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by such person in accordance with Enforcement Rule [ **219(d)** ] **219(c)** (relating to annual registration [ **of attorneys** ] **and assessment**) or, in the case of a foreign legal consultant, by serving them pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

**Rule 216. Reciprocal discipline and disability.**

(a) Upon receipt of a certified copy of a final adjudication of any court or 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 a federal administrative agency or a military tribunal demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension, disbarment, or revocation of license or pro hac vice admission, or has resigned from the bar or otherwise relinquished his or her license to practice while under

disciplinary investigation in another jurisdiction or has been transferred to disability inactive status, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

(1) a copy of the final adjudication described in paragraph (a); and

(2) an order directing that the respondent-attorney inform the Court within 30 days from service of the notice, of any claim by the respondent-attorney that the imposition of the identical or comparable discipline or disability inactive status in this Commonwealth would be unwarranted, and the reasons therefor.

The Board shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by such person in accordance with Enforcement Rule [ **219(d)** ] **219(c)** (relating to annual registration [ **of attorneys** ] **and assessment**) or, in the case of a foreign legal consultant, by serving it pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

\* \* \* \* \*

**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, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** 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 Board and shall serve a conforming copy on Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices).

*(Editor’s Note: Pa.R.D.E. 217 as printed in 204 Pa. Code reads “Official Note” rather than “Note.”)*

*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, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** 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, **temporary suspension**, administrative suspension or transfer to **disability** 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 Board and shall serve a conforming copy on 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, **temporary suspension**, administrative suspension or transfer to **disability** 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, **temporary suspension**, administrative suspension or transfer to **disability** 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 Board and shall serve a conforming copy on 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, **temporarily suspended**, administratively suspended or on **disability** inactive status.

(d)(1) Orders imposing suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

\* \* \* \* \*

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

(i) aver that the provisions of the order and these rules have been fully complied with;

(ii) list all other state, federal and administrative jurisdictions to which the formerly admitted attorney is admitted to practice, aver that he or she has fully complied with the notice requirements of paragraph (3) of subdivision (c) of this Rule, and aver that he or she has attached copies of the notices and proofs of receipt required by (c)(3); or, in the alternative, aver that he or she was not admitted to practice in any other tribunal, court, agency or jurisdiction;

(iii) aver that he or she has attached copies of the notices required by subdivisions (a), (b), and (c)(1) and (c)(2) of this Rule and proofs of receipt, or, in the alternative, aver that he or she has no clients, third persons to whom a fiduciary duty is owed, or persons with whom the formerly admitted attorney has professional contacts, to so notify;

(iv) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration **license card** or certificate for the current year, certificate of admission, any certificate of good standing issued by the Court Prothonotary, and any other certificate required by subdivision (h) of this Rule to be surrendered; or, in the alternative, aver that he or she has attached all such documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered;

(v) aver that he or she has complied with the requirements of paragraph (2) of subdivision (d) of this Rule, and aver that he or she has, to the extent practicable, attached proof of compliance, including evidence of the destruction, removal, or abandonment of indicia of Pennsylvania practice; or, in the alternative, aver that he or she neither had nor employed any indicia of Pennsylvania practice;

(vi) in cases of disbarment, suspension for a period exceeding one year, temporary suspension under Enforcement Rule 208(f) or 213(g), or disability inactive status under Enforcement Rule 216 or 301, aver that he or she has complied with the requirements of paragraph (3) of subdivision (d) of this Rule, and aver that he or she has attached proof of compliance, including resignation notices, evidence of the closing of accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary funds, and requests to cancel advertisements and telecommunication listings; or, in the alternative, aver that he or she has no applicable appointments, accounts, funds, advertisements, or telecommunication listings;

(vii) aver that he or she has served a copy of the verified statement and its attachments on Disciplinary Counsel;

(viii) set forth the residence or other address where communications to such person may thereafter be directed; and

(ix) sign the statement.

The statement shall contain an averment that all statements contained therein are true and correct to the



best of the formerly admitted attorney’s knowledge, information and belief, and are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

(Editor’s Note: Pa.R.D.E. 217 as printed in 204 Pa. Code reads “Official Note” rather than “Note.”)

Note: A respondent-attorney who is placed on temporary suspension is required to comply with subdivision (e)(1) and file a verified statement. Upon the entry of a final order of suspension or disbarment, the respondent-attorney must file a supplemental verified statement containing the information and documentation not applicable at the time of the filing of the initial statement, or all of the information and documentation required by subdivision (e)(1) if the respondent-attorney has failed to file the initial statement. Although the grant of retroactivity is always discretionary, a respondent-attorney who fails to file a verified statement at the time of temporary suspension should not expect a final order to include a reference to retroactivity.

\* \* \* \* \*

(f) The Board shall cause a notice of the suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced. The cost of publication shall be assessed against the formerly admitted attorney.

(g) The Board shall promptly transmit a certified copy of the order of suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced. The president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the **license card or** certificate issued by the Attorney Registration Office under **Enforcement Rule [ 219(e) ] 219(d)** (relating to annual registration **[ of attorneys ] and assessment**) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule **[ 201(d) ] 201(c)** (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Court Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license), limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys), limited certificate of admission issued under Pennsylvania Bar Admission Rule 304 (relating to limited admission of attorney spouses of active-duty service members), or limited certificate of admission issued under Pennsylvania Bar Admission Rule 311 (relating to attorney participants in defender or legal services programs). The Board may destroy the annual **license card or** certificate issued under **Enforcement Rule [ 219(e) ] 219(d)**, but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

(i) A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

(j) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements:

\* \* \* \* \*

(4) Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment, **[ or ] suspension or temporary suspension** occurred, through and including the effective date of disbarment, **[ or ] suspension or temporary suspension**;

(ii) performing any law-related services from an office that is not staffed by a supervising attorney on a **[ full time ] full-time** basis;

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

(iv) representing himself or herself as a lawyer or person of similar status;

(v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);

(vi) rendering legal consultation or advice to a client;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;

(viii) appearing as a representative of the client at a deposition or other discovery matter;

(ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction; **and**

(x) receiving, disbursing or otherwise handling client funds.

\* \* \* \* \*

Rule 218. Reinstatement **proceedings**.

(a) An attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to this rule if the attorney **[ was ]**:

**[ (1) suspended for a period exceeding one year;**

**(2) (1) is on** retired **status**, **[ on ]** inactive status or **[ on ]** administrative suspension **[ if the formerly admitted attorney ] and** has not been on active status at any time within the **[ past ] preceding** three years;

**Note: An attorney who has been on retired status, inactive status, or administrative suspension for three years or less may be eligible for reinstatement to active status under Enforcement Rule 219(h).**

[ (3) ] (2) [ transferred to ] **assumed** inactive status [ as a result of the sale of ] **under Enforcement Rule 219(i)(1) in connection with** the sale of his or her practice pursuant to Rule 1.17(f) of the Pennsylvania Rules of Professional Conduct **(relating to the sale of a law practice by reason of disability); [ or ]**

**(3) was transferred to disability inactive status, except that an attorney who is on disability inactive status under Enforcement Rule 301(c) shall be subject to the provisions of this rule only if the Court so directs;**

**(4) was suspended for a period exceeding one year; or**

[ (4) ] (5) **was** **disbarred.**

\* \* \* \* \*

(c) The procedure for petitioning for reinstatement from **disability inactive status**, suspension for a period exceeding one year or disbarment 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 file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the response, the Board shall refer the petition and response to a hearing committee in the disciplinary district in which the formerly admitted attorney maintained an office at the time of the disbarment or suspension. If any other formal disciplinary proceedings are then pending [ **or have been authorized** ] against the formerly admitted attorney **at the time the Board refers the matter to a hearing committee or are authorized after the referral and at any time prior to the hearing**, 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.

*(Editor's Note: Pa.R.D.E. 218 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")*

*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.*

\* \* \* \* \*

(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 admitted 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 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).

*(Editor's Note: Pa.R.D.E. 218 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")*

*Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney under (d)(2)(i), the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.*

(3) A formerly admitted attorney [ **who has been on retired status, inactive status or administrative suspension** ] **seeking reinstatement under this subdivision (d)** shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.

(4) Upon receipt of a response under (d)(2)(i), the Board shall refer the petition and response to a single senior or experienced hearing committee member in the disciplinary district in which the formerly admitted attorney maintained an office at the time of transfer to or assumption of retired or inactive status, or transfer to administrative suspension; the single senior or experienced hearing committee member shall promptly schedule a hearing during which the hearing committee member shall perform the functions of a hearing committee under this subdivision (d). The rules of the Board may provide for abbreviated procedures to be followed by the hearing committee member, except that the abbreviated procedure shall not be available at any hearing conducted after review by a designated Board Member pursuant to paragraph (d)(6) of this rule. If any other formal disciplinary proceedings are then pending [ **or have been authorized** ] against the formerly admitted attorney **at the time the Board refers the matter to a hearing committee or are authorized after the referral and at any time prior to the hearing**, 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.

