

The following is a summary of the proposed changes to the Rules of the Supreme Court, to be effective July 1, 2027:

1. Attorney Discipline Oversight Commission

Creates the Attorney Discipline Oversight Commission (ADOC) as an arm of the Kentucky Supreme Court. The ADOC is composed of five members, including the KBA President, Immediate Past President and the President-Elect, plus two members appointed by the Chief Justice, one lawyer and one non-lawyer, to three-year terms with a limit of two consecutive terms. The Chief Justice annually appoints one member as the Chair of the ADOC.

- The ADOC is given broad powers and responsibilities to:
 - Oversee the attorney disciplinary system according to these Rules, administrative regulations, and orders of the Court;
 - Supervise Disciplinary Counsel and the Disciplinary Clerk and conduct annual performance reviews;
 - Serve as liaison between the Supreme Court and the Kentucky Supreme Court Office of Disciplinary Counsel;
 - In a format approved by the Court, report quarterly to the Court on anonymous statistics related to complaints, dismissals, alternative disciplines, defaults, non-public sanctions, warnings, trials and other matters relevant to the attorney discipline process;
 - Develop an annual budget for the operation of the Kentucky Supreme Court Office of Disciplinary Counsel;
 - Establish guidelines for use of Disciplinary Counsel and staff in communicating with media, complainants, respondents, and the general public regarding the status of complaints; and
 - Establish administrative regulations, guidelines, and internal standards to:
 - Maximize efficiency and expediency in the processing of disciplinary cases;
 - Increase transparency and public trust in the attorney discipline process;
 - Provide standardization and uniformity in the application of alternative discipline;
 - Provide guidance to Disciplinary Counsel in carrying out the duties assigned by these Rules; and
 - Enable Disciplinary Counsel to effectively detect and investigate client trust account fraud and to act expediently and decisively to protect clients from financial loss due to attorney fraud.
- The ADOC is also given the responsibility to:
 - Review quarterly the Chief Hearing Officer's decisions to defer disciplinary proceedings due to pending civil or criminal litigation or investigation by another lawyer discipline jurisdiction
 - Decide requests for disclosure of non-public information

- Decide whether to deny disclosure of pendency, subject matter and status of a case
- Determine whether an attorney seeking to withdraw membership from the KBA is in good standing and has no active disciplinary cases
- Establish the application fee for restoration to membership
- Consider applications for restoration referred by Disciplinary Counsel
- Recommend to the Court the imposition of conditions on restoration for an attorney
- Establish forms for:
 - Disciplinary complaints against attorneys both paper and electronic
 - Reinstatement and Restoration applications
- The authority to set qualifications, supervise and assign other duties to Disciplinary Clerk is moved from the KBA Board to the ADOC

2. Disciplinary Counsel

Creates the Kentucky Supreme Court Office of Disciplinary Counsel as an arm of the Supreme Court. Bar Counsel are renamed as Disciplinary Counsel to help signify their independence from the Kentucky Bar Association. Disciplinary Counsel are now direct employees of the Supreme Court whose daily activities will be overseen by the ADOC. The ADOC makes recommendations for appointment and termination to the Supreme Court while retaining independent authority to manage Disciplinary Counsel including imposition of employee discipline.

- Disciplinary Counsel is required to:
 - Exercise due diligence to investigate when aware of criminal charges or allegations against a lawyer that could cause harm to the attorney's clients
 - Exercise due diligence to investigate when becoming aware of possible misconduct through means other than a written complaint (media, word of mouth, other investigations, tips, etc.)
- Absent good cause shown to the ADOC, Disciplinary Counsel is prohibited from placing disciplinary matters in abeyance pending the outcome of criminal matters against an attorney who may have committed misconduct.

3. Disciplinary Hearing Officers

Trial Commissioners are renamed Disciplinary Hearing Officers, and the Trial Commission is renamed the Board of Disciplinary Hearing Officers, headed by a Chief Disciplinary Hearing Officer. The primary reasons for this change are to distinguish this role from Trial Commissioners of the District Courts and to reflect that the duties of this role closely align with those of a traditional hearing officer. The full complement of Disciplinary Hearing Officers must meet at least once per year for training at direction of the Chief Disciplinary Hearing Officer. Requires the Board of Disciplinary Hearing Officers to develop a program for identification and training of Disciplinary Hearing Officers.

