

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

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Subchapter A. PRELIMINARY PROVISIONS

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§ 93.1. Disciplinary districts.

Enforcement Rule 202(a) provides that disciplinary jurisdiction in this Commonwealth shall be divided into the following districts.

- (1) District I. The County of Philadelphia.
- (2) District II. The Counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton and Schuylkill.
- (3) District III. The Counties of Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York.
- (4) District IV. The Counties of Allegheny, Armstrong, Beaver, Bedford, Butler, Blair, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland.

§ 93.2. Venue.

Enforcement Rule 202(b) provides that the disciplinary district which shall have jurisdiction over a person subject to the Enforcement Rules shall be any district in which the person maintains an office or the district in which the conduct under investigation occurred.

§ 93.3. Statements “under penalty.”

Any form prepared by the Administrative Office, the Office of the Secretary or the Office of Disciplinary Counsel for use under these rules, and which is intended to elicit facts upon the basis of which a public officer or employee per-

forms in an official capacity may pursuant to 18 Pa.C.S. § 4904(b) (relating to statements “under penalty”) contain a statement to the effect that false statements made therein are punishable.

Subchapter B. THE DISCIPLINARY BOARD

Sec.	
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§ 93.21. The Disciplinary Board.

Enforcement Rule 205(a) and (b) provide that the Supreme Court shall appoint a board to be known as “The Disciplinary Board of the Supreme Court of Pennsylvania” which shall be composed of 12 members of the bar of this Commonwealth and two non-lawyer electors; that the regular terms of members of the Board shall be for three years; that no member shall serve for more than two consecutive three-year terms.

Source

The provisions of this § 93.21 amended through October 9, 1981, effective October 10, 1981, 11 Pa.B. 3500; amended March 1, 1991, effective March 2, 1991, 21 Pa.B. 827; amended May 29, 2009, effective May 30, 2009, 39 Pa.B. 2687. Immediately preceding text appears at serial page (203546).

§ 93.22. Quorum and manner of acting.

(a) *General rule.* Enforcement Rule 205(b) provides that seven members of the Board shall constitute a quorum and that, except when acting under § 93.23(a)(5), (7) and (8) (relating to power and duties), the Board shall act only with the concurrence of not less than the lesser of:

- (1) seven members, or
- (2) a majority of the members in office who are not disqualified from participating in the manner or proceeding.

(b) *Determination of quorum.* Enforcement Rule 205(b) further provides that the presence of members who are disqualified from participating in one or more matters to be considered at a meeting shall nonetheless be counted for purposes of determining the existence of a quorum for the consideration of all matters on the agenda.

Source

The provisions of this § 93.22 amended through October 9, 1981, effective October 10, 1981, 11 Pa.B. 3500; amended November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended March 1, 1991, effective March 2, 1991, 21 Pa.B. 827. Immediately preceding text appears at serial page (154529).

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

(1) To consider and investigate the conduct of any person subject to the Enforcement Rules and may initiate any such investigation on its own motion or may undertake the same upon complaint by any person.

(2) To appoint a Secretary, a Chief Disciplinary Counsel, and such Assistant Disciplinary Counsel and staff as may from time to time be required to properly perform the functions prescribed in the Enforcement Rules.

(3) To appoint not less than 18 hearing committee members within each disciplinary district.

(4) To assign as special masters three or more former members of the Board or former or retired justices or judges who are not in senior judge status.

(5) To assign formal charges or the conduct of an investigatory hearing to a hearing committee or special master. The assignment to a hearing committee of formal charges or the conduct of an investigatory hearing may be delegated by the Board to its Secretary.

(6) To review the conclusions of hearing committees and special masters with respect to formal charges and to prepare and forward its own findings and recommendations, together with the record of the proceeding before the hearing committee or special master, to the Supreme Court.

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

(i) review and approve or modify recommendations by Disciplinary Counsel for dismissals, informal admonitions, private reprimands and institution of formal charges;

(ii) hear and determine attacks on the validity of subpoenas issued pursuant to § 91.2 (relating to subpoenas and investigations), as provided in § 91.3(2) (relating to determination of validity of subpoena); or

(iii) consider a petition for reinstatement to active status from inactive status under § 89.273(a)(7) (relating to procedures for reinstatement).

(8) To review, through a designated panel of three members, and approve or modify a determination by a reviewing hearing committee member that a matter should be concluded by dismissal, private informal admonition, private reprimand or the institution of formal charges before a hearing committee.

(9) To administer private reprimands to attorneys for misconduct.

(10) To adopt rules of procedure not inconsistent with the Enforcement Rules. Such rules may provide for the delegation to the Chairman or the Vice-Chairman of the power to act for the Board on administrative and procedural matters.

(11) To cause testimony relating to the conduct of formerly admitted attorneys to be perpetuated.

(12) To petition the Court under § 91.74 (relating to petition by Board for determination of professional competency) 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, and to retain counsel other than Disciplinary Counsel to represent the Board in such proceedings when the Board considers such separate representation to be appropriate.

(13) To recommend the temporary suspension of a respondent-attorney pursuant to Rule 208(f)(5) (relating to emergency temporary suspension orders and related relief).

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

(b) *Consultations with local bar associations.* Enforcement Rule 205(d) provides that the Board shall, to the extent it deems feasible, consult with officers of local bar associations in the counties affected concerning any appointment which it is authorized to make under the Enforcement Rules.

Source

The provisions of this § 93.23 amended July 8, 1983, effective July 9, 1983, 13 Pa.B. 2138; amended March 10, 1989, effective March 11, 1989, 19 Pa.B. 952; amended November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended December 7, 1990, effective December 8, 1990, 20 Pa.B. 6041; amended June 11, 1993, effective immediately, 23 Pa.B. 2729; amended July 29, 1994, effective July 30, 1994, 24 Pa.B. 3706; amended February 3, 1995, effective February 4, 1995, 25 Pa.B. 375; amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial pages (229611) to (229612).

§ 93.24. Officers.

(a) *Chair and Vice Chair.* Enforcement Rule 205(a) provides that the Supreme Court shall designate the Board Chair and the Board Vice Chair. In case of the vacancy in office, absence, disability or other unavailability of the Board Chair, the Board Vice Chair shall exercise the powers and perform the duties of the Board Chair.

(b) *Secretary.* The Secretary need not be a member of the Board and shall hold office at the pleasure of the Board.

Source

The provisions of this § 93.24 amended through March 6, 1981, effective March 7, 1981, 11 Pa.B. 782; amended April 25, 1997, effective April 26, 1997, 27 Pa.B. 2037. Immediately preceding text appears at serial page (203548).

