

Rules of the Supreme Court (SCR), Rule 2.111  
SCR 2.111 Limited certificate of admission to practice law

(1) Every attorney not a member of the Bar of this Commonwealth who performs legal services in this Commonwealth solely for his or her employer, its parent, subsidiary, or affiliated entities, shall file with the Kentucky Office of Bar Admissions on a form provided an application for a limited certificate of admission to practice law in this Commonwealth. Such application shall be reviewed by the Character and Fitness Committee. If approved, a limited certificate of admission to practice law shall be granted, and shall be effective as of the date such application is approved, provided that the following prerequisites are satisfied:

(a) The applicant must be admitted to practice in the highest court of another jurisdiction and be a member in good standing at the Bar of such jurisdiction, at the time of filing such application.

(b) The attorney applying for a limited certificate of admission to practice law shall sign a sworn statement certifying to the Supreme Court that the applicant:

(i) Has completed the study of law in an accredited law school;

(ii) Has been admitted to practice in the highest Court of another jurisdiction;

(iii) Is presently in good standing at the Bar of such Court, or such jurisdiction;

(iv) Will perform legal services in this Commonwealth solely for his or her employer, its parent, subsidiary, affiliated entities, or on a pro bono basis as permitted under paragraph (4)(c) below.

(c) A statement signed by a representative of such applicant's employer stating that such applicant is an employee for such employer, and performs legal services in this Commonwealth for such employer, its parent, subsidiary, or affiliated entities, shall be filed with the application.

(2) Such applicant shall pay to the Kentucky Office of Bar Admissions, at the time of submission of such application, a fee of \$1,500~~[-00]~~ and shall make payment of the current annual ~~[dues]~~ licensing fees ~~[or fees]~~ to the Kentucky Bar Association, as authorized under SCR 3.040.

(3) Upon granting of such limited certificate of admission to practice law, and issuance of said limited certificate by the Clerk of the Supreme Court of Kentucky, such applicant shall be and shall remain, during the period the limited certificate of admission to practice law remains in effect, an active member of the Kentucky Bar Association, subject to all duties and obligations of members admitted under SCR 2.110, SCR 2.120, and SCR 3.645.

(4) The following restrictions and limitations shall apply to such attorney's right to practice in this Commonwealth:

(a) Such attorney shall perform legal services in this Commonwealth solely for his employer, its parent, subsidiary, or affiliated entities, and shall not provide legal services in this Commonwealth, to any other individual or entity, except as permitted under paragraph (4)(c) below.

(b) Such attorney shall not appear as attorney of record for his employer, its parent, subsidiary, or affiliated entities, in any case or matter pending before the Courts of this Commonwealth, without first engaging an active member of the Bar Association in good standing, admitted under SCR 2.120 or SCR 2.110 other than one admitted under a limited certificate of admission, as

co-counsel, whose presence shall be necessary, when required by the Court, at all trials or other times specified by the Court. Nothing herein shall prevent such attorney from appearing in any case or matter to which the attorney is a party, or appearing in the Small Claims Division of the District Court as otherwise provided in SCR 3.020.

(c) An attorney admitted with a limited practice certificate under this rule is authorized to donate legal services in Kentucky through: [i] a duly organized legal aid program offering pro bono representation to indigent individuals within the Commonwealth of Kentucky, or [ii] a local bar association legal pro bono program or initiative. No fee can be accepted by the attorney with a limited practice certificate for the rendering of any legal services in connection with items [i] and [ii] above. An attorney donating legal services under this rule is subject to all duties and obligations of members admitted under SCR 2.110, SCR 2.120, and 3.645.

(5) The performance of legal services in this Commonwealth solely for such attorney's employer, its parent, subsidiary, affiliated entities, or in connection with a pro bono program contained in paragraph 4(c) following admission to the Kentucky Bar on a limited certificate shall be considered to be the active engagement in the practice of law for all purposes.