The Chief Disciplinary Hearing Officer is given broad responsibility to rule on matters pertinent to the disciplinary process including:

- Consolidation of charges against two or more attorneys on the same or related facts into one proceeding
- Deciding motions to sever charges
- Ruling on motions for late answer
- Directing issuance of a subpoena
- Seeking a court order for contempt for disobedience of a subpoena
- Ruling on motions to quash subpoenas or enter protective orders
- Fixing the location of testimony or production of evidence
- Entering protective orders for testimony or production of evidence
- Submitting default cases to the KBA Board
- Approving Disciplinary Counsel requests to consolidate default cases

4. Inquiry Commission

The Inquiry Commission is now charged solely with preliminary investigation and finding probable cause in complaints of attorney misconduct, much like a grand jury. The Inquiry Commission's authority to adopt administrative regulations is removed. Numerous functions previously assigned to the Inquiry Commission are reassigned to the ADOC, Disciplinary Counsel, or the Chief Disciplinary Hearing Officer:

- Transferred to the ADOC:
 - Reviewing quarterly the Chief Hearing Officer's decisions to defer disciplinary proceedings due to pending civil or criminal litigation or investigation by another lawyer discipline jurisdiction
 - Submission of Disciplinary Counsel (and Attorney Discipline Oversight Commission) budget
 - Requests for disclosure of non-public information
 - Discretion to disclose pendency, subject matter and status
 - Authority to determine whether an attorney seeking to withdraw membership from the KBA is in good standing and has no active disciplinary cases
 - Establishing the restoration application fee
 - Considering applications for restoration referred by Disciplinary Counsel
 - Recommending to the Court the imposition of conditions on restoration for an attorney
 - Reviewing applications for reinstatement after a disciplinary suspension 181 days or more
- Transferred to Disciplinary Counsel:
 - Authority to petition the Supreme Court for temporary suspension of an attorney
 - Responsibility to certify service of petition on Respondent
 - Responding to a Respondent's petition for dissolution of an order of temporary suspension

- Transferred to the Chief Disciplinary Hearing Officer:
 - Consolidation of charges against two or more attorneys on the same or related facts into one proceeding
 - Deciding motions to sever charges
 - Ruling on motion for late answer
 - Ruling to defer disciplinary proceedings due to pending civil or criminal litigation or investigation by another lawyer discipline jurisdiction
 - Directing issuance of a subpoena to assist other disciplinary jurisdictions
 - Fixing the location of testimony or production of evidence
 - Entering protective orders for testimony or production of evidence
 - Submitting default cases to the KBA Board
 - Approving Disciplinary Counsel requests to consolidate default cases

5. Disciplinary Clerk

- The Disciplinary Clerk and Deputy Clerks are now employees of the Supreme Court, rather than the Board, appointed and serving at the pleasure of the Court.
- The Court sets the qualifications of the Disciplinary Clerks.
- The ADOC makes recommendations for appointment and termination of the Disciplinary Clerks to the Court.
- The authority to supervise and assign other duties to the Disciplinary Clerks is moved from the KBA Board to the ADOC.

6. KBA Board

The adjudicatory roles and responsibilities of the Board of the Kentucky Bar Association, which serves primarily in an intermediate appellate role between the trial before the Disciplinary Hearing Officer and the final order of the Supreme Court, are largely unchanged, with the exception of

- Authority to set qualifications and assign other duties to Disciplinary Clerk is moved to the ADOC

With the President of the KBA assuming a role on the ADOC, responsibility for presiding over KBA Board adjudication of disciplinary cases moves to the KBA Vice President, who votes only in a matter of a tie, or if needed to ensure quorum.

The rules make annual training of members of the KBA Board a prerequisite to participation and voting in disciplinary matters.

The KBA Board is also now permitted to include its own counsel (not Disciplinary Counsel) in deliberations, but counsel has no vote.

7. Access to disciplinary information

- Requires Disciplinary Counsel, upon request, to apprise complainants of the status of their complaint on a form established by the ADOC.