§ 93.25. Official Seal.

The official seal of the Board shall be in the form and style as follows:

**§ 93.26. Meetings of the Board.**

(a) *Call and notice.* Meetings shall be held upon the call in writing of the Chair or of any two members of the Board at any place designated in the call or at any other place designated for such purpose by resolution of the Board or in the absence of such resolution as designated by the Chair. Notice of special meetings shall be given in person or by telephone or telegraph to each member of the Board (at the address furnished to the Office of the Secretary for that purpose) at least 24 hours prior to the time fixed for the special meeting. Notice of a special meeting may be waived in writing and shall be waived by attendance at the meeting.

(b) *Organization.* The Chair shall preside at meetings of the Board. In the absence of the Chair one of the following persons in the order stated shall preside:

- (1) The Vice Chair;
- (2) An acting chair selected by the Board for such purpose.

Source

The provisions of this § 93.26 amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (203549).

§ 93.27. Conference telephone meetings.

One or more members of the Board may participate in a meeting of the Board (other than a meeting for the purpose of hearing oral argument) by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

§ 93.28. Agenda.

An agenda for each meeting of the Board shall be prepared by the Office of the Secretary with the approval of the Chair.

Source

The provisions of this § 93.28 amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (203549).

§ 93.29. Panels.

(a) *General rule.* The Board Chair may designate panels of at least three Board members for the purpose of hearing oral argument in formal proceedings.

(b) *Organization.* The first-named member of each panel shall be the chair thereof. Except as otherwise provided by these rules, meetings and proceedings of a panel of the Board shall be governed insofar as applicable by the provisions of these rules governing meetings and proceedings of the Board.

(c) *Quorum.* A majority of the members of a panel of the Board shall constitute a quorum of the panel.

Source

The provisions of this § 93.29 amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (203550).

Subchapter C. OFFICE OF THE SECRETARY

- Sec.
93.51. Office of the Secretary.
93.52. Communications and filings generally.
93.53. Dockets.
93.54. Powers and duties of Office of the Secretary.

§ 93.51. Office of the Secretary.

There shall be an Office of the Secretary, which shall be the office of the Secretary of the Board and all other staff of the Board who are not assigned to the Office of Disciplinary Counsel, and shall be maintained at the location specified in § 85.6 (relating to location of Office of the Secretary). It shall be supervised by the Secretary of the Board who shall, either personally, by deputy, or by other duly authorized agent, exercise the powers and perform the duties vested in and imposed upon the Office of the Secretary by these rules.

§ 93.52. Communications and filings generally.

(a) *General rule.* Except as otherwise provided in this section all communications, submittals, and pleadings should be addressed to the Board at the Office of the Secretary unless otherwise specifically directed. All communication and filings should clearly designate the docket number, or similar identifying symbols, if any, employed by the Board, and should set forth a short title. All communications shall include the address of the person communicating, the party such person represents, and how response should be sent to such person if not by first class mail.

(b) *Pleadings.* All pleadings and other documents filed pursuant to any provision of Chapter 89 (relating to formal proceedings) shall comply with the applicable provisions of such Chapter.

(c) *Incomplete documents.* In any proceeding when upon inspection the Office of the Secretary is of the opinion that a submittal or pleading tendered for filing does not comply with this Subpart such Office may decline to accept the document for filing and may return it unfiled, or such Office may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) *Disposition of complaints.*

(1) Except as otherwise provided in this subsection all complaints received by the Office of the Secretary against attorneys shall be transmitted forthwith to the Office of Disciplinary Counsel. Thereafter correspondence concerning the complaint, the investigation thereof, and informal proceedings relating thereto should be addressed to the Office of Disciplinary Counsel.

(2) Complaints received by the Office of the Secretary against Disciplinary Counsel involving alleged violations of the Disciplinary Rules or Enforcement Rules shall be submitted directly to the Board and assigned to a reviewing member of the Board for disposition as provided by Enforcement Rule 209(b).

(3) Complaints received by the Office of the Secretary or the Office of Disciplinary Counsel against members of the Board involving alleged violations of Chapter 81 (relating to rules of professional conduct) or the Enforcement Rules shall, as provided by Enforcement Rule 209(b), be handled in the same manner as other complaints, except that if action is required by the Board the Secretary shall notify the Supreme Court which shall appoint an Ad Hoc Disciplinary Board comprised of five former members of the Board who shall discharge the functions of the Board and have all the powers of the Board with respect to that one matter only.

Source

The provisions of this § 93.52 amended January 15, 1988, effective April 1, 1988, 18 Pa.B. 242; amended August 5, 2005, effective immediately, 35 Pa.B. 4301. Immediately preceding text appears at serial page (309935).

§ 93.53. Dockets.

(a) *General rule.* The Office of the Secretary shall maintain such dockets of matters considered by the Board as may be directed by the Board.

(b) *Numbering.* Except as otherwise ordered by the Board, matters submitted to the Board for action shall be assigned a docket number consisting of the letters "DB" and the calendar year in which the matter is docketed, which shall be preceded by the serial number of the matter in such calendar year, e.g.: 1 DB 2001.

(c) *Petitions for reinstatement.* Petitions for reinstatement shall be docketed to the same number as assigned to the original disciplinary proceedings. If there is no such original docket number, a new number shall be assigned to the petition for reinstatement.

Source

The provisions of this § 93.53 amended July 13, 2001, effective immediately, 31 Pa.B. 3731. Immediately preceding text appears at serial page (229613).

§ 93.54. Powers and duties of Office of the Secretary.

The Office of the Secretary shall have the power and duty:

(1) To maintain permanent records of all matters processed by the Board and the disposition thereof. This paragraph shall not be construed to require the permanent retention of correspondence, transcripts, briefs and other similar documents which underlie the final disposition of a matter by the Board, but shall include the findings of any hearing committee or special master and the action and any related opinion or opinions of the Board with respect thereto, and any other information which these rules expressly require to be made a matter of record. Correspondence, transcripts, briefs and other similar documents which underlie the final disposition of a matter by the Board shall be retained for ten years following such disposition.

(2) To assemble signed vouchers for the expenses specified in § 93.111 (relating to determination of reimbursable expenses) incurred in:

(i) the investigation and prosecution of disciplinary proceedings for purposes of the taxation of expenses pursuant to § 89.205(b) (relating to informal admonition or private reprimand following formal hearing) and § 89.209 (relating to expenses of formal proceedings); and

(ii) the investigation and processing of petitions for reinstatement for purposes of the imposition of expenses on respondent-attorneys pursuant to § 89.278 (relating to expenses of reinstatement proceedings).