\* \* \* \* \*

(f)(1) At the time of the filing of a petition for reinstatement with the Board, a non-refundable reinstatement filing fee shall be assessed against a petitioner-attorney. The filing fee schedule is as follows:

Reinstatement from disbarment or suspension for more than one year:	\$1,000
Reinstatement from administrative suspension (more than three years):	\$500
Reinstatement from inactive/retired status (more than three years):	\$250
Reinstatement from <b><u>disability</u></b> inactive status [ <b><u>pursuant to</u></b> ] <b><u>under</u></b> Enforcement Rule 301:	\$250

(2) [ **The** ] **Unless otherwise directed by the Supreme Court, [ in its discretion may direct that ] the petitioner-attorney shall pay** the necessary expenses

incurred in the investigation and processing of the petition for reinstatement **[ be paid by the petitioner-attorney ] and in any proceeding that results in the grant, denial or withdrawal of the petition.** After **[ the ]** a Supreme Court Order **granting reinstatement** is entered, the annual **[ fee ] assessment** required by **Enforcement** Rule **[ 219(a) ] 219(b)** for the current year shall be paid to the Attorney Registration Office.

(3) Failure to pay expenses taxed under Enforcement Rule 218(f)(2) within thirty days of the entry of the Supreme Court Order shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court from time to time. The Board, for good cause shown, may reduce the penalty or waive it in its entirety.

**Note: The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.**

\* \* \* \* \*

(g)(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), along with the payment of a non-refundable filing fee of \$250, the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of **temporary suspension**, suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on retired status, inactive status or administrative suspension for more than three years;

(iii) the formerly admitted attorney has not been on active status for more than three years due to a combination of retired status, inactive status, administrative suspension, **temporary suspension** and/or a term of suspension not exceeding one year and had not been on active status at any time within the three-year period preceding the entry of the order; or

(iv) the order of suspension has been in effect for more than three years.

**[ (h) Attorneys who have been on inactive status, retired status or administrative suspension for three years or less may be reinstated to the roll of those classified as active pursuant to Enforcement Rule 219(h), (i), (j) or (m) (relating to annual registration of attorneys) as appropriate. This subdivision (h) does not apply to:**

(1) a formerly admitted attorney who, on the date of the filing of the request for reinstatement, had not been on active status at any time within the preceding three years; or

(2) an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

(i) **[ (h) The Board may cause a notice of the reinstatement to be published in one or more appropriate legal journals and newspapers of general circulation. The cost of publication shall be assessed against the petitioner-attorney.**

**[ (j) ] (i)** The Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:

(1) **[ the certification filed with the Court Prothonotary under Enforcement Rule 219(h) or (m) ] a notice of any action by the Attorney Registration Office administratively reinstating an attorney to active status under Enforcement Rule 219(h); or**

(2) any other order of reinstatement entered under these rules.

**[ (k) ] (j)** If Disciplinary Counsel shall have probable cause to believe that any formerly admitted attorney:

(1) has failed to comply with this rule or **Enforcement** Rule 217 (relating to formerly admitted attorneys), or

(2) is otherwise continuing to practice law, Disciplinary Counsel may bring an action in any court of competent jurisdiction for such injunctive and other relief as may be appropriate.

#### **[ Rule 219. Annual registration of attorneys.**

(a) Every attorney admitted to practice law in this Commonwealth shall pay an annual fee of \$145.00 and electronically file the annual fee form provided for in this rule by July 1. The fee shall be collected under the supervision of the Attorney Registration Office, which shall make the annual fee form available for filing through a link on the Board's website (<http://www.padisciplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.

**Note:** Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Pa.R.D.E. 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security.

(b) The following shall be exempt from paying the annual fee required by subdivision (a):

(1) Justices or judges serving in the following Pennsylvania courts of record shall be exempt for such time as they serve in office: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court;

(2) retired attorneys;

(3) permanently resigned attorneys under Enforcement Rule 404; and

(4) military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys).

*Note:* The exemption created by subdivision (b)(1) does not include Pittsburgh Municipal Court judges, magisterial district judges, arraignment court magistrates or administrative law judges.

(c) On or before May 15 of each year, the Attorney Registration Office shall transmit to all attorneys required by this rule to pay an annual fee a notice by e-mail to register electronically by July 1. Failure to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.

(d) On or before July 1 of each year all attorneys required by this rule to pay an annual fee shall electronically file with the Attorney Registration Office an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

(i) The date on which the attorney was admitted to practice, licensed as a foreign legal consultant, granted limited admission as an attorney participant in defender or legal services programs, issued a Limited-In-House Corporate Counsel License, or granted limited admission as an attorney spouse of an active-duty service member, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current e-mail, residence and office addresses of the attorney, the latter two of which shall be an actual street address or rural route box number. The Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either the residence or office address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, as well as telephone and fax number will be accessible through the website of the Board (<http://www.padisiplinaryboard.org>) and by written or oral request to the Board. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.

*Note:* Public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4), within or outside this Commonwealth in which the attorney, from May 1 of the previous year to the date of the filing of the annual fee form, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

For purposes of this subparagraph, the phrase "funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Con-

duct" means funds that belong to a client or third person and that an attorney receives:

(A) in connection with a client-lawyer relationship;

(B) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;

(C) as an agent, having been designated as such by a client or having been so selected as a result of a client-lawyer relationship or the lawyer's status as such;

(D) in connection with nonlegal services that are not distinct from legal services;

(E) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship; or

(F) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship.

*Note:* For purposes of subparagraph (iii), "funds of a third person" shall not include funds held in: 1) an attorney's personal account held jointly; or 2) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse.

*Note:* If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit under this subparagraph (iii).

(iv) Every account not reported under subparagraph (iii), that held funds of a client or a third person, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account, during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution (whether or not the entity qualifies as a "Financial Institution" under Pa.R.P.C. 1.15(a)(4)), location, and account number.

*Note:* Regarding "funds of a third person," see Note to Rule 219(d)(1)(iii)

(v) Every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution, location and account number.

(vi) A statement that the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disci-

plinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

(vii) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(viii) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts required by Rule of Professional Conduct 1.4(c). Rule 1.4(c) does not apply to attorneys who do not have any private clients, such as attorneys in full-time government practice or employed as in-house corporate counsel.

*Note:* The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its website. The requirement of Rule 219(d)(3) that every attorney who has filed an annual fee form must give written notice to the Attorney Registration Office of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(ix) Such other information as the Attorney Registration Office may from time to time direct.

(2) Payment of the annual fee shall be made in one of two ways: a) electronically by credit or debit card at the time of electronic transmission of the form through the online system of the Attorney Registration Office, which payment shall include a nominal fee to process the electronic payment; or b) by check or money order drawn on a U.S. bank, in U.S. dollars using a printable, mail-in voucher. IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. If the annual fee form, voucher or payment is incomplete or if a payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee, and one or both of the late payment penalties prescribed in subdivision (f) of this rule if assessed, shall also have been paid. The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for payment returned to the Board unpaid.

(3) Every attorney who has filed the form shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change, which notice shall be sent by mail or facsimile transmission, provided, however, that any change in the information required by subsections (d)(1)(iii), (iv) and (v) (collectively relating to financial account information) that occurs after the filing of the form required by subdivisions (a) and (d)(1) of this rule need only be reported on the next regular annual fee form due July 1. Attorneys must promptly ensure that IOLTA accounts are properly enrolled with the Pennsylvania IOLTA Board pursuant to the applicable IOLTA regulations. Failure to timely register and file the next annual fee form shall not excuse this subsection's requirement of reporting changes in financial account information

on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of this rule.

(4) Upon original admission to the bar of this Commonwealth, licensure as a Foreign Legal Consultant, issuance of a Limited In-House Corporate Counsel License, limited admission as an attorney participant in defender or legal services programs, or limited admission as an attorney spouse of an active-duty service member, a person shall concurrently file a form under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

(5) Submission of the annual fee form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

*Note:* Subsection (5) of subdivision (d) incorporates the language of *In Re: Provisions for Electronic Filing of Attorney Registration Statements*, No. 99 Disciplinary Rules Docket (Pa. Supreme Court, April 13, 2011).

(e) Upon receipt of a form, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of subdivision (d) of this rule, and of payment of the required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged on a certificate or license.

(f) Any attorney who fails to complete registration by July 16 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 1, at which time the continued failure to comply with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Court Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this subdivision (f), registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall be added

to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of subdivision (h)(3) of this rule.

(g) The Attorney Registration Office shall provide to the Board 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:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment penalties required by paragraph (3);
- (iv) any unpaid collection fee; and
- (v) a reinstatement fee of \$300.00.

(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 Board 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 Court Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Where payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended must pay the late payment penalties incurred in the year in which the formerly admitted attorney is transferred to administrative suspension. The amount of the late payment penalties shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the form required by subdivision (d) of this rule.

(i) *Retired Status:* An attorney who has retired must file by mail or deliver in person to the Attorney Registration Office an application for retirement and payment of any applicable late fees or penalties pursuant to subdivision (f). Upon the transmission of such application from the Attorney

Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to retired status, and the attorney shall no longer be eligible to practice law. The retired attorney will be relieved from payment of the annual fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Court Prothonotary.

(j) *Inactive Status:* An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (2) of this subdivision (j) for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under subdivision (d) of Enforcement Rule 218 (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d), shall file the form through the online system identified in subdivision (a), and shall pay an annual fee of \$100.00 in the manner provided in subdivision (d)(2). Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any payment that has been returned to the Board unpaid, and being placed on administrative suspension pursuant to and in accordance with the provisions of subdivision (f) of this rule.