- The Rules' confidentiality provisions are clarified to allow Disciplinary Counsel to discuss matters with witnesses, complainant and respondent or counsel.
- The Attorney Discipline Oversight Commission hears and decides:
 - Requests for disclosure of non-public information
 - Discretion to disclose pendency, subject matter and status
- Adds deliberation of Disciplinary Hearing Officers to list of non-public proceedings
- Allows Counsel to file a motion to publish a disciplinary matter not already required to be published

8. Changes to the Disciplinary Process

a. Initiation of disciplinary cases

- Codifies the existing practice that requires one complaint form per attorney accused
- Retains the requirement for complaints to be in writing
- Allows electronic complaints and requires addition of electronic complaint form to website
- Allows signed verification statement in lieu of notary
- Allows disciplinary counsel to reject non-compliant complaints with opportunity for complainant to correct
- Allows disciplinary counsel to investigate even if a filing is noncompliant with rule
- Requires Attorney Discipline Oversight Commission to establish complaint form

b. Subpoenas

- Disciplinary Counsel will now seek issuance of investigative subpoenas through application to the Chief Disciplinary Hearing Officer.
- The Chief Disciplinary Hearing Officer may also seek a court order for contempt for disobedience of a subpoena.
- Allows a recipient of a subpoena to file a motion with the Chief Disciplinary Hearing Officer to quash a subpoena or seek a protective order.
- Gives the Chief Disciplinary Hearing Officer broad powers to quash or enter protective orders.
- Provides that the Chief Disciplinary Hearing Officer's disposition of a motion to quash or issue a protective order cannot be appealed.

c. Charges

- Requires charging document to state the Supreme Court Rule alleged to be violated
- Changes deadline for Inquiry Commission dismissal of charge to before appointment of Disciplinary Hearing Officer
- Moves authority from Inquiry Commission to Chief Disciplinary Hearing Officer for:

- Consolidation of charges against two or more attorneys on the same or related facts into one proceeding
- Deciding motions to sever charges
- Deletes requirement for filing three copies of a verified answer
- Requires service of answer on Disciplinary Counsel consistent with Civil Rule 5.
- Transfers authority to rule on motion for late answer from Inquiry Commission to Chief Disciplinary Hearing Officer
- Requires service of all pleadings, notices, motions, and orders with Disciplinary Clerk with service on Disciplinary Counsel and Disciplinary Hearing Officer (language moved from Rule 3.290)
- Clarifies that filings shall be deemed timely if filed in accordance with RAP 5(E)

d. Temporary suspension

- Allows Disciplinary Counsel to directly petition the Supreme Court for temporary suspension of an attorney and requires Disciplinary Counsel to:
 - certify service of petition on Respondent
 - respond to a Respondent's petition for dissolution of an order of temporary suspension

e. Assignment of Disciplinary Hearing Officer to a case

- Clarifies that Disciplinary Clerk assigns a Disciplinary Hearing Officer to a disciplinary case at random and removes the requirement that the Chief Justice approves the assignment.

f. Alternative disposition

- Creates a standalone rule on alternative disposition of disciplinary cases that largely mirrors existing rules
- Removes the requirement that the Inquiry Commission approve Disciplinary Counsel's recommendation that a matter is appropriate for alternative disposition.

g. Discipline by Consent

Creates a new rule defining the process for Disciplinary Counsel and Respondent to negotiate sanctions and submit them to the Disciplinary Hearing Officer and the Court.

- Allows Disciplinary Counsel and Respondent to negotiate discipline by consent any time between filing of charges and final disposition.
- Provides, before trial has begun, for submission of negotiated sanctions to the Court which can either reject or accept the agreement.
- Provides, after trial has begun, for submission of negotiated discipline to Disciplinary Hearing Officer, who can either reject or accept the agreement and submit to the Court for approval

- On rejection, any admissions are withdrawn and cannot be used against Respondent
- Requires Respondent to submit an affidavit of consent containing:
 - Consent to sanctions
 - Confirmation of voluntariness
 - Acknowledgement of pending charges
 - Admission of truth in the facts in the affidavit
- The Disciplinary Hearing Officer or Disciplinary Counsel files the Affidavit with the Court, which is confidential until accepted by Court

h. Processing cases of default

- Transfers from the Inquiry Commission to the Chief Disciplinary Hearing Officer authority to:
 - Submit default cases to the KBA Board
 - Approve Disciplinary Counsel requests to consolidate default cases
- Allows the Vice President of the KBA Board, rather than the full Board, to rule on motions to file late answers.