(3) To exercise the powers and perform the duties expressly vested in the Secretary or the Office of the Secretary by these rules.

Source

The provisions of this § 93.54 amended April 8, 1983, effective April 9, 1983, 13 Pa.B. 1244; amended November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended April 25, 1997, effective April 26, 1997, 27 Pa.B. 2037. Immediately preceding text appears at serial pages (203551) to (203552).

Subchapter D. OFFICE OF DISCIPLINARY COUNSEL

- Sec.
 93.61. Office of Disciplinary Counsel.
 93.62. Practice of law by Disciplinary Counsel prohibited.
 93.63. Powers and duties of Office of Disciplinary Counsel.

§ 93.61. Office of Disciplinary Counsel.

(a) *General rule.* There shall be an Office of Disciplinary Counsel, which shall be the office of the Chief Disciplinary Counsel and the following staff of the Board:

- (1) Assistant disciplinary counsel.
- (2) Investigators.
- (3) Such other staff of the Board as may be designated by the Board Chair.

(b) *Powers and duties.* The Office of Disciplinary Counsel shall be supervised by the Chief Disciplinary Counsel who shall, either personally, by assistant disciplinary counsel, or by other duly authorized staff of the Board, or by duly authorized agent, exercise the powers and perform the duties vested in and imposed upon the Office of Disciplinary Counsel by these rules.

(c) *Location.* The principal office and district offices of the Office of Disciplinary Counsel shall be maintained at the locations specified in § 85.5 (relating to location of office of disciplinary counsel).

Source

The provisions of this § 93.61 amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (281388).

§ 93.62. Practice of law by Disciplinary Counsel prohibited.

Enforcement Rule 207(a) provides that Disciplinary Counsel shall not be permitted to engage in private practice, except that the Board may agree to a reasonable period of transition after appointment.

§ 93.63. Powers and duties of Office of Disciplinary Counsel.

(a) *General rule.* The Office of Disciplinary Counsel shall have the power and duty (pursuant to Enforcement Rule 207(b)):

- (1) To investigate all matters involving alleged misconduct called to its attention whether by complaint or otherwise except, unless as otherwise directed by the Supreme Court or the Board, complaints against Disciplinary Counsel and members of the Board.
- (2) To dispose of all matters (subject to review by a senior or experienced hearing committee matter when required by these rules) involving alleged misconduct by dismissal, informal admonition, recommendation for private reprimand or the prosecution of formal charges before a hearing committee or special master.

(3) To request the appointment of a special master, where appropriate, and to prosecute all disciplinary proceedings before hearing committees, the Board and the Supreme Court.

(4) To appear at hearings conducted with respect to petitions for reinstatement by formerly admitted attorneys, to cross-examine witnesses testifying in support of the petition and to marshal available evidence, if any, in opposition thereto.

(5) To maintain through the Office of the Secretary permanent records of all matters processed by the Office of Disciplinary Counsel and the disposition thereof. This paragraph shall not be construed to require the permanent retention of correspondence, memoranda, transcripts and other similar documents which underlie the final disposition of a matter by the Office of Disciplinary Counsel and such materials may be retained or disposed of by the Office of Disciplinary Counsel in its discretion.

(6) To exercise the powers and perform the duties expressly vested in and imposed upon staff counsel or the Office of Disciplinary Counsel by these rules or by law.

(b) *Party status of Disciplinary Counsel.* Enforcement Rule 207(c) provides that Disciplinary Counsel:

(1) Shall be a party to all proceedings and other matters before the Board or the Supreme Court under the Enforcement Rules.

(2) May urge in the Supreme Court a position inconsistent with any recommendation of the Board where in the judgment of Disciplinary Counsel a different disposition of the matter is warranted by the law or the facts.

(3) May within the time and in the manner prescribed by 210 Pa. Code (relating to the Pennsylvania Rules of Appellate Procedure) obtain in the Supreme Court judicial review of any final determination of the Board, except a determination to conclude a matter by dismissal, informal admonition or private reprimand.

(4) May within the time and in the manner prescribed by 210 Pa. Code petition the Supreme Court for allowance of an appeal from any final determination of the Board to conclude a matter by dismissal, informal admonition or private reprimand.

Source

The provisions of this § 93.63 amended July 8, 1983, effective July 9, 1983, 13 Pa.B. 2138; amended March 10, 1989, effective March 11, 1989, 19 Pa.B. 952; amended October 13, 1989, effective October 14, 1989, 19 Pa.B. 4448; amended November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial pages (203553) to (203554).

Subchapter E. HEARING COMMITTEES AND SPECIAL MASTERS**HEARING COMMITTEES**

- Sec.
 93.81. Hearing committees.
 93.82. Quorum and manner of acting.
 93.83. Powers and duties.
 93.84. Officers.
 93.85. Meetings of hearing committees.
 93.86. Disqualification of reviewing member to sit on hearing in same matter.
 93.87. Replacement of unavailable members.

SPECIAL MASTERS

- 93.91. Special masters.

HEARING COMMITTEES**§ 93.81. Hearing committees.**

(a) *General rule.* Enforcement Rule 205(c)(3) provides that the Board shall appoint not less than 18 hearing committee members within each disciplinary district, and that each person appointed as a hearing committee member for a district shall be a member of the bar of this Commonwealth who maintains an office for the practice of law within the district.

(b) (Rescinded.)

(c) *Terms.* Enforcement Rule 206(a) provides that when a hearing committee is required to handle a matter, the Board shall appoint a hearing committee consisting of three hearing committee members from the appropriate disciplinary district; that at least one of the members of the hearing committee shall be a senior hearing committee member, and another member shall be either a senior hearing committee member or an experienced hearing committee member; that the terms of hearing committee members shall be three years; that no member shall serve for more than two consecutive three-year terms; that a hearing committee member who has served two consecutive three-year terms may be reappointed after the expiration of one year; and that the terms of members shall commence on July 1. A hearing committee member whose term has expired may continue to serve until the conclusion of any matter commenced before the member prior to the expiration of such term, if so requested in writing by the Office of the Secretary.

Source

The provisions of this § 93.81 amended March 6, 1981, effective March 7, 1981, 11 Pa.B. 782; amended July 29, 1994, effective July 30, 1994, 24 Pa.B. 3706; amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial pages (203554) to (203555).

§ 93.82. Quorum and manner of acting.

Enforcement Rule 206(a) provides that a hearing committee shall act only with the concurrence of a majority of its members and that two members shall constitute a quorum, except that a single senior or experienced hearing committee member may act for the committee when the committee is sitting as an investigatory hearing committee under § 91.2(a)(1) (relating to subpoenas and investigations) or when conducting a prehearing conference.