(6) The limited certificate of admission to practice law in this Commonwealth shall expire if such attorney is granted a certificate of admission to practice, or is admitted to the Bar of this Commonwealth under any other rule of this Court, or if such attorney ceases to be an employee for the employer or its parent, subsidiary, or affiliated entities listed on such attorney's application. However, if such attorney, within thirty (30) days of ceasing to be an employee for the employer or its parent, subsidiary, or affiliated entities listed on such attorney's application, becomes employed by another employer for which such attorney shall solely perform legal services, such attorney may maintain his or her admission under this Rule by promptly filing with the Clerk of the Supreme Court a statement to such effect, stating the date on which his or her prior employment ceased and his or her new employment commenced, identifying his or her new employer and reaffirming that he or she shall not provide legal services, in this Commonwealth, to any other individual or entity. If an attorney admitted under this rule ceases employment with no subsequent employment by a successor employer within thirty (30) days, such attorney shall promptly file with the Clerk of the Supreme Court, the Office of Bar Admissions, and the Kentucky Bar Association a written statement to such effect, stating the date that such employment ceased.

(7) Except as specifically limited herein, the rules, rights, and privileges governing the practice of law shall be applicable to an attorney admitted under this Rule.

Rules of the Supreme Court (SCR), Rule 2.113  
SCR 2.113. Military spouse provisional admission

(1) Requirements. A person who meets all requirements of subparagraphs (a) through (m) of paragraph 2 of this Rule may, upon motion, be provisionally admitted to the practice of law in Kentucky.

(2) Required Evidence. The applicant for provisional admission shall submit evidence satisfactory to the Kentucky Board of Bar Examiners that he or she:

(a) has been admitted by examination to practice law before the Court of last resort of any jurisdiction of the United States;

(b) holds a Juris Doctor degree from a law school accredited by the American Bar Association at the time of such applicant's graduation;

(c) has achieved a passing score on the Multistate Professional Responsibility Examination as it is established in Kentucky at the time of application;

(d) is currently an active member in good standing in the bar of at least one jurisdiction of the United States where the applicant is admitted to the unrestricted practice of law, and is a member in good standing in all jurisdictions where the applicant has been admitted;

(e) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(f) possesses the good character and fitness to practice law in Kentucky;

(g) is the dependent spouse of an active-duty service member of the United States Uniformed Services as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) and that the service member is on military orders stationed in the Commonwealth of Kentucky;

(h) is physically residing in Kentucky;

(i) has submitted all requested character investigation information, in a manner and to the extent established by the Board of Bar Examiners, including all required supporting documents;

(j) has successfully completed the New Lawyer Program as set out in SCR 2.017;

(k) certifies that he or she has read and is familiar with the Kentucky Rules of Professional Conduct; and

(l) has paid such fees as may be set by the Board of Bar Examiners to cover the costs of the character and fitness investigation and the processing of the application.

(3) Issuance, Duration, and Renewal:

(a) The Board of Bar Examiners having certified that all prerequisites have been complied with, the applicant for provisional admission shall, upon payment of applicable ~~dues~~ licensing fees and completion of the other membership obligations, become an active member of the Kentucky Bar Association. An attorney provisionally admitted pursuant to this Rule shall be subject to the same membership obligations as other active members of the Kentucky Bar Association, and all legal services provided in Kentucky by a lawyer admitted pursuant to this Rule shall be deemed

the practice of law and shall subject the attorney to all rules governing the practice of law in Kentucky, including the Kentucky Rules of Professional Conduct.

(b) A provisional admission may be renewed by July 31 of each year, upon filing with the Kentucky Bar Association (i) a written request for renewal, and (ii) compliance with the membership obligations of the Rules of the Supreme Court of Kentucky applicable to active members of the Kentucky Bar Association. Provisional admission under this Rule may be renewed no more than four (4) times.

(c) When the active-duty service member is assigned to an unaccompanied or remote follow-on assignment and the attorney continues to physically reside in Kentucky, the provisional admission may be renewed until that unaccompanied or remote assignment ends, provided that the attorney complies with the other requirements for renewal.

(4) Events of Termination. An attorney's provisional admission to practice law pursuant to this Rule shall immediately terminate and except as provided in subsection (i) of this Rule, the attorney shall immediately cease all activities under this Rule upon the occurrence of any of the following:

(a) The spouse's discharge, separation, or retirement from active duty in the United States Uniformed Services, or the spouse's no longer being on military orders stationed in the Commonwealth of Kentucky, except as provided in section 3(c) of this Rule;

(b) The attorney's failure to meet the annual licensing requirements of an active member of the Kentucky Bar Association;

(c) The attorney no longer physically residing within the Commonwealth of Kentucky;

(d) The attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders;

(e) The attorney being admitted to practice law in this Commonwealth under an admissions rule other than that of Provisional Admission;

(f) The attorney being suspended from the practice of law in Kentucky or in any other state;

(g) Request by the attorney; or

(h) Upon the occurrence of a terminating event the attorney may continue the work that commenced prior to the terminating event until new counsel is retained.