(2) *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request a resumption of active status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office. Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment, unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not

been on active status at any time within the preceding three years (see Enforcement Rule 218(h)), upon the payment of:

(i) the active fee for the assessment year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year; and

(ii) any collection fee or late payment penalty that may have been assessed pursuant to subdivision (f), prior to the inactive attorney's request for resumption of active status.

Where payment of fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

*Note:* Subdivisions (h), (i) and (j) of this rule do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See Enforcement Rule 218(h)(1).

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status:* An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

- (1) the annual form required by subdivision (d);
- (2) payment of the annual fee required by subdivision (j)(1);
- (3) payment of the annual fee that was due in the year in which the attorney was administratively suspended;
- (4) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and
- (5) payment of an administrative processing fee of \$100.00.

Where payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

An active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by this rule must comply with subdivision (h) before becoming eligible to register as inactive or retired.

*Note:* Former subdivision (k), which was adopted by Order dated April 16, 2009 (No. 75 Disciplinary Rules Docket No. 1, Supreme Court), effective May 2, 2009, established a grace period of one year commencing on July 1, 2009 in which any attorney

who was on inactive status by order of the Supreme Court, could request and achieve reinstatement to active status under Enforcement Rule 218 or another applicable subdivision of Enforcement Rule 219 in order to avoid an automatic change in status to administrative suspension. The grace period was administratively extended to August 31, 2010, and any involuntarily inactive attorney who did not achieve active status by that date was transferred to administrative suspension on September 1, 2010.

(l) The Board shall transmit by certified mail to every attorney who fails to pay any taxed expenses under Enforcement Rule 208(g)(3) (relating to costs), addressed to the last known address of the attorney, a notice stating:

(1) That unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.

(2) That upon entry of the order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

(m) Upon payment of all expenses taxed pursuant to Enforcement Rule 208(g) by a formerly admitted attorney on administrative suspension solely for failure to comply with subdivision (l) of this rule, the Board shall so certify to the Supreme Court. Unless such person 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 Board with the Court Prothonotary shall operate as an order reinstating the person to active status.

(n) A former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the Attorney Registration Office a notice in writing. The notice shall:

(1) describe:

(i) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline;

(ii) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program; and

(2) include a waiver available through the Attorney Registration Office and signed by the justice or judge, if the notice discloses a proceeding described in subsection (1), of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules.

An annual fee form will be provided by the Attorney Registration Office. The form must be filed by mail or delivered in person to said Office and be accompanied by payment of the full annual fee for the assessment year in which the notice is filed. ]

Rule 219. Annual registration and assessment. Administrative suspension. Administrative changes in status.

(a) Annual Registration Period. The annual registration period shall run from July 1 to June 30. On or before May 15 of each year, the Attorney Registration Office shall transmit an electronic notice to register and pay the annual assessment by July 1. Failure to receive notice shall not excuse the filing of the annual registration form and payment of the annual assessment.

(1) Attorneys required to register. Attorneys on the following license statuses are required to register annually:

(i) Active status.

(ii) Attorneys holding the following limited licenses:

(A) Foreign legal consultant;

(B) Limited In-House Corporate Counsel;

(C) Attorney participant in defender or legal services programs; and

(D) Attorney spouse of an active-duty service member.

(iii) Inactive status.

Note: Attorneys admitted to the bar less than one year prior to July 1 are required to register.

(2) Attorneys exempt from registration. Attorneys on the following license statuses shall be exempt from annual registration:

(i) Judge status.

(ii) Retired status.

(iii) Emeritus status, except that such attorneys shall be governed by the renewal provisions of Enforcement Rule 403(g).

(iv) Military attorney status.

(b) Annual Assessment. On or before July 1 of each year, all attorneys required by paragraph (a)(1) of this rule to register, and who elect one of those statuses, shall pay an annual assessment. Payment of the annual assessment shall be made by credit or debit card or by check or money order drawn on a U.S. financial institution in U.S. dollars. Payment shall not be made using an IOLTA, trust, escrow, or other fiduciary account.

(1) Active status. The total annual assessment for active status is \$225.

(2) Limited licenses. The total annual assessment for attorneys holding limited licenses under paragraph (a)(1)(ii) is \$225.

(3) Inactive status. The annual assessment for inactive status is \$100.

Note: The total annual assessment required by paragraphs (b)(1) and (2) is apportioned as follows: \$145 to the Disciplinary Board; \$50 to the Pennsylvania Lawyers Fund for Client Security, see Enforcement Rule 502(b); and \$30 to the Pennsylvania Interest on Lawyers Trust Accounts Board, see Pa.R.P.C. 1.15(u).

(c) Annual Registration Form. On or before July 1 of each year, all attorneys required by paragraph (a)(1) of this rule to register shall electronically file

with the Attorney Registration Office a registration form. Upon an attorney's written request and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and provide a paper registration form to the attorney for filing.

(1) The attorney shall provide the following information on the form:

(i) The attorney's current license status in this Commonwealth and all other state, federal, and foreign courts and jurisdictions in which the attorney is or has ever been licensed to practice law.

(ii) The attorney's contact information, which shall specify information accessible to the public. Upon an attorney's written request and for good cause shown, the contact information will not be accessible to the public.

(iii) The financial accounts and information identified in Enforcement Rule 221(q).

(iv) A statement that:

(A) the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA accounts;

(B) the attorney's Trust Accounts comply with Enforcement Rule 221(h) regarding the mandatory reporting of overdrafts on fiduciary accounts; and

(C) the attorney has reported all of the financial accounts and information identified in Enforcement Rule 221(q).

(v) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(vi) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts set forth in Rule of Professional Conduct 1.4(c); a covered attorney shall identify the insurance carrier.

(vii) Such other information as the Board may from time to time direct.

(2) Submission of the annual registration form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

(3) Every attorney who files the form shall notify the Attorney Registration Office in writing of any change in the information required under paragraphs (c)(1)(i), (ii), and (vi) (relating to license status in other jurisdictions, contact information, and professional liability insurance) within 30 days of such change.

(i) Changes to the information required by paragraph (c)(1)(iii) (relating to financial account information) that occurs after the filing of the registration form need only be reported on the next annual registration form.

(ii) Failure to timely register and file the next annual registration form shall not excuse this subdivision's requirement of reporting changes in fi-



nancial account information on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of this rule.

(iii) Attorneys must promptly ensure that IOLTA accounts are properly enrolled with the Pennsylvania IOLTA Board pursuant to the applicable IOLTA regulations.

(4) Every attorney, regardless of registration status, shall provide his or her contact information to the Attorney Registration Office and shall update such information within 30 days of any change. Upon an attorney's written request and for good cause shown, the contact information will not be accessible to the public.

(d) *Proof of Registration.* The Attorney Registration Office shall issue a license card or certificate to attorneys on active status and to attorneys holding limited licenses under paragraph (a)(1)(ii) as acknowledgement of an attorney's completion of registration and payment of the required annual assessment.

(e) *Incomplete Registration.* The annual registration requirement is not satisfied if the registration form is incomplete, if the payment is incomplete, or if payment of the annual assessment has been returned to the Board unpaid. Registration will be deemed complete upon receipt of the completed registration form, satisfactory payment of the annual assessment, and payment of any penalties or fees assessed under subdivision (f).

(f) *Late Payment Penalties; Collection Fee.*

(1) *Late payment penalties.*

(i) An attorney who fails to complete registration on or before July 16 shall be automatically assessed a late payment penalty that cannot be waived.

(ii) An attorney who fails to complete registration on or before August 1 shall be automatically assessed a second late payment penalty that cannot be waived.

(2) *Collection fee.* The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.

(g) *Administrative Suspension.*

(1) *Failure to comply with the annual registration requirements.*

(i) After August 1, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the requirements of this rule.

(ii) The Supreme Court shall enter an order administratively suspending the named attorneys.

(2) *Failure to comply with the Pennsylvania Rules for Continuing Legal Education requirements.*

(i) As set forth in Pa.R.C.L.E. 111(b), the Pennsylvania Continuing Legal Education Board shall report to the Supreme Court the name of every attorney who has failed to comply with the Pennsylvania Rules for Continuing Legal Education.

(ii) The Supreme Court shall enter an order administratively suspending the named attorneys.

(3) *Failure to comply with Enforcement Rule 208(g) (relating to costs and fees).*

(i) As set forth in Enforcement Rule 208(g)(4), the Board shall certify to the Supreme Court the name of every attorney who has failed to pay taxed expenses and administrative fees in cases other than a suspension that is not stayed in its entirety or disbarment.

(ii) The Supreme Court shall enter an order administratively suspending the named attorneys.

(4) *Notice.* Upon entry of an order of administrative suspension, the Board shall send to the formerly admitted attorney by certified mail or by electronic means the order of administrative suspension and provide notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys).

(5) *Immediate and subsequent restrictions.* From the date of entry of the order of administrative suspension until the effective date of the order or such earlier date on which the attorney satisfies the deficiency that resulted in the order of administrative suspension, the attorney shall not accept any new cases or other client matters but may continue to represent existing clients on existing matters. On and after the effective date of the order, the formerly admitted attorney shall comply with all requirements of Enforcement Rule 217 pertaining to administratively suspended attorneys.

(h) *Administrative Change to Active Status.*

(1) *Administrative suspension three years or less.* The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates compliance with Rule 217 during the term of administrative suspension; and

(iii) payment of any of the following as may be applicable:

(A) the active annual assessment for the year in which the request for active status is made;

(B) the assessment that was due for the year in which the attorney was administratively suspended;

(C) late payment penalties under subdivision (f);

(D) a collection fee under subdivision (f);

(E) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(F) an administrative fee.