Source

The provisions of this § 93.82 amended October 9, 1981, effective October 10, 1981, 11 Pa.B. 3500; amended June 11, 1993, effective immediately, 23 Pa.B. 2729; amended July 29, 1994, effective July 30, 1994, 24 Pa.B. 3706; amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial pages (203555) to (203556).

§ 93.83. Powers and duties.

(a) *General rule.* Enforcement Rule 206(b) provides that each hearing committee shall have the power and duty:

(1) To conduct investigatory hearings and hearings into formal charges of misconduct upon assignment by the Board or the Secretary of the Board.

(2) To submit their conclusions set forth as prescribed by these rules, together with the record of the hearing, to the Board.

(b) *Other duties.* A hearing committee shall also conduct reinstatement hearings and perform such other duties as may be imposed by or pursuant to these rules.

Source

The provisions of this § 93.83 amended July 8, 1983, effective July 9, 1983, 13 Pa.B. 2138; amended November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended June 11, 1993, effective immediately, 23 Pa.B. 2729; amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (203556).

§ 93.84. Officers.

Enforcement Rule 206(a) provides that the Board shall designate the chair of each hearing committee, who shall be a senior hearing committee member. In the case of the absence or disability of the chair of a hearing committee, the committee shall select an acting chair. The chair of a hearing committee shall be the presiding officer at all hearings held by the committee and, unless otherwise directed by the committee with respect to particular questions or issues, shall make all rulings on admissibility of evidence and other procedural matters arising in connection with formal proceedings.

Source

The provisions of this § 93.84 amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial pages (203556) to (203557).

§ 93.85. Meetings of hearing committees.

Except as otherwise provided by these rules, meetings and proceedings of a hearing committee shall be governed insofar as applicable by the provisions of these rules governing meetings and proceedings of the Board.

§ 93.86. Disqualification of reviewing member to sit on hearing in same matter.

Enforcement Rule 205(c)(5) provides that a hearing committee member who has passed upon Disciplinary Counsel's recommended disposition of a matter shall be ineligible to serve on a hearing committee that considers the matter.

Source

The provisions of this § 93.86 amended November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (203557).

§ 93.87. Replacement of unavailable members.

Enforcement Rule 206(c) provides that if a member of a hearing committee becomes disqualified or otherwise unavailable to serve with respect to any particular matter, the Secretary shall designate a replacement.

Source

The provisions of this § 93.87 amended March 11, 2005, effective immediately, 35 Pa.B. 1656. Immediately preceding text appears at serial page (203557).

SPECIAL MASTERS**§ 93.91. Special masters.**

(a) *Assignment.* Enforcement Rule 206(d) provides that a special master instead of a hearing committee may be assigned by the Board to conduct an investigatory hearing or formal proceeding where it appears that the hearing or proceeding may be protracted and should be conducted continuously from day to day until conclusion.

(b) *Powers and duties.* Enforcement Rule 206(e) provides that a special master shall have the power and duty:

- (1) To conduct investigatory hearings and hearings into formal charges of misconduct upon assignment by the Board.
- (2) To submit his or her conclusions set forth as prescribed by these rules, together with the record of the hearing into formal charges, to the Board.

Source

The provisions of this § 93.91 adopted November 14 and 17, 1989 and December 6 and 20, 1989, 20 Pa.B. 2009; amended March 13, 1991, effective November 16, 1991, 21 Pa.B. 5325; amended June 11, 1993, effective immediately, 23 Pa.B. 2729. Immediately preceding text appears at serial pages (164153) to (164154).

Subchapter F. CONFIDENTIALITY

Sec.

- 93.101. Complaints confidential.
- 93.102. Access to disciplinary information and confidentiality.
- 93.103. Identity of reviewing hearing committee member.
- 93.104. Access by judicial system agencies to confidential information.
- 93.105. Protected information.
- 93.106. Protective orders.
- 93.107. Broadcasting and other recording of proceedings.
- 93.108. Restoration of confidentiality.

§ 93.101. Complaints confidential.

Enforcement Rule 209(a) provides that complaints submitted to the Office of the Secretary or to the Office of Disciplinary Counsel shall be confidential unless the matter results in the filing of formal charges.

§ 93.102. Access to disciplinary information and confidentiality.

(a) *General rule.* Enforcement Rule 402(a) provides that, except as provided in subsections (b) and (d) and §§ 93.104 (relating to access by judicial system agencies to confidential information) and 93.108 (relating to restoration of confidentiality), all proceedings under these rules shall be open to the public after:

- (1) the filing of an answer to a petition for discipline;
- (2) the time to file an answer to a petition for discipline has expired without an answer being filed;
- (3) the filing and service of a petition for reinstatement; or
- (4) after the expiration of any order restricting access to disciplinary information.

(b) *Certain informal proceedings.* Enforcement Rule 402(b) provides that, notwithstanding subsection (a), an informal proceeding under these rules in which it is determined that private discipline should be imposed but that subsequently results in the filing of formal charges shall not be open to the public until or unless the Supreme Court enters its order for the imposition of public discipline.

(c) *Exceptions to initial confidentiality.* Enforcement Rule 402(c) provides that, until the proceedings are open under subsection (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 inactive status pursuant to Chapter 91 Subchapter D (relating to disability), 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.

(d) *Permitted uses of otherwise confidential information.* Enforcement Rule 402(d)(2) and (3) provides that the provisions of subsections (a) and (b) of this section shall not be construed to:

(1) Require Disciplinary Counsel to refrain from reporting to law enforcement authorities the commission or suspected commission of any criminal offense or information relating to a criminal offense.

Official Note: The Note to Enforcement Rule 402 provides that subsection (d)(1) is based on 18 Pa.C.S. § 5108 (relating to compounding) and that otherwise Disciplinary Counsel may be in the anomalous position of violating Rule 8.4 of the Pennsylvania Rules of Professional Conduct.

(2) Prevent the Pennsylvania Lawyers' Fund for Client Security from utilizing information obtained during an investigation to pursue subrogated claims.

(e) *Waiver.* Any respondent-attorney may in writing waive the benefits, in whole or in part, of this subchapter.

(f) *National Data Bank.* Enforcement Rule 402(i) provides that the Board shall transmit notice of all public discipline imposed by the Supreme Court, transfers to or from inactive status for disability, and reinstatements to the National Lawyer Regulatory Data Bank maintained by the American Bar Association.