i. Motion to reconsider or dismiss a charge

- Deletes Rule 3.285, which provides for a motion to the Inquiry Commission to reconsider or dismiss a charge prior to submission to a Disciplinary Hearing Officer.

j. Disqualification of Persons in the Disciplinary Process

- Provides a general rule for self-disqualification of persons in the disciplinary process and a method for a party to request disqualification.
- Clarifies that a request for disqualification does not delay disciplinary proceedings but preserves the issue for review by the Court.

k. Probation

- Adds probation to list of approved sanctions

l. Disciplinary Hearing Officer's report

- Clarifies that the 10-day time period to move to amend a Disciplinary Hearing Officer's report runs from date report is both filed and served.
- Clarifies that the Disciplinary Hearing Officer is to return original papers in Disciplinary Hearing Officer's possession

m. Procedure before the Board and Court

- Requires oral arguments to be open to the public and recorded by video recording or stenographer.
- Clarifies that deliberations of the Board are in confidential closed session.

- Only the 14 elected Board members from their respective Supreme Court districts and the 4 at-large non-attorney members may participate and vote in deliberations.
- The Vice President participates in deliberations but does not vote unless necessary to constitute quorum or in the event of a tie vote.
- Any member of the Board who has not participated in an annual training conducted by the Attorney Oversight Disciplinary Commission shall be ineligible to participate and vote in deliberations.
- Reduces quorum in a Board deliberation from 11 to 10 member and reduces the required number of votes on a roll call vote from 11 to 10 members or three-quarters of the members present, whichever is less.

n. Authority of American Bar Association Standards

- Makes ABA Standards for Imposing Lawyer Sanctions persuasive authority in disciplinary actions

o. Assistance to other lawyer disciplinary jurisdictions

- Transfers from the Inquiry Commission to the Chief Disciplinary Hearing Officer authority to:
 - Direct issuance of a subpoena to assist other disciplinary jurisdictions
 - Fix the location of testimony or production of evidence
 - Enter protective orders for testimony or production of evidence
- Removes power of KBA Director to issue subpoena on such direction
- Provides that the Chief Disciplinary Hearing Officer's disposition of a motion to quash or issue a protective order cannot be appealed

9. Membership provisions

a. Regular Inactive Status

- Creates a new class of membership known as Regular Inactive Member
- Any member who is good standing and is no longer actively practicing law in this state may apply to be a Regular Inactive Member.
- Regular Inactive Members may not practice law in the state
- Requires a Regular Inactive Member to pay half the dues of regular membership
- Readmission to full member status requires:
 - Submitting an application to the Attorney Discipline Oversight Commission for reinstatement on form created by Attorney Discipline Oversight Commission
 - Submitting with the application:
 - a certificate from Disciplinary Counsel that applicant has no pending disciplinary matters;
 - a certificate of good standing from the Registrar;

- a certificate of good standing from every jurisdiction in which the regular inactive members is currently licensed; and
- a certificate from the Director of Continuing Legal Education that the Regular Inactive Member has obtained twelve (12) CLE credits, including two (2) ethics credits, for each year or portion of a year in Regular Inactive status with a maximum requirement of thirty-six (36) continuing education credits, including at least six (6) ethics credits, or a certificate from the Director of Continuing Legal Education pursuant to SCR 3.685, or a certificate from another jurisdiction in which the regular inactive member maintains an active license demonstrating the regular inactive member has obtained the equivalent continuing education credits.

b. Senior Retired Inactive Status

- Corrects a discrepancy in the Rules to clarify that Senior Retired Inactive Members are exempt from annual CLE requirements and requires an application for the status to be filed with the Registrar, rather than the Executive Director.

c. Withdrawal from the Association;

- Transfers from Inquiry Commission to Attorney Discipline Oversight Commission authority to determine whether an attorney seeking to withdraw membership from the KBA is in good standing and has no active disciplinary cases.