If the order of administrative suspension was for the failure to comply under paragraph (g)(2) with the Pennsylvania Rules of Continuing Legal Education requirements, then administrative change to active status under this paragraph is contingent on the Attorney Registration Office confirming that the formerly admitted attorney has complied with the rules and regulations of the Continuing Legal Education Board and is eligible for reinstatement under these Enforcement Rules.

(2) *Inactive status three years or less.* The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) payment of any of the following as may be applicable:

(A) the active annual assessment for the year in which the request for active status is made or the difference between the active annual assessment and the inactive annual assessment previously paid for that year;

(B) late payment penalties under subdivision (f); and

(C) a collection fee under subdivision (f).

(3) Retired status three years or less. The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office; and

(ii) the active annual assessment for the year in which the request for active status is made.

(4) Upon determination by the Attorney Registration Office that the applicable requirements have been satisfied, the Attorney Registration Office shall process the requested status change.

(5) The procedures under paragraph (1), (2) and (3) do not apply to:

(i) a formerly admitted attorney who, on the date of the request for active status, has not been on active status at any time within the preceding three years;

(ii) a formerly admitted attorney who has sold his or her law practice by reason of disability and who has been transferred to inactive status pursuant to Enforcement Rule 301 or 219(i)(1), as required by Rule of Professional Conduct 1.17(f) (relating to the sale of a law practice by reason of disability);

(iii) a formerly admitted attorney who is subject to an outstanding order of disability inactive status, suspension, temporary suspension, or disbarment; or

(iv) a formerly admitted attorney who, on the date of the request for active status, has an outstanding obligation to the Lawyers Fund for Client Security.

(i) Administrative Change to Inactive or Retired Status.

(1) Active status to inactive status. An attorney on active status seeking to assume inactive status during a time outside the annual attorney registration period shall submit a request for inactive status form to the Attorney Registration Office.

Note: An attorney who is not engaged in practice in Pennsylvania, handling Pennsylvania legal matters, or required by his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status. An attorney who sells his or her practice by reason of disability must transfer to inactive status pursuant to this paragraph (i)(1) unless a transfer to disability inactive status pursuant to Enforcement Rule 301 occurs. See Pennsylvania Rule of Professional Conduct 1.17(f).

(2) Active or inactive status to retired status. An attorney on active or inactive status seeking to

assume retired status during a time outside the annual attorney registration period shall submit a request for retired status form to the Attorney Registration Office.

(3) Administrative suspension to inactive status. A formerly admitted attorney seeking to resume inactive status after transfer to administrative suspension from inactive status shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates continued compliance with Rule 217 during the term of administrative suspension; and

(iii) payment of any of the following as may be applicable:

(A) the inactive annual assessment for the year in which the request for inactive status is made;

(B) the inactive annual assessment that was due in the year in which the attorney was administratively suspended;

(C) late payment penalties under subdivision (f);

(D) a collection fee under subdivision (f);

(E) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(F) an administrative fee.

(4) Administrative suspension to retired status. A formerly admitted attorney seeking retired status after transfer to administrative suspension shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates continued compliance with Rule 217 during the term of administrative suspension;

(iii) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(iv) an administrative fee.

A formerly admitted attorney retired under paragraph (i)(4) who seeks to resume active status where a petition for reinstatement is not required shall pay all outstanding arrears assessed and satisfy all deficiencies in connection with the transfer to administrative suspension.

(5) Upon determination by the Attorney Registration Office that the applicable requirements have been satisfied, the Attorney Registration Office shall process the requested status change.

(j) Judge status.

(1) An attorney who commences judicial service as a justice or judge on the following courts shall be assigned judge status by the Attorney Registration Office:

(i) Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and

(ii) federal courts holding an appointment for life.

(2) At the conclusion of judicial service, an attorney holding judge status shall:

(i) within 20 days, notify the Attorney Registration Office in writing of the conclusion of judicial service; and

(ii) within 60 days, elect either active status under paragraph (3) or retired status under paragraph (4).

(3) Administrative change to active status within 60 days of conclusion of judicial service. A former justice or judge on judge status who seeks to resume active status upon conclusion of judicial service shall, within 60 days, submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a notice in writing which shall set forth:

(A) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline; and

(B) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;

(iii) a waiver available through the Attorney Registration Office and signed by the former justice or judge of the confidentiality of the record in any proceeding disclosed in the notice provided under paragraph (ii), for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules;

(iv) payment of the active annual assessment for the year in which the request for active status is made.

(4) Administrative change to retired status within 60 days of conclusion of judicial service. A former justice or judge on judge status who seeks to assume retired status upon conclusion of judicial service shall, within 60 days, submit to the Attorney Registration Office a form available through that office.

(5) Upon determination by the Attorney Registration Office that the application requirements of paragraph (3) or (4) have been satisfied, the Attorney Registration Office shall process the requested status change.

(6) A former justice or judge on judge status who fails to elect a new registration status within 60 days of concluding judicial service shall be placed on retired status by the Attorney Registration Office.

**Rule 221. Funds of clients and third persons. Mandatory overdraft notification.**

\* \* \* \* \*

(g) The records required to be maintained by Pa.R.P.C. 1.15 shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security and the Office of Disciplinary Counsel in a timely manner upon request or demand by either agency made pursuant to these Enforcement Rules, the Rules of the Board, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.

(1) Upon a request by Disciplinary Counsel under this subdivision (g), which request may take the form of a letter to the respondent-attorney briefly stating the basis for the request and identifying the type and scope of the records sought to be produced, a respondent-attorney must produce the records within ten business days after personal service of the letter on the respondent-attorney or after the delivery of a copy of the letter to an employee, agent or other responsible person at the office of the respondent-attorney as determined by the address furnished by the respondent-attorney in the last registration [ statement ] form filed by the respondent-attorney pursuant to Enforcement Rule [ 219(d) ] 219(c), but if the latter method of service is unavailable, within ten business days after the date of mailing a copy of the letter to the last registered address or addresses set forth on the [ statement ] form.

\* \* \* \* \*

(q) An attorney required to file the registration form under Enforcement Rule 219(a), with the exception of a person holding a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302 or a foreign legal consultant license under Pennsylvania Bar Admission Rule 341, shall identify the financial accounts enumerated in paragraphs (1)—(3) during the period from May 1 of the previous year to the date of the filing of the registration form. For each account, the attorney shall provide the name of the Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4), or other bank or investment fund as allowed by Pa.R.P.C. 1.15(k) and (l), its location within or outside the Commonwealth, account number, type of account, and whether the account held funds subject to Pa.R.P.C. 1.15. The attorney shall identify:

(1) all accounts in which the attorney held funds of a client or a third person subject to Pa.R.P.C. 1.15;

Note: See paragraph (r)(1) of this rule for the definition of “funds of a client or a third person subject to Pa.R.P.C. 1.15” and paragraph (r)(2) for exclusions from the definition of “funds of a third person.”

Note: If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit pursuant to this paragraph (1).

(2) every account not reported under paragraph (1) that held funds of a client or a third person (whether or not subject to Pa.R.P.C. 1.15) over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account; and

(3) every business operating account maintained or utilized by the attorney in the practice of law.

Note: The type of account shall be identified as an IOLTA Trust Account, see Pa.R.P.C. 1.15(a)(5); Non-IOLTA Trust Account (Interest for Clients), see Pa.R.P.C. 1.15(a)(7), (k), (l); IOLTA-exempt Trust Account (non-interest bearing), see Pa.R.P.C. 1.15(n); other authorized investments or accounts, see Pa.R.P.C. 1.15(k) and (l); or Business/Operating Account, see Pa.R.P.C. 1.15(j).

(r) For purposes of subdivision (q) of this rule, the phrase:

(1) “funds of a client or a third person subject to Pa.R.P.C. 1.15” means funds that belong to a client or third person and that an attorney receives:

(i) in connection with a client-attorney relationship;

(ii) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;

(iii) as an agent, having been designated as such by a client or having been so selected as a result of a client-attorney relationship or the attorney’s status as such;

(iv) in connection with nonlegal services that are not distinct from legal services;

(v) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-attorney relationship; or

(vi) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-attorney relationship;

(2) “funds of a third person” shall not include funds held in:

(i) an attorney’s personal account held jointly; or

(ii) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse or spousal equivalent.

**Subchapter C. DISABILITY AND RELATED MATTERS**

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

\* \* \* \* \*

(c) Where an attorney has been judicially declared incapacitated or involuntarily committed on the grounds of incapacity or severe mental disability, the Supreme Court, upon proper proof of the fact, shall enter an order transferring such attorney to **disability** inactive status effective immediately and for an indefinite period until the further order of the Court. A copy of such order shall be served upon such formerly admitted attorney, the guardian of such person and/or the director of the institution to which such person has been committed in such a manner as the Court may direct. Where an attorney has been transferred to **disability** inactive status by an order in accordance with the provisions of this subdivision and, thereafter, in proceedings duly taken, the person is judicially declared to be competent, the Court upon application may dispense with further evidence that the disability has been removed and may direct reinstatement to active status upon such terms as are deemed proper and advisable.