(5) Notices Required:

(a) An attorney provisionally admitted under this Rule shall provide written notice to the Kentucky Bar Association of any Event of Termination within thirty (30) days of the occurrence thereof.

(b) Within thirty (30) days of the occurrence of any Event of Termination, the attorney shall:

[i-](i) provide written notice to all of his or her clients that he or she can no longer represent such clients and furnish proof to the Executive Director of the Kentucky Bar Association within sixty (60) days of such notification; and

~~[(ii)]~~(ii) file in each matter pending before any Court or tribunal in this Commonwealth a notice that the attorney will no longer be involved in the matter, which shall include the substitution of the local counsel, or such other attorney licensed to practice law in Kentucky selected by the client, as counsel in the place of the provisionally admitted attorney.

(6) Benefits and Responsibilities. An attorney provisionally admitted under this Rule shall be entitled to the benefits and be subject to all responsibilities and obligations of active members of the Kentucky Bar Association, and shall be subject to the jurisdiction of the Courts and agencies of the Commonwealth of Kentucky and to the Kentucky Bar Association with respect to the laws and rules of this Commonwealth governing the conduct and discipline of attorneys to the same extent as an active member of the Kentucky Bar Association.

Rules of the Supreme Court (SCR), Rule 3.010  
SCR 3.010 General definitions

As used throughout this Rule 3, the following definitions shall apply unless the context clearly requires a different meaning:

“Association” is the Kentucky Bar Association.

“Attorney” is a person licensed or authorized to practice law.

“Board” is the Board of Governors of the Association.

“Bylaws” means the bylaws of the Association.

“Charge” means the pleading by which the Association charges an attorney with unprofessional conduct.

“Circuit clerk” is the clerk of the court of respondent's present or last known residence.

“Clerk” is the Clerk of the Supreme Court of Kentucky.

“Committee” means the Committee on Character and Fitness as defined in Rule 2.040.

“Complainant” means the party who causes to be initiated an investigation of an attorney, or who causes to be initiated a proceeding under Rule 3.160. The complainant may be a person or entity.

“Court” is the Supreme Court of Kentucky.

“Disciplinary Hearing Officer” means the hearing officer appointed pursuant to the provisions of Rule 3.230 and other rules governing disciplinary procedures.

“Director” is the Director of the Association.

“District” means a prescribed geographical and political area of the state.

“Governor” is an elected member of the board.

“Law student” means any person enrolled in an approved law school who has successfully completed the first year therein.

“Member” means an attorney in good standing as required by the rules of the court.

“Officer” means a member elected or appointed pursuant to the rules.

“President” is the President of the Association.

“President-Elect” is the President-Elect of the Association.

“Registrar” is the Registrar of the Association.

“Respondent” is an attorney against whom a charge is filed.

“Rules” are the rules of the Court.

“Section” means a body of members actively interested in and promoting improvements in a particular branch of law.

“Time” is computed as under the Rules of Civil Procedure.

“Treasurer” is the Treasurer of the Association.

~~["Trial commissioner" means the commissioner appointed pursuant to the provisions of Rule 3.230 and other rules governing disciplinary procedures.]~~

“Vice-President” is the Vice-President of the Association.

Rules of the Supreme Court (SCR), Rule 3.030  
SCR 3.030 Membership, practice by nonmembers and classes of membership

(1) All persons admitted to the practice of law in this state shall be, and they are, members of the association.

(2) A person admitted to practice in another state, but not in this state, shall be permitted to practice a case in this state only if that attorney subjects himself or herself to the jurisdiction and rules of the Supreme Court of Kentucky, pays a per case fee equal to the annual ~~[dues]~~ licensing fees paid by those KBA members who have been admitted to practice law for five years or more to the Kentucky Bar Association and engages a member of the association as co-counsel, whose presence shall be necessary at all trials and at other times when required by the court. No motion for permission to practice in any state court in this jurisdiction shall be granted without submission to the admitting court of a certification from the Kentucky Bar Association of receipt of this fee.

(3) (a) If any attorney continues to appear on the basis of pro hac vice admission per subsection (2), the attorney shall pay a renewal fee every year until the case is concluded. The renewal fee shall be due on the one-year anniversary of the attorney's original pro hac vice admission. Any subsequent renewal fees shall be due in subsequent years on the same calendar date. The renewal fee payment shall be equal to the annual ~~[dues]~~ licensing fees paid by KBA members who have been admitted to practice for five years or more.