(g) *Requests for documents.* Requests for copies of documents relating to disciplinary proceedings that are available to the public under this subchapter must be in writing and directed to the Office of the Secretary. A copying fee, which shall be the same as the copying fee charged to respondent-attorneys, must be prepaid at the time a request is made.

(h) *Transcripts and exhibits.* The Board will not make available to the public copies of transcripts or exhibits introduced as evidence in a proceeding.

Official Note: Nothing in this Rule shall preclude any individual from obtaining copies of transcripts or exhibits through the official reporter designated by the Office of the Secretary.

Source

The provisions of this § 93.102 amended May 18, 1979, effective May 26, 1979, 9 Pa.B. 1665; amended March 10, 1989, effective March 11, 1989, 19 Pa.B. 952; amended February 24, 2006, effective immediately, 36 Pa.B. 929; amended April 18, 2008, effective April 19, 2008, 38 Pa.B. 1812; amended May 29, 2009, effective May 30, 2009, 39 Pa.B. 2687. Immediately preceding text appears at serial pages (333772) to (333773).

§ 93.103. Identity of reviewing hearing committee member.

The identity of the hearing committee member acting under § 87.32 (relating to action by reviewing hearing committee) shall not be a part of the record in a formal proceeding under these rules and shall not be available to the respondent-attorney or the public.

Source

The provisions of this § 93.103 amended March 11, 2005, effective immediately, 35 Pa.B. 1656; amended February 24, 2006, effective immediately, 36 Pa.B. 929. Immediately preceding text appears at serial pages (309943) to (309944).

§ 93.104. Access by judicial system agencies to confidential information.

(a) *General rule.* Enforcement Rule 402(d)(1) provides that the provisions of § 93.102(a) and (b) (relating to access to disciplinary information and confidentiality) shall not be construed to deny access to relevant information at any point during a proceeding under these rules to:

- (1) authorized agencies investigating the qualifications of judicial candidates;
- (2) the Judicial Conduct Board with respect to an investigation it is conducting;
- (3) other jurisdictions investigating qualifications for admission to practice;
- (4) law enforcement agencies investigating qualifications for government employment;
- (5) lawyer disciplinary enforcement agencies in other jurisdictions investigating misconduct by the respondent-attorney; or
- (6) the Pennsylvania Lawyers' Fund for Client Security Board investigating a claim for reimbursement arising from conduct by the respondent-attorney.

(b) *Notice to respondent-attorney.* Enforcement Rule 402(g) provides that, except as provided in subsection (c), if nonpublic information is requested pursuant to subsection (a) and the respondent-attorney has not signed an applicable waiver of confidentiality, the respondent-attorney shall be notified in writing at the last known address of the respondent-attorney of what information has been requested and by whom, together with a copy of the information proposed to be released to the requesting agency or board. The notice shall advise the respondent-attorney that the information will be released 20 days after mailing of the notice unless the respondent-attorney objects to the disclosure. If the respondent-attorney timely objects to the disclosure, the information shall remain confidential unless the requesting agency or board obtains an order of the Supreme Court requiring its release or the respondent-attorney withdraws the objection.

(c) *Exception to required notice to respondent-attorney.* Enforcement Rule 402(h) provides that, if an agency or board requesting the release of information under subsection (a) other than the Judicial Conduct Board and the Pennsylvania Lawyers Fund for Client Security Board has not obtained an applicable waiver of confidentiality from the respondent-attorney, and the agency or board requests that the information be released without giving notice to the respondent-attorney, the requesting agency or board shall certify that:

- (1) the request is made in furtherance of an ongoing investigation into misconduct by the respondent-attorney;

- (2) the information is essential to that investigation; and
- (3) disclosure of the existence of the investigation to the respondent-attorney would seriously prejudice the investigation.
- (d) *Restrictions on available information.* The fact that:
 - (1) a complaint has been filed shall not be deemed relevant for the purposes of this section if the complaint was dismissed;
 - (2) a complaint is pending but undisposed of shall not be deemed relevant for the purposes of this section unless otherwise determined in a specific case by the Office of Disciplinary Counsel with the concurrence of the Chair or Vice Chair of the Board;
 - (3) an informal admonition has been administered to a respondent-attorney under any circumstances other than following a formal proceeding shall not be disclosed at any time to an agency specified in subsection (a)(3) or (4); and
 - (4) an informal admonition or private reprimand was administered more than six years before the request for access is made shall not be deemed relevant if no other grievances or complaints resulting in the imposition of discipline were filed against the respondent-attorney during such six year period.

Source

The provisions of this § 93.104 amended May 19, 1979, effective immediately, 9 Pa.B. 1607; amended February 24, 2006, effective immediately, 36 Pa.B. 929; amended May 29, 2009, effective May 30, 2009, 39 Pa.B. 2687. Immediately preceding text appears at serial pages (333774) to (333775).

§ 93.105. Protected information.

Enforcement Rule 402(e) provides that this subchapter shall not be construed to provide public access to:

- (1) the work product of the Board, Disciplinary Counsel, hearing committee members, or special masters;
- (2) deliberations of a hearing committee, special master, the Board or the Supreme Court; or
- (3) information subject to a protective order issued under § 93.106 (relating to protective orders).

Source

The provisions of this § 93.105 adopted February 24, 2006, effective immediately, 36 Pa.B. 929.

§ 93.106. Protective orders.

(a) *General rule.* Enforcement Rule 402 (f) provides that the Board may, upon application of any person and for good cause shown, issue a protective order prohibiting the disclosure of specific information otherwise privileged or confidential, and the Board may direct that proceedings be conducted so as to implement the order, including requiring that a hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of a protective order.

(b) Applications at conferences and hearings. Upon application of any person during a conference or hearing under Chapter 89 Subchapter C (relating to hearing procedures) and for good cause shown, the senior or experienced hearing committee member conducting the conference or the hearing committee or special master conducting the hearing may issue a protective order prohibiting the disclosure of specific information otherwise privileged or confidential, and may direct that a hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the protective order. Upon the submission of an application for a protective order, the conference or hearing shall be recessed for the conduct of an in camera meeting of the parties with the hearing committee member, hearing committee or special master for consideration of the application. The ruling on the application for a protective order may be appealed to the Board. An appeal to the Board may stay the conduct of hearings in the matter at the discretion of the hearing committee.

Official Note: A party seeking a protective order is encouraged to apply for the order at the prehearing conference to allow time for a potential appeal to the Board.

Source

The provisions of this § 93.106 adopted February 24, 2006, effective immediately, 36 Pa.B. 929.

§ 93.107. Broadcasting and other recording of proceedings.