(d) Whenever the Board shall petition the Court to determine whether an attorney is incapacitated from

continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants, the Court may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the Court shall designate. If, upon due consideration of the matter, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order transferring the attorney to **disability** inactive status on the grounds of such disability for an indefinite period and until the further order of the Court. If examination of a respondent-attorney by a qualified medical expert reveals that the respondent lacks the capacity to aid effectively in the preparation of a defense, the Court may order that any pending disciplinary proceeding against the respondent shall be held in abeyance except for the perpetuation of testimony and the preservation of documentary evidence. The order of abatement may provide for re-examinations of the respondent-attorney at specified intervals or upon motion by Disciplinary Counsel. The Court shall provide for such notice to the respondent-attorney of proceedings in the matter as it deems proper and advisable and may appoint an attorney to represent the respondent if the respondent is without adequate representation.

(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. The respondent shall serve a copy of the certificate on the Board and Disciplinary Counsel. The certificate shall:

(1) identify the precise nature of the disability and the specific or approximate date of the onset or initial diagnosis of the disabling condition;

(2) contain an explanation of the manner in which the disabling condition makes it impossible for the respondent to prepare an adequate defense;

(3) have appended thereto the opinion of at least one medical expert that the respondent is unable to prepare an adequate defense and a statement containing the basis for the medical expert’s opinion; and

(4) contain a statement, signed by the respondent, that all averments of material fact contained in the certificate and attachments are true upon the respondent’s knowledge or information and belief and made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

The respondent may attach to the certificate affidavits, medical records, additional medical expert reports, official records, or other documents in support of the existence of the disabling condition or the respondent’s contention of lack of physical or mental capacity to prepare an adequate defense.

Upon receipt of the certificate, the Court thereupon shall enter an order immediately transferring the respondent to **disability** inactive status until a determination is made of the respondent’s capacity to aid effectively in the preparation of a defense or to continue to practice law in a proceeding instituted in accordance with the provisions of subdivision (d) of this rule unless the Court finds that the certificate does not comply with the requirements of this subdivision, in which case the Court may deny the request for transfer to disability inactive status or enter

any other appropriate order. Before or after the entry of the order transferring the respondent to **disability** inactive status under this subdivision, the Court may, upon application by Disciplinary Counsel and for good cause shown, take or direct such action as the Court deems necessary or proper to a determination of whether it is impossible for the respondent to prepare an adequate defense, including a direction for an examination of the respondent by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the respondent.

The order transferring the attorney to disability inactive status under this subdivision shall be a matter of public record. The certificate of admission of disability and attachments to the certificate shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement or disciplinary proceeding except:

- (i) upon order of the Supreme Court;
- (ii) pursuant to an express written waiver by the attorney; or
- (iii) upon a request by the Pennsylvania Lawyers Fund for Client Security Board pursuant to Enforcement Rule 521(a) (relating to cooperation with Disciplinary Board).

If the Court shall determine at any time that the respondent is able to aid effectively in the preparation of a defense or is not incapacitated from practicing law, it shall take such action as it deems proper and advisable including a direction for the resumption of the disciplinary proceeding against the respondent.

(f) The Board shall cause a notice of transfer to **disability** inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the disabled attorney practiced.

(g) The Board shall promptly transmit a certified copy of the order of transfer to **disability** inactive status to the president judge of the court of common pleas of the judicial district in which the disabled attorney practiced and shall request such action under the provisions of Enforcement Rule 321 (relating to appointment of conservator to protect interests of clients of absent attorney) as may be indicated in order to protect the interests of the disabled attorney and the clients of the disabled attorney.

(h) Except as provided in subdivision (c), a disabled attorney may not resume active status until reinstated by order of the Court upon petition for reinstatement pursuant to Rule 218 (relating to reinstatement **proceedings**). A disabled attorney shall be entitled to apply for reinstatement to active status once a year or at such shorter intervals as the Court may direct in the order transferring the respondent to **disability** inactive status or any modification thereof. Such application shall be granted by the Court upon a showing by clear and convincing evidence that the formerly admitted attorney's disability has been removed and such person is fit to resume the practice of law. Upon such application, the Court may take or direct such action as it deems necessary or proper to a determination of whether the formerly admitted attorney's disability has been removed including a direction for an examination of the formerly admitted attorney by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the formerly admitted attorney.

(i) In a proceeding seeking a transfer to **disability** inactive status under this Rule, the burden of proof shall rest with the Board. In a proceeding seeking an order of reinstatement to active status under this rule, the burden of proof shall rest with the respondent-attorney.

(j) The filing of an application for reinstatement to active status by a formerly admitted attorney transferred to **disability** inactive status [ **because of disability** ] shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of formerly admitted attorney during the period of disability. The formerly admitted attorney shall be required to disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the formerly admitted attorney has been examined or treated since transfer to **disability** inactive status and shall furnish to the Court written consent to each to divulge such information and records as requested by court appointed medical experts.

(k) As used in this rule, the term "disabled attorney" means an attorney transferred to **disability** inactive status under this rule.

\* \* \* \* \*

**CONSERVATORS FOR INTERESTS OF CLIENTS**

**Rule 321. Appointment of conservator to protect interests of clients of absent attorney.**

(a) Upon application of Disciplinary Counsel or any other interested person with the written concurrence of Disciplinary Counsel, the president judge of a court of common pleas shall have the power to appoint one or more eligible persons to act as conservators of the affairs of an attorney or formerly admitted attorney if:

- (1) the attorney maintains or has maintained an office for the practice of law within the judicial district; and
- (2) any of the following applies:

(i) the attorney is made the subject of an order under Enforcement Rule 208(f) (relating to emergency interim suspension orders and related matters); or

(ii) the president judge of the court of common pleas pursuant to Enforcement Rule 217(g) (relating to formerly admitted attorneys) by order directs Disciplinary Counsel to file an application under this rule; or

(iii) the attorney abandons his or her practice, disappears, dies or is transferred to **disability** inactive status [ **because of incapacity or disability** ]; and

(3) no partner or other responsible successor to the practice of the attorney is known to exist.

\* \* \* \* \*

**Subchapter D. MISCELLANEOUS PROVISIONS**

**Rule 401. Expenses.**

The salaries of the Disciplinary Board employees, their expenses, administrative costs, expenses of the members of the Board and of hearing committees, and expenses and compensation, if any, of 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 assessment**) and Enforcement Rule 208 (relating to **costs and fees**). 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 402. Access to Disciplinary Information and Confidentiality.**

\* \* \* \* \*

(c) Until the proceedings are open under subdivision (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential unless:

(1) the respondent-attorney requests that the matter be public, or waives confidentiality for a particular purpose specified in writing;

(2) the investigation is predicated upon a conviction of the respondent-attorney for a crime or reciprocal discipline;

(3) the proceeding is based on an order of temporary suspension from the practice of law entered by the Court pursuant to Enforcement Rule 208(f)(1) (relating to emergency temporary suspension orders and related relief);

(4) in matters involving alleged disability, the Supreme Court enters its order transferring the respondent-attorney to **disability** inactive status pursuant to Enforcement Rule 301 (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated); or

(5) there is a need to notify another person or organization, including the Lawyers' Fund for Client Security, in order to protect the public, the administration of justice, or the legal profession.

\* \* \* \* \*

(i) The Board shall transmit notice of all public discipline imposed by the Supreme Court, transfers to or from **disability** inactive status [ **for disability** ], and reinstatements to the National Lawyer Regulatory Data Bank maintained by the American Bar Association.

\* \* \* \* \*

**Rule 403. Emeritus Status.**

\* \* \* \* \*

(g) *Renewal of Emeritus Status.* An emeritus attorney who is registered to provide services under this rule may renew the status on an annual basis.

(1) On or before January 1 of each year, the Attorney Registration Office shall transmit to all emeritus attorneys a notice to register by January 31.

(2) On or before January 31 of each year, emeritus attorneys who seek to renew the status shall pay an annual [ **fee** ] **assessment** of \$35.00 and shall file with the Attorney Registration Office a form prescribed by the Office which shall include the following:

(i) The name, attorney identification number, telephone number, current email and residence address of the attorney, the latter of which shall be an actual street address, a rural route box number, or a post office box number. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed;

(ii) A list of all courts (except courts of this Commonwealth) and jurisdictions in which the attorney has been licensed to practice law, with the current status thereof;

(iii) Prior disciplinary record in other jurisdictions;

(iv) Verification that the attorney is authorized solely to provide pro bono services to eligible legal aid organizations;

(v) Verification that the attorney is not permitted to handle client funds;

(vi) Verification that the attorney will neither ask for nor receive compensation of any kind for the legal services authorized under this rule;

(3) Failure to file the annual [ **fee** ] **registration** form and pay the annual [ **fee** ] **assessment** by January 31 shall result in the transfer to retired status.

(h) An emeritus attorney seeking to resume active status should refer to the procedures **under** [ **provided for in** ] Enforcement Rule 218(d) [ **and (h)** ] **or 219(h)(3), as applicable.**

\* \* \* \* \*

**Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY  
GENERAL PROVISIONS**

**Rule 502. Pennsylvania Lawyers Fund for Client Security.**

\* \* \* \* \*

(b) *Additional fee.*—Every attorney who is required to pay an active annual [ **fee** ] **assessment** under Rule 219 (relating to annual registration [ **of attorneys** ] **and assessment**) shall pay an additional annual [ **fee** ] **assessment** of \$50.00 for use by the Fund. Such additional [ **fee** ] **assessment** shall be added to, and collected with and in the same manner as, the basic annual [ **fee** ] **assessment**. All amounts received pursuant to this subdivision shall be credited to the Fund.

