

**CHAPTER 5. TRIAL PROCEDURES**

Rule	
501.	Appointment of Panel.
502.	Trial. Stipulations of Fact. Conclusions of Law. Withdrawal of Complaints or Withdrawal of Counts.
503.	Post-Trial Proceedings.
504.	Sanctions.
505.	Post Sanction Proceedings.
506.	Appellate Review.

**Source**

The provisions of this Chapter 5 adopted November 16, 1994, effective January 1, 1995, 24 Pa.B. 5835; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1677, unless otherwise noted. Immediately preceding text appears at serial pages (196353) to (196354).

**Rule 501. Appointment of Panel.**

(A) The President Judge may appoint a Panel which shall be authorized to act on behalf of the Court. The Panel shall conduct the trial on the Board Complaint.

(B) The Panel shall consist of no fewer than three members of the Court, one of whom shall be the Conference Judge, appointed pursuant to Rule 301(B). The Conference Judge shall preside at the trial.

**Official Note:** This rule is derived from former interim Rule 24.

**Source**

The provisions of this Rule 501 adopted March 16, 1994, effective March 16, 1994; amended November 1, 1994, effective January 1, 1995; amended January 19, 2000, effective immediately, 30 Pa.B. 619; amended April 12, 2016, effective immediately, 46 Pa.B. 2033. Immediately preceding text appears at serial page (345701).

**Rule 502. Trial. Stipulations of Fact. Conclusions of Law. Withdrawal of Complaints or Withdrawal of Counts.**

(A) The trial shall be held before the Court and shall be open to the public.

(B) Conduct of Trial.

(1) All testimony shall be under oath.

(2) The Board and the Judicial Officer shall be permitted to present evidence and examine and cross-examine witnesses. The Judicial Officer may, but shall not be required to, testify.

(3) At the conclusion of the trial, the Board and the Judicial Officer may, at the request of the Court, present oral argument and shall submit proposed findings of fact and conclusions of law.

(4) The trial shall be recorded verbatim. Requests and orders for transcripts shall be governed by Pa.R.J.A. 5000.5. Any party requesting notes of testimony shall bear the cost of transcription. When the notes of testimony have been transcribed, the court reporter shall first submit the transcript to the Clerk. Following receipt and review of the transcript, the Clerk shall lodge the transcript and shall inform the court reporter of said lodging. In no instance shall the court reporter provide a version of the transcript to a requesting party until the transcript is lodged, and the Clerk has informed the court reporter and the parties that the transcript has been lodged.

(C) Any witness shall have the right to be represented by counsel, but the witness' counsel shall not participate in the trial except by permission of the Court.

(D) Stipulations of Fact.

(1) In lieu of a trial, the parties may submit to the Court stipulations as to all facts necessary to a decision of the issues in the case. The stipulations shall be binding upon the parties and may be adopted by the Court as the facts of the case upon which a decision shall be rendered. When submitted, the stipulations shall be accompanied by a signed waiver of any right to trial granted under the Constitution and the Rules of this Court.

(2) The parties may submit stipulations as to issues of fact, but which do not resolve all relevant issues in the case. In this case, the parties shall be bound by the stipulations and the Court may adopt them and proceed to trial on all remaining factual issues.

(3) In the event the Court rejects stipulations submitted under subsection (1) or (2) above, the Court shall schedule a conference to determine whether the parties shall be afforded the opportunity to submit revised stipulations or whether the case should proceed to trial.

(E) Conclusions of Law.

At the close of the evidence, the parties may submit suggested Conclusions of Law which the Court may consider in rendering the decision, however, said conclusions when submitted are not binding upon the Court.

(F) Withdrawal of Complaints or Withdrawal of Counts.

The Board may file a motion to withdraw a Complaint or any of the Counts in a Complaint, which, in either case, shall be supported by good cause.

#### Source

The provisions of this Rule 502 amended May 24, 1995, effective immediately, 25 Pa.B. 2269; amended April 17, 1996, effective immediately, 26 Pa.B. 2097; amended April 4, 1997, effective immediately, 27 Pa.B. 1920; amended November 24, 1998, effective immediately, 28 Pa.B. 6068; amended March 5, 1999, effective immediately, 29 Pa.B. 1487; amended September 15, 2009, effective immediately, 39 Pa.B. 5543. Immediately preceding text appears at serial pages (290385) to (290386).

