

**CHAPTER 109. CONFIDENTIALITY; PRIVILEGE**

- Rule  
17. Confidentiality.  
18. Disclosure.  
19. Privilege and Immunity.

**Source**

The provisions of this Chapter 109 adopted March 20, 1995, effective March 20, 1995, 25 Pa.B. 1404, unless otherwise noted.

**Rule 17. Confidentiality.**

Except as provided in Rule 18, all information and proceedings relating to a complaint and records of the Board's deliberations shall be confidential.

**Rule 18. Disclosure.**

## (A) Waiver

(1) A Judicial Officer who is the subject of a complaint made pursuant to these rules may request in writing that the matter be made public, or may waive confidentiality for a particular purpose specified in writing.

(2) Upon receipt of a written request or waiver pursuant to paragraph (A)(1) or (B), the Board may make those disclosures it deems appropriate.

(B) Upon a determination by the Chair that independent of any action by the Board, the fact that an investigation by the Board is in progress has become a matter of public record, the Board may, at the written request of the Judicial Officer, issue a statement:

- (1) to confirm that the investigation is in progress;
- (2) to clarify the procedural aspects of the proceedings;
- (3) to explain the rights of the subject of the investigation to a fair hearing without prejudice; or
- (4) to provide the Judicial Officer's response to the complaint.

(C) Information related to violations of criminal laws may be disclosed to the appropriate governmental agency.

(D) Information related to violations of rules of professional conduct may be disclosed to the appropriate agency.

(E) If the Board dismisses a complaint about which information has been made public pursuant to paragraph (B), the Board may issue a statement that the matter has been dismissed.

(F) At the request of the Judicial Officer, in the discretion of the Chair, the Board may provide relevant information to:

- (1) authorized governmental agencies investigating the qualifications of judicial candidates;
- (2) the Court of Judicial Discipline or the Supreme Court;

- (3) other jurisdictions investigating qualifications for admission to practice;  
or
  - (4) law enforcement agencies investigating qualifications for government employment.
- (G) Review

If the Chair makes a determination pursuant to paragraph (B) not to disclose information, that determination shall be reviewed by the Board at the request of the Judicial Officer.

- (H) Work Product

Board Counsel's work product and the investigative files shall not be disclosed unless disclosure is required by these rules.

**Rule 19. Privilege and Immunity.**

(A) Members of the Board, Board Counsel, and Staff shall be absolutely immune from suit for all conduct in the course of their official duties.

(B) All communications to the Board, a Panel, or Board Counsel, relating to conduct for which a Judicial Officer could be suspended, removed from office, or otherwise disciplined pursuant to PA. CONST. Art. V, § 18(d)(1), and all testimony given in a proceeding conducted pursuant to these rules, shall be absolutely privileged, and the person making the communication or giving the testimony shall be immune from suit based upon such communication or testimony, except that such immunity shall not extend to any action that violates Rule 17 (Confidentiality).

(C) For purposes of this rule, the Staff of the Board shall be deemed to include those persons examining, or participating in the treatment or counseling of, a Judicial Officer pursuant to these rules, and/or conservators and sobriety, financial, or practice monitors appointed pursuant to the Rules of Professional Conduct or the Rules of Disciplinary Enforcement.

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