\* \* \* \* \*

**PAYMENT OF CLAIMS**

**Rule 521. Investigation and payment of claims.**

\* \* \* \* \*

(b) *Hearing committees.* The Board may utilize a hearing committee to conduct any hearings under this subchapter for the purpose of resolving factual issues. Imposition of discipline under Rule 204 (relating to types of discipline) or otherwise shall not be a prerequisite for favorable action by the Board with respect to a claim against the Fund, but the Covered Attorney involved shall be given notice of and an opportunity to contest any claim made with respect to his or her alleged Dishonest Conduct. Notice mailed to the Covered Attorney at the address of record with Attorney Registration per Rule of Disciplinary Enforcement 219 (relating to annual registration [ **of attorneys** ] **and assessment**) shall satisfy this notice requirement.

\* \* \* \* \*

**REINSTATEMENT**

**Rule 531. Restitution a condition for reinstatement.**

The Board shall file with the Supreme Court a list containing the names of all formerly admitted attorneys with respect to the Dishonest Conduct of which the Board has made unrecovered disbursements from the Fund. No person will be reinstated by the Supreme Court under Rule 218 (relating to reinstatement **proceedings**), Rule 219 (relating to [ **annual registration of attorneys** ] **administrative changes in status**), Rule 301(h) (relating to proceedings where an attorney is declared to be incapacitated or severely mentally disabled), Pennsylvania Rules of Continuing Legal Education[ , ] Rule 111(b)

(relating to noncompliance with continuing legal education rules) or who has been suspended from the practice of law for any period of time, including, but not limited to suspensions under Rule 208(f) (relating to emergency temporary suspension) and [ 219(f) ] 219(g) (relating to administrative suspension) until the Fund has been repaid in full, plus 10% per annum interest, for all disbursements made from the Fund with respect to the Dishonest Conduct of such person.

[Pa.B. Doc. No. 22-225. Filed for public inspection February 11, 2022, 9:00 a.m.]

**Title 204—JUDICIAL SYSTEM  
GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT  
[ 204 PA. CODE CH. 82 ]**

**Order Amending Rules 106 and 108 of the Pennsylvania Rules for Continuing Legal Education and Approving Amendments to Regulations §§ 1, 5 and 13 of the Continuing Legal Education Board Regulations; No. 905 Supreme Court Rules Docket**

**Order**

*Per Curiam*

And Now, this 31st day of January, 2022, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, It Is Ordered that:

A. Rules 106 and 108 of the Pennsylvania Rules for Continuing Legal Education are amended in the attached form;

B. Revisions to Regulations §§ 1, 5 and 13 of the Pennsylvania Continuing Legal Education Board Regulations are approved in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Additions are shown in bold and are underlined.

Deletions are shown in bold and in brackets.

**Annex A**

**TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT**

**Subpart A. PROFESSIONAL RESPONSIBILITY**

**CHAPTER 82. CONTINUING LEGAL EDUCATION**

**Subchapter A. PROFESSIONAL RESPONSIBILITY**

**Rule 106. Providers.**

\* \* \* \* \*

(c) *Minimum Standards for Providers.*

1. A provider shall be an organization engaged in CLE which, during the two (2) years immediately preceding its application has sponsored at least five (5) separate courses which would comply with the requirements for course approval under these rules. A provider may be an ABA accredited law school or a bar association or **Board approved legal service organization** within the Commonwealth of Pennsylvania.

\* \* \* \* \*

**Rule 108. Credit for Continuing Legal Education Courses and Activity.**

\* \* \* \* \*

**(f) Pro Bono CLE.**

**The number of credits earned by providing approved pro bono service that may be applied to the annual compliance requirement shall not exceed three (3).**

**Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS**

**Section 1. Definitions.**

\* \* \* \* \*

**“Accredited Pro Bono CLE Provider”. A legal service provider accredited by the Board in accordance with the rules and regulations.**

\* \* \* \* \*

**Section 5. Credit for CLE Activities.**

\* \* \* \* \*

(c) *Carry Forward Credits.* A lawyer may carry forward a balance of credit hours in excess of the current annual CLE requirement for the next two (2) succeeding years. No more than two (2) times the current annual CLE requirement may be carried forward into the two (2) succeeding years. CLE credits for ethics, professionalism or substance abuse may be applied as provided in Section 3(d). **Distance Learning credits may be applied as provided in Section 13(n). Pro bono credits may be applied as provided in Section 13(o).**

\* \* \* \* \*

**(i) CLE for Pro Bono.**

**1. The CLE Board may allow one (1) CLE credit hour for every (5) hours of pro bono legal service performed, up to a maximum of three (3) credit hours per compliance period.**

**2. Organizations eligible for accreditation as a Pro Bono CLE Provider:**

**a. An organization that receives funding from the Pennsylvania Legal Aid Network (PLAN) or the Pennsylvania Interest on Lawyers Trust Accounts Board (IOLTA).**

**b. A non-profit organization with a partnership or referral relationship with PLAN or IOLTA or project that receives funding.**

**Section 13. Standards for Approved CLE Activities.**

All CLE activities approved for credit shall meet the following standards:

\* \* \* \* \*

**(o) Credit for Pro Bono Legal Service may be approved for credit in accordance with standards determined by the Board:**

**a. Credit may only be earned for pro bono service that is assigned, verified and reported by an Accredited Pro Bono CLE Provider.**

**b. CLE credit may be received when services are performed for a person of limited means or charitable organization.**

**c. Credits earned through pro bono service in excess of the annual credit limit will not carry forward into subsequent compliance periods.**

[Pa.B. Doc. No. 22-226. Filed for public inspection February 11, 2022, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### [ 204 PA. CODE CH. 83 ]

**Proposed Amendment to Pennsylvania Rule of Disciplinary Enforcement 208(f) to Allow Disciplinary Counsel to Request and the Court to Issue a Rule Upon a Temporarily Suspended Respondent-Attorney to Show Cause Why He or She Should Not Be Disbarred When the Respondent-Attorney Has Been on Temporary Suspension for More than Two Years, a Formal Proceeding Has Not Been Commenced, and Disciplinary Counsel Demonstrates Post-Suspension Factors that Warrant Disbarment.**

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (“Disciplinary Board”) is considering recommending to the Pennsylvania Supreme Court (“Court”) that the Court amend Rule 208(f) of the Pennsylvania Rules of Disciplinary Enforcement (“Enforcement Rules”) by adding paragraphs (8) and (9), as set forth in Annex A. The intent of the amendment is that the disciplinary system dispense with the requirement of a formal proceeding in order to achieve final discipline when one or more enumerated facts or circumstances, as identified in the proposed rule, have occurred after the entry of the order of temporary suspension and are of such gravity that the disciplinary system is justified in assigning to the respondent-attorney the ultimate burden of convincing the Court that the respondent-attorney should not be disbarred from the legal profession at that time. Disciplinary Counsel will not be able to employ this procedure unless the respondent-attorney has had at least two years to satisfactorily remediate the situation that resulted in the order of temporary suspension. The proposal places the initial burden on Disciplinary Counsel to demonstrate facts that warrant the Court’s issuance of the rule to show cause and gives the respondent-attorney the opportunity to submit a response to the rule within thirty days.

The current proposal does not affect the rights conferred by paragraphs (f)(4) and (f)(6) of current Enforcement Rule 208. Paragraph (f)(4) gives a temporarily suspended attorney the right at any time to petition the Court for dissolution or modification of the order of temporary suspension. Paragraph (f)(6) gives the temporarily suspended attorney the right to request an accelerated disposition of the charges which formed the basis for the temporary suspension.

Some temporarily suspended attorneys make a legitimate effort to resolve pending disciplinary matters with a view to restoring their ability to practice law as soon as reasonably possible or at some other time in the future. Proposed paragraphs (f)(8) and (9) are intended to address those situations where the respondent-attorney, after the entry of the order of temporary suspension: fails to cooperate with Disciplinary Counsel to resolve pending disciplinary matters; shows disrespect or disdain toward the disciplinary system or defiance and contempt for the authority of the Court; or exhibits no interest in restoring his or her license to practice law. Such post-suspension aggravators could include the respondent-attorney’s:

- failure to comply with conditions imposed in the order of temporary suspension or with the requirements of Enforcement Rule 217.

- conduct that materially delays or obstructs Disciplinary Counsel’s ability to fully investigate the allegations of misconduct that formed the basis for the order of temporary suspension, or any other investigation or proceeding pending against the respondent-attorney.

- failure to respond to a DB-7 letter or subpoena or otherwise provide information or records.

- disappearance or efforts to evade disciplinary authorities, thereby preventing Disciplinary Counsel, despite reasonably diligent efforts, from contacting the respondent-attorney and establishing actual service of notices or other process at the respondent-attorney’s last known addresses.

- disappearance or inertia that requires the appointment of a conservator to protect the interests of the respondent-attorney’s clients or their funds, or both.

- failure to participate in proceedings before the Pennsylvania Lawyers Fund for Client Security resulting in an award.