d. Reinstatement after a disciplinary suspension prevailing fewer than 181 days

- Provides for streamlined reinstatement, upon application, after a suspension of fewer than 181 days, provided conditions are met and certified.
- Eliminates ability of Disciplinary Counsel to challenge reinstatement.
- Requires an applicant to update and supplement all materials submitted and notify Disciplinary Counsel of any change in compliance with the requirements of subsection 2 throughout the entire reinstatement process.
- Clarifies that general reinstatement standards do not apply to reinstatement after a suspension of less than 181 days.

e. Reinstatement after a disciplinary suspension prevailing for 181 days or more

- Provides that the ADOC, rather than the Inquiry Commission, reviews applications for reinstatement after a disciplinary suspension 181 days or more.

f. Restoration to membership

- Eliminates the requirement of taking a reduced version of the Bar Exam (AKA the “Mini Bar”) after a withdrawal or suspension of longer than 5 years.

- Transfers responsibility for establishing restoration application forms from the KBA Director to the Attorney Discipline Oversight Commission
- Transfers responsibility from the Inquiry Commission to the Attorney Discipline Oversight Commission for:
 - Establishing the restoration application fee
 - Considering applications for restoration referred by Disciplinary Counsel
 - Recommending to the Court the imposition of conditions on restoration for an attorney

10. Miscellaneous

- Renames bar association dues as “licensing fees”
- Eliminates the ability of a lawyer to seek *in forma pauperis* representation in disciplinary matters.
- Eliminates Disciplinary Counsel’s participation in KBA Director’s investigation into unauthorized practice of law.
- Replaces Inquiry Commission member of finance committee with Attorney Discipline Oversight Commission member.
- Requires KBA Board to include a separate budget for Attorney Discipline Oversight Commission
- Clarifies that compensation of KBA employees shall be in accordance with orders of the Supreme Court
- Various existing provisions are moved from one rule to another or to a new rule, with any substantive changes noted elsewhere

11. Changes to times

Various deadlines and time frames within the attorney discipline process have been reduced, with the goal of generally reducing the length of attorney discipline proceedings from start to finish:

- Reduces the time for an attorney to respond to a warning letter from Disciplinary Counsel in an alternative disposition from 30 to 20 days for alternative disposition. Former SCR 3.160, now SCR 3.169
- Reduces the time for an attorney to reject an admonition from the Inquiry Commission and the time for an attorney to respond to a warning letter or conditional dismissal letter from the Inquiry Commission from 30 to 20 days. SCR 3.162.
- Reduces the time for disciplinary counsel to refer a disciplinary matter to the Inquiry Commission from 60 to 45 days. Former SCR 3.161; Now SCR 3.160
- Changes the time for filing a Charge with the Disciplinary Clerk from within 20 days after the Charge is signed to immediately after the Charge is signed. SCR 3.163
- Reduces time for Respondent to file an answer to a Charge from 30 to 20 days after receipt of notice. SCR 3.164

- Reduces the time for a temporarily suspended attorney to notify courts of pending disciplinary matters and notify clients of inability to continue representation from 20 to 10 days. SCR 3.165
- Changes the time for filing briefs on answers that raise only issues of law or admissions of violations from 20 days after the order for Disciplinary Counsel and 20 days after Disciplinary Counsel's brief for the Respondent to 30 days for both parties simultaneously. Formerly SCR 3.210, now SCR 3.215.
- Changes the time frame for the Disciplinary Hearing Officer to set a hearing on a disciplinary Charge from not less than 30 nor more than 180 with an extension of up to 180 days for good cause shown to not less than 30 nor more than 90 with an extension of up to 30 days for good cause shown. SCR 3.240.
- Reduces the time for the Board to issue a written decision after voting on a cases from 45 to 30 days and requires a motion for oral arguments before the Board to filed contemporaneously with briefs. SCR 3.370
- Reduces the time for the Character and Fitness Committee to hold a hearing on the record, in an application for reinstatement after a disciplinary suspension 181 days or more, from 90 to 60 days and reduces the time for the Committee to file its report with the Disciplinary Clerk from 60 to 30 days after the receipt of the hearing transcript. SCR 3.502.