### Rule 503. Post-Trial Proceedings.

(A) *Findings of Fact and Conclusions of Law.* Following the trial, the Court shall file its findings of fact and conclusions of law which shall be served on the Board and the Judicial Officer.

(B) *Objections.*

(1) The Board and the Judicial Officer may elect to file written objections which shall include the basis for the objections to the Court's findings and conclusions.

(2) Any objections shall be filed with the Court within 10 days of the entry of the findings and conclusions. The President Judge may for cause shown extend the time for filing objections.

(3) The Court may permit the Judicial Officer and the Board to present oral argument on any objections filed.

(C) *Disposition of Objections.*

(1) Findings of fact and conclusions of law shall become final:

(a) When no objections have been filed within the applicable time period; or

(b) When objections have been timely filed and the Court, either with or without oral argument, has ruled on the objections.

(2) In any case where objections have been filed, the Court shall enter an order disposing of the objections by affirming, modifying or vacating the findings and conclusions of law.

**Official Note:** This rule is derived from former interim Rule 26.

**Source**

The provisions of this Rule 503 adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994; amended July 16, 2002, effective immediately, 32 Pa.B. 3698. Immediately preceding text appears at serial pages (263352) and (240599).

**Rule 504. Sanctions.**

(A) After findings of fact and conclusions of law become final pursuant to Rule 503, the Court shall hold a hearing in open court on the issue of sanctions.

(B) Following the sanction hearing, the Court shall enter an order in writing on the issue of sanctions. This order shall constitute a final order of discipline pursuant to Article V, § 18 of the Pennsylvania Constitution.

**Official Note:** This rule is derived from former interim Rule 27.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994; amended November 1, 1994, effective January 1, 1995.

**Source**

The provisions of this Rule 504 amended July 31, 2009, effective August 1, 2009, 39 Pa.B. 4419. Immediately preceding text appears at serial page (290387).

**Rule 505. Post Sanction Proceedings.**

(A) When the Court includes as part of an order of discipline a period and conditions of probation, the Court shall retain the power to reconsider the sanction imposed if, after hearing, the Court determines that a judicial officer has violated the terms of probation.

(B) When the Board finds that the judicial officer has violated the conditions of probation, the Board shall file a Petition with the Court alleging such a violation. This Petition shall request a hearing and request the Court to provide the Board with any relevant material or other written information in possession of the Court.

(C) At any hearing held pursuant to Section B of this Rule:

(1) The Board shall have the burden of proving by clear and convincing evidence that the judicial officer failed to comply with one or more of the terms of probation.

(2) All testimony shall be under oath.

(3) The Board and the judicial officer shall be permitted to present evidence and examine and cross-examine witnesses.

(4) The judicial officer shall have the right to counsel.

(5) All hearings shall be public proceedings conducted pursuant to the Rules of this Court and in accordance with the principles of due process and the laws of evidence.

(D) When the Court learns that the judicial officer may not be in compliance with the conditions of said probation, and the Judicial Conduct Board has not already filed a Petition alleging failure to comply with a condition of probation, the Court may ask the Board to undertake an inquiry to determine whether a violation has occurred. If upon investigation the Board finds that the judicial officer has violated the terms of probation, the Board may file a Petition and the matter shall proceed pursuant to Sections B and C of this Rule. If after investigation the Board finds that the judicial officer has not violated the terms of probation, the Board may file a Report stating in detail the basis for that conclusion, and requesting the Court to order the inquiry concluded, ended, and terminated. Notwithstanding the Board's conclusion that no violation of probation has occurred, the Court may order a hearing to determine whether a violation has occurred.

(E) If, after hearing, the Court determines that the judicial officer has violated the terms of probation, the Court may reconsider the original sanction imposed, revoke probation, and impose any sanction it could have ordered initially in its discretion under Article V, § 18(d)(1). If, after hearing, the Court concludes that the judicial officer has not violated the terms of probation, the Court shall enter an Order dismissing the allegation of violation.

(F) The Board and judicial officer shall serve each other with copies of any pleading filed with this Court under the provisions of this Rule.

#### Source

The provisions of this Rule 505 amended January 6, 1998, effective immediately, 28 Pa.B. 359. Immediately preceding text appears at serial page (228665).

### **Rule 506. Appellate Review.**

Appellate review shall be governed pursuant to Rules promulgated by the Supreme Court.

#### Source

The provisions of this Rule 506 adopted January 6, 1998, effective immediately, 28 Pa.B. 359.

[Next page is 6-1.]