Enforcement Rule 402(j) provides that this subchapter does not permit broadcasting, televising, recording or taking photographs during a proceeding under these rules, except that a hearing committee, a special master, the Board or the Supreme Court when conducting a proceeding may authorize the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration.

Source

The provisions of this § 93.107 adopted February 24, 2006, effective immediately, 36 Pa.B. 929.

§ 93.108. Restoration of confidentiality.

Enforcement Rule 402(k) provides that if a formal proceeding results in the imposition of private discipline or dismissal of all the charges, the proceeding shall cease to be open to the public when the decision to impose private discipline or dismiss the charges becomes final, unless the respondent-attorney requests that the record of the proceeding remain open to the public.

Official Note: The Note to Enforcement Rule 402(k) explains that, although a formal proceeding that becomes open to the public under § 93.102 (access to disciplinary information and confidentiality) will subsequently be closed if it results in the imposition of private discipline or dismissal of all the charges, the closing of the proceeding cannot change the fact that the proceeding was open to the public for a period or time. Thus, this section makes clear that the respondent-attorney may request that the record of the proceeding remain open to demonstrate that the charges were dismissed or only private discipline was imposed.

Source

This § 93.108 adopted April 18, 2008, effective April 19, 2008, 38 Pa.B. 1812.

Subchapter G. FINANCIAL MATTERS**TAXATION OF COSTS**

Sec.

- 93.111. Determination of reimbursable expenses.
- 93.112. Failure to pay taxed expenses.

EXPENSES GENERALLY

- 93.121. Expenses.
- 93.122. Audit.
- 93.123. Fiscal year.

ANNUAL ASSESSMENT OF ATTORNEYS

- 93.141. Annual assessment.
- 93.142. Filing of annual form by attorneys.
- 93.143. Issue of certificate as evidence of compliance.
- 93.144. Administrative suspension for failure to comply.
- 93.145. Reinstatement.
- 93.146. Voluntarily retired or inactive attorneys.
- 93.147. Notification of suspension or inactivation.
- 93.148. [Reserved].
- 93.149. Grace period.

TAXATION OF COSTS**Source**

The provisions of these §§ 93.111 and 93.112 adopted April 8, 1983, effective April 9, 1983, 13 Pa.B. 1244, unless otherwise noted.

§ 93.111. Determination of reimbursable expenses.

(a) *General rule.* Enforcement Rule 208(g)(2) provides that expenses taxable by the Board pursuant to § 89.205(b) (relating to informal admonition or private reprimand following formal hearing) shall be prescribed by these rules. See also § 89.209 (relating to expenses of formal proceedings) and § 89.278 (relating to expenses of reinstatement proceedings).

(b) *Enumeration of expenses.* Taxable expenses under these rules shall include, but not be limited to, the following:

- (1) court reporter fees and transcript costs;
- (2) the fees and expenses of expert and other witnesses;
- (3) the cost of serving subpoenas, pleadings and briefs;

- (4) the charges by banks and other institutions for production of statements, checks and other records in response to subpoenas or otherwise;
- (5) the cost of reproducing documents introduced or offered as evidence at hearings; and
- (6) the cost of reproducing pleadings and briefs.

(c) *Administrative fee.* Enforcement Rule 208(g)(3) provides that the expenses taxable under § 89.205(b) (relating to informal admonition or private reprimand following formal hearing) or § 89.209 (relating to expenses of formal proceedings) may include an administrative fee except that an administrative fee shall not be included where the discipline imposed is an informal admonition; and that the administrative fee shall be \$250.

Source

The provisions of this § 93.111 adopted April 8, 1983, effective April 9, 1983, 13 Pa.B. 1244; amended July 8, 1988, effective July 9, 1988, 18 Pa.B. 3036; amended December 1, 2006, effective immediately, 36 Pa.B. 7233. Immediately preceding text appears at serial page (319337).

§ 93.112. Failure to pay taxed expenses.

(a) *Action by Board.* Enforcement Rule 219(g) and (l) provide that the Board shall:

(1) Transmit by certified mail, return receipt requested, to every attorney who fails to pay any expenses taxed pursuant to § 89.205(b) (relating to informal admonition or private reprimand following formal hearing), or § 89.209 (relating to expenses of formal proceedings), addressed to the last known address of the attorney, a notice stating:

(i) 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;

(ii) That upon entry of the order of administrative suspension, the attorney shall comply with Chapter 91 Subchapter E (relating to formerly admitted attorneys).

A copy of Enforcement Rule 217 (relating to formerly admitted attorneys) shall be enclosed with the notice.

(2) Certify to the Supreme Court the name of every attorney who has failed to respond to a notice issued pursuant to paragraph (a)(1) within the 30 day period provided therein.

(b) *Action by Supreme Court.* Enforcement Rule 219(g) provides that upon certification to the Supreme Court of the name of any attorney pursuant to paragraph (a)(2), the Court shall enter an order administratively suspending the attorney; and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.

(c) *Reinstatement upon payment of taxed costs.* Enforcement Rule 219(m) provides that upon payment of all expenses taxed under §§ 89.205(b) and 89.209 by a formerly admitted attorney on administrative suspension solely for failure to

comply with paragraph (a)(1), the Board shall so certify to the Supreme Court; and that unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than 3 years, the filing of the certification from the Board with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Source

The provisions of this § 93.112 adopted April 8, 1983, effective April 9, 1983, 13 Pa.B. 1244; amended October 12, 1984, effective October 13, 1984, 14 Pa.B. 3749; amended May 19, 2006, effective May 20, 2006, 36 Pa.B. 2368; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial pages (333778) and (343827).

EXPENSES GENERALLY

§ 93.121. Expenses.

(a) *General.* Enforcement Rule 401 provides that the salaries of the staff of the Office of the Secretary and of the Office of Disciplinary Counsel, their expenses, administrative costs, and the expenses of the members of the Board and of hearing committees shall be paid by the Board out of the funds collected under the provisions of §§ 93.141—93.147 (relating to annual assessment of attorneys).

(b) *Special masters.* Enforcement Rule 205(c)(4) provides that the expenses and compensation of special masters shall be paid as a cost of disciplinary administration and enforcement. See § 93.141(a) (relating to annual assessment).

Source

The provisions of this § 93.121 amended November 14 and 17, 1989 and December 6 and 20, 1989, effective April 14, 1990, 20 Pa.B. 2009; amended March 13, 1991, effective November 16, 1991, 21 Pa.B. 5325. Immediately preceding text appears at serial page (147100).

§ 93.122. Audit.

Enforcement Rule 401 provides that 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 Supreme Court.

§ 93.123. Fiscal Year.