When a respondent-attorney is recalcitrant or disappears during the early stages of Disciplinary Counsel’s investigation into the respondent-attorney’s misconduct, Disciplinary Counsel is often faced with the prospect of moving forward with formal charges on a case that is less-than-fully investigated, which may allow the respondent-attorney to avoid a discipline that might be enhanced if the investigation were complete. At times, the lack of active participation by the respondent-attorney leaves a record with no explanation (or a speculative one) of the reason for the misconduct or the respondent-attorney’s absence, or both. In any event, Disciplinary Counsel should not be faced with the choice of allowing a case to remain in limbo indefinitely or moving forward on less than a complete investigation, nor should the disciplinary system be forced to devote its limited resources to pursuing formal charges in cases where the respondent-attorney has shown no interest for more than two years in retaining his or her privilege of practicing law in the Commonwealth. Additionally, the proposed amendments would advance the disciplinary system’s goal of deterrence, in that the amendments would signal to respondent-attorneys who are suspended on an interim basis that the failure to comply with post-suspension professional obligations, or engaging in obstructionist conduct to impede pending investigations or proceedings, will not be tolerated. The current proposal supports the Board’s compelling interest in fostering efficiency within the disciplinary system while simultaneously advancing its goals.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Executive Office, 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](mailto:Dboard.comments@pacourts.us) on or before March 14, 2022.

*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 B. MISCONDUCT

## Rule 208. Procedure.

\* \* \* \* \*

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

(1) Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to these rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief. A copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel. If Disciplinary Counsel cannot make personal service after reasonable efforts to locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to an employee, agent or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney pursuant to Rule 219(d). Service is complete upon delivery or mailing, as the case may be. The Court, or any justice thereof, 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. The Court, or any justice thereof, may, before or after issuance of the rule, issue:

(i) such orders to the respondent-attorney, and to such financial institutions or other persons as may be necessary to preserve funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled in manifest violation of the Disciplinary Rules;

(ii) an order directing the president judge of the court of common pleas in the judicial district where the respondent-attorney maintains his or her principal office for the practice of law or conducts his or her primary practice, to take such further action and to issue such further orders as may appear necessary to fully protect the rights and interests of the clients of the respondent-attorney when:

(A) the respondent-attorney does not respond to a rule to show cause issued after service of the petition pursuant to subdivision (f)(1); or

(B) Disciplinary Counsel's petition demonstrates cause to believe that the respondent-attorney is unavailable to protect the interests of his or her clients for any reason, including the respondent-attorney's disappearance, abandonment of practice, incarceration, or incapacitation from

continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants.

Where the Court enters an order under (f)(1)(ii), the Board shall promptly transmit a certified copy of the order to the president judge, whose jurisdiction and authority under this rule shall extend to all client matters of the respondent-attorney.

Where the Court enters an order under (f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Court Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

(2) If a rule to show cause has been issued under paragraph (1), and the period for response has passed without a response having been filed, or after consideration of any response, the Court may enter an order requiring temporary suspension of the practice of law by the respondent-attorney pending further definitive action under these rules.

(3) Any order of temporary suspension which restricts the respondent-attorney from maintaining an attorney or other trust account shall, when served on any bank or other financial institution maintaining an account against which the respondent-attorney may make withdrawals, serve as an injunction to prevent the financial institution from making further payment from the account on any obligation except in accordance with restrictions imposed by the Court. Any order of temporary suspension issued under this rule shall preclude the respondent-attorney from accepting any new cases or other client matters, but shall not preclude the respondent-attorney from continuing to represent existing clients on existing matters during the 30 days following entry of the order of temporary suspension. Such order may also provide that any fees or portion thereof tendered to the respondent-attorney during such 30-day period shall be deposited into a trust fund from which withdrawals may be made only in accordance with restrictions imposed by the Court.

(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 the Board. 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 of the petition on the Board. 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 Board 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.

(7) A proceeding involving a respondent-attorney who has been temporarily suspended pursuant to this rule at a time when a formal proceeding has already been commenced shall proceed and be concluded without appreciable delay.

(*Editor's Note:* Pa.R.D.E. 208 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")

*Note:* The "without appreciable delay" standard of subdivisions (f)(6) and (7) of the rule is derived from *Barry v. Barchi*, 443 U.S. 55, 66 (1979). Appropriate steps should be taken to satisfy this requirement, such as continuous hearing sessions, procurement of daily transcript, fixing of truncated briefing schedules, conducting special sessions of the Board, etc.

**(8) Where a respondent-attorney has been temporarily suspended pursuant to paragraph (1) or paragraph (5) and more than two years have passed without the commencement of a formal proceeding, and it appears by an affidavit demonstrating facts that:**

**(i) the respondent-attorney has not complied with conditions imposed in the order of temporary suspension or with the requirements of Enforcement Rule 217;**

**(ii) the order of temporary suspension was based, in whole or in part, on the respondent-attorney's failure to provide information or records, and the respondent-attorney has not provided the information or records, or otherwise cured the deficiency;**

**(iii) the respondent-attorney has engaged in post-suspension conduct, by act or omission, that materially delays or obstructs Disciplinary Counsel's ability to fully investigate allegations of misconduct against the respondent-attorney;**

**(iv) the respondent-attorney's whereabouts are unknown, in that despite reasonably diligent efforts, Disciplinary Counsel has not been able to contact or locate the respondent-attorney for information or to serve notices or other process at the address provided by the respondent-attorney in the verified statement required by Enforcement Rule 217(e)(1) or at any other known addresses that might be current;**

**(v) a conservatorship of the affairs of the respondent-attorney has been appointed pursuant to Enforcement Rule 321; or**

**(vi) the respondent-attorney has not participated in proceedings before the Pennsylvania Lawyers Fund for Client Security in which an adjudicated claim has resulted in an award,**

**Disciplinary Counsel may petition the Court for the issuance of a rule to show cause why an order of disbarment should not be entered. The provisions of paragraph (1) apply to service of the petition upon the respondent-attorney by Disciplinary Counsel. Upon the filing by Disciplinary Counsel of an affidavit establishing compliance with the service requirements of paragraph (1), the Court may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be disbarred, which rule shall be returnable within thirty days. The respondent-attorney shall serve a copy of any response on Disciplinary Counsel, who shall have fourteen days after receipt to file a reply.**

**(9) If a rule to show cause has been issued under paragraph (8), and the period for response has passed without a response having been filed, or after consideration of any responses, the Court may enter an order disbarring the respondent-attorney from the practice of law, discharging the rule to show cause, or directing such other action as the Court deems appropriate.**

(g) *Costs.*—

(1) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney. All expenses taxed under this paragraph pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be paid by the respondent-attorney within 30 days after notice transmitted to the respondent-attorney of taxed expenses. In all other cases, expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney.

\* \* \* \* \*

[Pa.B. Doc. No. 22-227. Filed for public inspection February 11, 2022, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### GREENE COUNTY

#### Designation of a Central Location for Holding Certain Preliminary Hearings in Court Cases; C.A. No. 1 of 2022

##### Administrative Order

#### Designation of a Central Location for Holding Certain Preliminary Hearings in Court Cases

*And Now*, this 27th day of January, 2022, due to the relatively large geographic area of the 13th Judicial District and for the fair and efficient administration of justice, it is the opinion of this Court that the administration of justice may be more expeditiously accomplished by the establishment of a new central place, within the Judicial District, for conducting certain preliminary hearings in court cases in which the Authorities of the various Magisterial Districts shall have jurisdiction.

*Wherefore*, it is the Order of this Court that, effective April 1, 2022, and continuing until further Order of Court, a Courtroom on the 1st floor of the Greene County Courthouse, located at 10 East High Street, Waynesburg, Pennsylvania, is hereby designated as the place for conducting certain preliminary hearings within the 13th Judicial District of Pennsylvania; the same shall be known as the “Central Court of Greene County” (Central Court).

Pending further Order of the Court, only a certain category of cases shall be heard by the Central Court of Greene County. This Court may, from time to time, enter Orders expanding the parameters of the Central Court consistent with the administration of justice.

Pending further Order of the Court, any criminal complaint that includes a charge of Driving Under the Influence of Alcohol and/or Controlled Substances, and is initiated by summons pursuant to the Pennsylvania Rules of Criminal Procedure, shall be heard in Central Court by the District Judge presiding over Central Court. All criminal complaints that include Driving Under the Influence shall be filed in the District Court with appropriate jurisdiction. Upon the filing of the criminal complaint as described above, the issuing authority shall then schedule the matter for a preliminary hearing in the Central Court. The issuing authority shall schedule the preliminary hearing at the next available Central Court date with at least forty-five (45) days notice.

The Central Court shall convene for the holding of preliminary hearings at 9:00 a.m. on the third Wednesday of each month, unless such day shall be a legal holiday, in which event the regular session of Central Court for that month shall convene at 9:00 a.m. on the Thursday immediately following such holiday. Special sessions of said Central Court may be scheduled for other days (of the month) as the need arises.

This Court shall provide for the assignment of Magisterial District Judges to preside at said Central Court, and also shall establish from time to time such procedures for the Central Court as the needs of justice and the efficient administration thereof may require.

The Magisterial District Justices, when assigned to preside at Central Court, shall exercise all powers given to Magisterial District Judges by the laws of this Commonwealth and the Rules of Criminal Procedure promulgated by the Supreme Court of Pennsylvania.

District Court Administration, acting through the Central Court Manager, shall exercise administrative control over the operation of Central Court, and shall supervise and administer the operation of the same.