The fiscal year of the Board shall commence July 1 of each year.

ANNUAL ASSESSMENT OF ATTORNEYS

§ 93.141. Annual assessment.

(a) *General rule.* Enforcement Rule 219(a) provides that every attorney admitted to practice law in this Commonwealth, shall pay an annual fee under such rule of \$140.00; that the annual fee shall be collected under the supervision of the Attorney Registration Office, which shall send and receive, or cause to be sent and received, the notices and forms provided for in this subchapter, and that the fee shall be used to defray the costs of disciplinary administration and

enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

(b) *Inapplicable to justices and judges.* Enforcement Rule 219(b) provides that justices and judges shall be exempt from the annual fee:

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

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

Source

The provisions of this § 93.141 amended through May 4, 1984, effective July 1, 1984, 14 Pa.B. 1547; amended October 13, 1989, effective July 1, 1989, 19 Pa.B. 4448; amended March 13, 1991, effective with respect to assessment years commencing July 1, 1991 and thereafter, 21 Pa.B. 5325; amended April 12, 2002, effective immediately, 32 Pa.B. 1838; amended August 5, 2005, effective September 1, 2005, 35 Pa.B. 4301; amended May 29, 2009, effective May 30, 2009, 39 Pa.B. 2687; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial pages (343827) to (343828).

§ 93.142. Filing of annual statement by attorneys.

(a) *Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the Attorney Registration Office shall transmit by ordinary mail to all persons required by the rule to pay an annual fee a form required by subsection (b).

(b) *Filing of annual form.* Enforcement Rule 219(d) provides that:

(1) On or before July 1 of each year all persons required by the rule to pay an annual fee shall file with the Attorney Registration Office a signed form prescribed by the Attorney Registration Office setting forth:

(i) The date on which the attorney was first admitted to practice, licensed as foreign legal consultant, or issued a Limited In-House Corporate Counsel License, 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 residence and office addresses of the attorney, each of which shall be an actual street address or rural route box number, and the Administrative Office shall refuse to accept a statement that sets forth only a post office box number for either required address. A preferred mailing address different from those addresses may also be provided on the statement

and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, will be accessible through the website of the Board (<http://www.padisiplinaryboard.org/>) and by written or oral request to the Board.

(iii) The name of each financial institution in which funds of a client are or were held by the attorney on May 1 of the current year or at any time during the preceding 12 months held funds or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The statement shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such. The statement provided to a person holding a Limited In-House Corporate Counsel License need not request the information required by this subparagraph.

(iv) A certification reading as follows: "I certify that all Trust Accounts that I maintain are in financial institutions approved by the Supreme Court of Pennsylvania for the maintenance of such accounts pursuant to Pennsylvania Rule of Disciplinary Enforcement 221 (relating to mandatory overdraft notification) and that each Trust Account has been identified as such to the financial institution in which it is maintained."

(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) Such other information as the Administrative Office may from time to time direct.

(2) Payment of the annual fee shall accompany the statement. Where a check in 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 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 checks returned to the Board unpaid. On or before July 1 of each year the Office of the Secretary shall publish in the *Pennsylvania Bulletin* a notice of the collection fee established by the Board for the coming assessment year.

(3) Every person who has filed such a statement shall notify the Administrative Office in writing of any change in the information previously submitted within 30 days after such change.

(4) Upon original admission to the bar of this Commonwealth, licensure as a foreign legal consultant, or issuance of a Limited In-House Corporate Counsel License, a person shall concurrently file a statement under this subsection for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

Official Note: The Note to Enforcement Rule 219(d)(1)(ii) explains that public web docket sheets will show the attorney's address as entered on the court docket.

Source

The provisions of this § 93.142 amended through May 4, 1984, effective May 5, 1984, 14 Pa.B. 1547; amended March 1, 1991, effective March 2, 1991, 21 Pa.B. 827; amended September 11, 1992, effective with respect to assessment years commencing July 1, 1992 and thereafter, 22 Pa.B. 4624; amended June 11, 1993, subsection (b)(1)(ii) is effective with respect to assessment years commencing on and after July 1, 1993; amended November 4, 1995, effective immediately, 25 Pa.B. 4696; amended April 5, 1997, effective immediately, 27 Pa.B. 1643; amended July 30, 1999, effective immediately, 29 Pa.B. 4053; amended August 5, 2005, effective immediately, 35 Pa.B. 4301; amended April 18, 2008, effective April 19, 2008, 38 Pa.B. 1812; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial pages (343828) and (333781) to (333782).

§ 93.143. Issue of certificate as evidence of compliance.

Enforcement Rule 219(e) provides that upon receipt of a form or notice of change of information contained therein, filed by an attorney in accordance with the provisions of § 93.142 (relating to filing of annual form by attorneys), and of payment of any required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged on a certificate or license.

Source

The provisions of this § 93.143 amended March 6, 1981, effective March 7, 1981, 11 Pa.B. 782; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial page (333782).

§ 93.144. Administrative suspension.

(a) *Action by Attorney Registration Office.* Enforcement Rule 219(f) and (g) provide that the Attorney Registration Office shall:

(1) Transmit by ordinary mail to every attorney who fails to timely file the form and pay the annual fee required by this subchapter, addressed to the last known mailing address of the attorney, a notice stating:

(i) That unless the attorney shall comply with the requirements of § 93.142 (relating to filing of annual form by attorneys) within 30 days after the date of the notice, such failure to comply 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.

(ii) That upon the entry of the order of administrative suspension the attorney shall comply with Chapter 91 Subchapter E (relating to formerly admitted attorneys), and that a copy of Enforcement Rule 217 (relating to formerly admitted attorneys) shall be enclosed with the notice.

(2) Certify to the Supreme Court the name of every attorney who has failed to respond to a notice issued pursuant to paragraph (a)(1) within the 30 day period provided therein, and supply a copy of such certification to the Board.

(b) *Action by the Supreme Court.* Enforcement Rule 219(g) provides that upon certification to the Supreme Court of the name of any attorney pursuant to paragraph (a)(2), the Court shall enter an order administratively suspending the attorney; and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.

Source

The provisions of this § 93.144 amended through July 8, 1983, effective July 9, 1983, 13 Pa.B. 2138; amended May 19, 2006, effective May 20, 2006, 36 Pa.B. 2368; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial page (333782).

§ 93.145. Reinstatement.