The Central Court shall have a new designation as Court 13-3-00. Criminal Complaints initiated by an arrest (with or without a warrant) shall continue to be heard by the issuing authority in the Court in which the complaint has been filed. Pending further order of the Court, criminal complaints that are initiated by summons that do not include a charge of Driving Under the Influence shall continue to be heard at the District Court of the issuing authority.

This Order shall be adopted by the local rule. This rule will be designated “G131-ESTABLISHMENT OF CENTRAL COURT.”

*Further*, the District Court Administrator shall file the original of this order with the Prothonotary.

*So Ordered and Decreed*

*By the Court*

LOUIS DAYICH,  
*President Judge*

#### Local Rule G131. Establishment of Central Court.

Due to the relatively large geographic area of the 13th Judicial District and for the fair and efficient administration of justice, it is the opinion of this Court that the administration of justice may be more expeditiously accomplished by the establishment of a new central place, within the Judicial District, for conducting certain preliminary hearings in court cases in which the Authorities of the various Magisterial Districts shall have jurisdiction.

1. *Wherefore*, it is the Order of this Court that, effective April 1, 2022, and continuing until further Order of Court, a Courtroom on the 1st floor of the Greene County Courthouse, located at 10 East High Street, Waynesburg, Pennsylvania, is hereby designated as the place for conducting certain preliminary hearings within the 13th Judicial District of Pennsylvania; the same shall be known as the “Central Court of Greene County” (Central Court).

2. Pending further Order of the Court, only a certain category of cases shall be heard by the Central Court of Greene County. This Court may, from time to time, enter Orders expanding the parameters of the Central Court consistent with the administration of justice.

3. Pending further Order of the Court, any criminal complaint that includes a charge of Driving Under the Influence of Alcohol and/or Controlled Substances, and is initiated by summons pursuant to the Pennsylvania Rules of Criminal Procedure, shall be heard in Central Court by the District Judge presiding over Central Court. All criminal complaints that include Driving Under the Influence shall be filed in the District Court with appropriate jurisdiction. Upon the filing of the criminal complaint as described above, the issuing authority shall then schedule the matter for a preliminary hearing in the Central Court. The issuing authority shall schedule the preliminary hearing at the next available Central Court date with at least forty-five (45) days notice.

4. The Central Court shall convene for the holding of preliminary hearings at 9:00 a.m. on the third Wednesday of each month, unless such day shall be a legal holiday, in which event the regular session of Central Court for that month shall convene at 9:00 a.m. on the Thursday

immediately following such holiday. Special sessions of said Central Court may be scheduled for other days (of the month) as the need arises.

5. This Court shall provide for the assignment of Magisterial District Judges to preside at said Central Court, and also shall establish from time to time such procedures for the Central Court as the needs of justice and the efficient administration thereof may require.

6. The Magisterial District Justices, when assigned to preside at Central Court, shall exercise all powers given to Magisterial District Judges by the laws of this Commonwealth and the Rules of Criminal Procedure promulgated by the Supreme Court of Pennsylvania.

7. District Court Administration, acting through the Central Court Manager, shall exercise administrative control over the operation of Central Court, and shall supervise and administer the operation of the same.

8. The Central Court shall have a new designation as Court 13-3-00. Criminal Complaints initiated by an arrest (with or without a warrant) shall continue to be heard by the issuing authority in the Court in which the complaint has been filed. Pending further order of the Court, criminal complaints that are initiated by summons that do not include a charge of Driving Under the Influence shall continue to be heard at the District Court of the issuing authority.

9. This local rule shall become effective thirty (30) days from its publication in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 22-228. Filed for public inspection February 11, 2022, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LACKAWANNA COUNTY

#### Adoption of Local Rules of Juvenile Court Procedure; 2022 MD 45

##### Order

*And Now*, this 1st day of February, 2022, *It Is Hereby Ordered and Decreed* as follows:

1. The following Lackawanna County Local Rules are *Hereby Adopted* pursuant to Pa.R.J.C.P. 205 and Pa.R.J.C.P. 1205 effective March 14, 2022.

2. The adopted Local Rules shall be disseminated and published in the following manner:

One (1) certified copy of the adopted Local Rules shall be filed with the Administrative Office of the Pennsylvania Courts;

The adopted Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

A copy of the adopted Local Rules shall be published on the Unified Judicial System's website through the Pennsylvania Judiciary's Web Application Portal;

The adopted Local Rules shall be kept continuously available for the public inspection and copying in the Office of the Clerk of Judicial Records, Family Court Juvenile Delinquency Division and Family Court Dependency Division, and upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Judicial Records shall furnish to any requesting person a copy of the requested Local Rule; and

The adopted Local Rules shall be distributed to the Lackawanna Bar Association for publication on the website of the Lackawanna Bar Association.

The adopted Local Rules shall be published on the website of the Lackawanna County Court of Common Pleas.

*By the Court*

PATRICIA CORBETT,  
*President Judge*

#### Rule 205. Electronic Filing and Service of Legal Papers.

##### (A) *General Scope and Purpose of this Rule.*

In agreement with the Administrative Office of Pennsylvania Courts, the electronic filing of legal papers in Lackawanna County Court of Common Pleas, 45th Judicial District, is hereby authorized in accordance with Pa.R.J.C.P. 205 and this Rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

(B) *Legal Papers Defined.* The legal Papers which shall be filed electronically shall encompass all written motions, written answers, and any notices or documents for which filings are required or permitted, including orders, copies of exhibits, and attachments except for the following:

1. Applications for search warrants;
2. Applications for arrest warrants;
3. Exhibits offered into evidence, whether or not admitted, in a court proceedings; and
4. Submissions filed ex parte as authorized by law.

(C) All attorneys shall establish a PACFile account using the United Judicial System of Pennsylvania Web Portal at <http://ujportal.pacourts.us/MyServices.aspx> and participation is permissive. Parties who are proceeding without counsel are not required to establish a PACFile account and are not required to file legal papers using the electronic PACFile system.

(D) Applicable filing fees shall be paid electronically through procedures established by the Clerk of Court and at the same time and in the same amount as required by statute, court rule, or order, or established by a published fee schedule.

##### (E) *Service.*

1. Upon submission of a legal paper for electronic filing, the PACFile system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 167(B) and 345(B) on any attorney or party who has established a system account.

2. Service of electronic filings on any attorney or party who has not established a UJS web portal account or who is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 167(B) and 345(B).

3. Attorney or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.

4. Where an electronic filing cannot be submitted to no fault of the filing party, traditional filing shall be accepted.

(F) *Legal Papers Filed in a Paper Format.* Any legal paper submitted for filing to the Clerk of Courts in a paper (or “hard-copy”) format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to PDF and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.J.C.P. 205(C). Once converted to PDF, the PDF version of the legal paper shall be deemed and treated as the original legal paper and may be used by the parties and the Court for all purposes, including but not limited to, court hearings and trials.

(G) *Confidential Information.* Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in paper format. Counsel and unrepresented parties must include confidential information relevant to the case on the approved AOPC Confidential Information Form. The Confidential Information shall be served on and made available to the parties to the case, the Court, and appropriate Court staff, as provided in the Public Access Policy. This Rule shall be effective (30) days from date of publication.

**Rule 1205. Electronic Filing and Service of Legal Papers.**

(A) *General Scope and Purpose of this Rule.*

In agreement with the Administrative Office of Pennsylvania Courts, the electronic filing of legal papers in Lackawanna County Court of Common Pleas, 45th Judicial District, is hereby authorized in accordance with Pa.R.J.C.P. 1205 and this Rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

(B) *Legal Papers Defined.* The legal Papers which shall be filed electronically shall encompass all written motions, written answers, and any notices or documents for which filings are required or permitted, including orders, copies of exhibits, and attachments except for the following:

1. Submissions filed ex parte as authorized by law; and
2. Exhibits offered into evidence, whether or not admitted, in a court proceedings.

(C) All attorneys shall establish a PACFile account using the United Judicial System of Pennsylvania Web Portal at <http://ujportal.pacourts.us/MyServices.aspx> and participation is permissive. Parties who are proceeding without counsel are not required to establish a PACFile account and are not required to file legal papers using the electronic PACFile system.

(D) Applicable filing fees shall be paid electronically through procedures established by the Clerk of Court and at the same time and in the same amount as required by statute, court rule, or order, or established by a published fee schedule.

(E) *Service.*

1. Upon submission of a legal paper for electronic filing, the PACFile system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 1167(B) and 1345(B) on any attorney or party who has established a system account.

2. Service of electronic filings on any attorney or party who has not established a UJS web portal account or who is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 1167(B) and 1345(B).

3. Attorney or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.

4. Where an electronic filing cannot be submitted to no fault of the filing party, traditional filing shall be accepted.

(F) *Legal Papers Filed in a Paper Format.* Any legal paper submitted for filing to the Clerk of Courts in a paper (or “hard-copy”) format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to PDF and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.J.C.P. 1205(C). Once converted to PDF, the PDF version of the legal paper shall be deemed and treated as the original legal paper and may be used by the parties and the Court for all purposes, including but not limited to, court hearings and trials.

(G) *Confidential Information.* Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in paper format. Counsel and unrepresented parties must include confidential information relevant to the case on the approved AOPC Confidential Information Form. The Confidential Information shall be served on and made available to the parties to the case, the Court, and appropriate Court staff, as provided in the Public Access Policy. This Rule shall be effective (30) days from date of publication.

[Pa.B. Doc. No. 22-229. Filed for public inspection February 11, 2022, 9:00 a.m.]