(a) *General rule.* Enforcement Rule 219(h) provides that the procedure for reinstatement of an attorney who has been administratively suspended for three years or less pursuant to the provisions of § 93.144(b) is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by § 93.142(b) 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 penalty required by paragraph (b) of this section;
- (iv) 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 (a)(1) of this section, the Attorney Registration Office shall so certify to the Board Secretary and to the Supreme Court; and that 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 Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

(b) *Late payment penalty.* Enforcement Rule 219(h) (3) provides that a formerly admitted attorney who is administratively suspended pursuant to § 93.142(b) must pay a late payment penalty with respect to that year. The amount of the late payment penalty 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 § 93.142(b). On or before July 1 of each year the Office of the Secretary shall

publish in the *Pennsylvania Bulletin* a notice of the late payment penalty established by the Board for the coming assessment year.

Source

The provisions of this § 93.145 amended through October 12, 1984, effective October 13, 1984, 14 Pa.B. 3749; amended September 11, 1992, effective with respect to assessment years commencing July 1, 1992 and thereafter, 22 Pa.B. 4624; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial pages (333783) and (319341).

§ 93.146. Voluntarily retired or inactive attorneys.

(a) *Retired Status*: Enforcement Rule 219(i) provides that:

(1) An attorney who has retired shall file with the Attorney Registration Office Form DB-27 (Application for Retirement).

(2) Upon the transmission of the 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.

(3) The retired attorney will be relieved from the payment of the fee specified in § 93.141 (relating to annual assessment).

(4) Chapter 91 Subchapter E (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Supreme Court in connection with the entry of an order of suspension or disbarment under another provision of the Enforcement Rules.

(5) An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, by filing a Form DB-29 (Application for Resumption of Active Status), 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.

(6) Chief Justice may delegate the processing and entry of orders under this subsection to the Prothonotary.

(b) *Inactive Status*. Enforcement Rule 219(j) provides that:

(1) 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 voluntary inactive status or continue that status once assumed. The attorney shall file either the annual form required by § 93.142(b) and request voluntary inactive status or file Form DB-28 (Notice of Voluntary Assumption of Inactive Status). The attorney shall be removed from the roll of those classified as active until and unless such person files Form DB-29 (Application for Resumption of Active Status) and is granted reinstatement to the active rolls.

(2) An inactive attorney under this subsection (b) shall continue to file the annual form required by § 93.142(b) and shall pay an annual fee of \$70.00. Noncompliance with this provision will result in the inactive attorney being placed on administrative suspension after the Attorney Registration Office provides notice in accordance with the provisions of § 93.144. An attorney who voluntarily assumed inactive status under former subsection (a) of this rule shall continue to file the annual form and pay an annual fee of \$70.00 commencing with the next regular assessment year. Noncompliance with this paragraph will result in the inactive attorney being placed on administrative suspension after notice in accordance with the provisions of § 93.144(a)(1).

(3) Reinstatement shall be granted, unless the inactive attorney is subject to an outstanding order of suspension or disbarment or unless the inactive status has been in effect for more than three years, upon the payment of the active fee for the assessment year in which the Form DB-29 (Application for Resumption of Active Status) is filed or the difference between the active fee and the inactive fee that has been paid for that year, and any arrears accumulated prior to the assumption of inactive status. See § 93.145(b) (relating to late payment penalty).

(4) In transmitting the annual fee form under subsection (a) of § 93.142, the Attorney Registration Office shall include a notice of subdivision (j) of Enforcement Rule 219 (relating to request for voluntary inactive status).

Official Note: Under prior practice, an attorney who was neither retiring nor selling his or her law practice was given the option of assuming or continuing inactive status and ceasing the practice of law in Pennsylvania, and no annual fee was required. Under new paragraph (b)(2) of this section, payment of an annual fee is required to assume and continue inactive status, and failure to pay the annual fee required by § 93.146(b)(2) and file the form required by § 93.142(b) (relating to filing of annual form by attorneys) will result in an order administratively suspending the attorney.

Source

The provisions of this § 93.146 amended July 8, 1983, effective July 9, 1983, 13 Pa.B. 2138; amended September 11, 1992, effective with respect to assessment years commencing July 1, 1992 and thereafter, 22 Pa.B. 4624; amended April 12, 2002, effective immediately, 32 Pa.B. 1838; amended May 19, 2006, effective May 20, 2006, 36 Pa.B. 2368; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial pages (319341) to (319342).

§ 93.147. Notification of suspension or inactivation.

Where administrative suspension is ordered under this Subchapter, the attorney shall comply with the requirements of Chapter 91 of Subchapter E (relating to formerly admitted attorneys). Public notice of such administrative suspension shall clearly state that suspension was ordered for failure to file the required annual form and pay the required annual assessment, or for failure to comply with § 93.112 (relating to failure to pay taxed expenses).

Source

The provisions of this § 93.147 amended July 8, 1983, effective July 1, 1983, 13 Pa.B. 2138; amended August 7, 2009, effective immediately, 39 Pa.B. 4725. Immediately preceding text appears at serial page (319342).

§ 93.148 [Reserved].**Source**

The provisions of this § 93.148 reserved July 8, 1983, effective July 1, 1983, 13 Pa.B. 2138. Immediately preceding text appears at serial page (81662).

§ 93.149. Grace period.

Enforcement Rule 219(k) provides that on the effective date of that Rule, any attorney who is on inactive status: (a) by order after having failed to pay the annual fee or file the form required by subdivisions (a) and (d) of Rule 219,

(b) by order pursuant to Rule 111(b), Pa.R.C.L.E., after having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education,

(c) by order after having failed to pay any expenses taxed pursuant to Enforcement Rule 208(g), or

(d) by order after having 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 legal services programs pursuant to Pa.B.A.R. 311, or a military attorney, shall have a grace period of one year, commencing on July 1 of the year in which the next annual form under § 93.142(b) is due, in which to request reinstatement to active status under an applicable provision of Rule 219, or to be reinstated to active status under Rule 218(a), as the case may be. Failure to achieve active status before the expiration of the grace period shall be deemed a request to be administratively suspended. An attorney who is on inactive status by court order will not be eligible to transfer to voluntary inactive status under § 93.146(b) until the attorney first achieves active status. During the grace period, the inactive attorney shall remain ineligible to practice law. In transmitting the annual form under § 93.142(a), the Attorney Registration Office shall include a notice of Enforcement Rule 219(k).

Official Note: Attorneys who voluntarily assumed inactive status under former § 93.146(a) are governed by the provisions of § 93.146(b). Attorneys who were transferred to inactive status by order after having failed to pay any expenses taxed pursuant to § 93.112 are governed by the provisions of that section.

Source

The provisions of this § 93.149 amended August 7, 2009, effective immediately, 39 Pa.B. 4725.

[Next page is 95-1.]