(b) Failure to pay the renewal fee within thirty (30) days of the due date will result in the attorney being suspended from appearing in any case in which he or she has been admitted pro hac vice. Upon notification of the failure of payment, members of the KBA serving as co-counsel shall immediately notify the court in which the case is pending.

(4) The association, by its bylaws, may create honorary memberships.

(5) A class of membership is established to be known as "Regular Inactive Member." Any member who is in good standing and is no longer actively practicing law in this state may apply to be a Regular Inactive Member. Upon approval by the Board, a Regular Inactive Member shall pay half of the annual licensing fees as designated by the Court and shall be exempt from the annual CLE requirement in SCR 3.645. A Regular Inactive Member may not practice law in the Commonwealth without filing an application and receiving approval from the Board to be restored to active membership status pursuant to SCR 3.504.

(6) A class of membership is established to be known as "Senior Retired Inactive Member." Any member in good standing who reaches the age of 70 years and is no longer [is] actively practicing law [and who has met the necessary CLE requirements for inactive status pursuant to SCR 3.665(2),] shall upon notification to the [Executive Director]Registrar be classified as a Senior Retired Inactive Member and shall not be required to pay annual [dues] licensing fees and shall be exempt from the annual CLE requirement in SCR 3.645. Any member who has been classified as Senior Retired Inactive Member may donate legal services through a duly organized legal aid program offering pro bono representation, or a local bar association legal pro bono program or initiative.

~~[(6)](7)~~(a) A class of membership is established to be known as "Disabled Inactive Member." An attorney admitted to practice in this state who has been, because of a mental or physical

condition, judicially declared to be a person under a legal disability, or for whom probable cause exists to believe that the attorney has a mental or physical condition that substantially impairs his/her ability to practice law shall provide to the Director of the Kentucky Bar Association a detailed written report from a licensed qualified health care provider who has examined the attorney setting out the findings of the health care provider, including the results of all tests made, diagnoses and conclusions. The Director shall present the matter to the Board who may enter an order transferring the attorney to Disability Inactive ~~[S]~~ status. An attorney classified under this subsection is not required to pay ~~[dues]~~ licensing fees or obtain the annual CLE requirement pursuant to SCR 3.645. This status shall be reflected on the attorney's membership record. No attorney classified under this status may engage in the practice of law in this state. Any disciplinary proceedings against the attorney shall be stayed while the attorney is on disability inactive status. Any report and supporting records from a health care provider regarding the treatment of the attorney shall be confidential and sealed.

(b) An attorney transferred to ~~[disability inactive]~~ Disabled Inactive status may file a petition with the Court for restoration to active status. A copy of the petition shall be served on ~~[Bar]~~ Disciplinary Counsel, who shall have twenty (20) days to file a response to the petition. If ~~[Bar]~~ Disciplinary Counsel objects to the petition, the matter shall be referred to the Character and Fitness Committee to conduct proceedings under SCR 3.502 and SCR 3.503. If ~~[Bar]~~ Disciplinary Counsel has no objection to the petition the Court may enter an order restoring the attorney to active status with or without conditions or refer the matter to the Character and Fitness Committee to conduct proceedings under SCR 3.502 and SCR 3.503. If an attorney is restored to active status, any disciplinary proceedings that have been stayed will be resumed.

Rules of the Supreme Court (SCR), Rule 3.040  
SCR 3.040 ~~[Dues]~~ Licensing fees: date of payment and amount

(1) On or before July 1 of each year every member of the Association, including every justice or judge of the Kentucky Court of Justice and United States judge in or who is appointed from or maintains a residence in Kentucky, except board-designated honorary members, shall be assessed ~~[dues]~~ licensing fees for the ensuing twelve months. ~~[Dues]~~ Licensing fees shall be fixed by the Supreme Court on recommendation of the Board. ~~[Dues]~~ Licensing fees shall be paid to the treasurer on or before September 1 of each year.

(2) Any member of the association shall be relieved of the payment of ~~[dues]~~ licensing fees for any fiscal year in which the member serves actively in the armed services of the United States of America. The annual waiver of ~~[dues]~~ licensing fees shall also apply to members who are spouses of active duty military servicemembers.

(3) The class of membership designated Senior Retired Inactive Member, established by the Supreme Court in SCR 3.030, shall not be required to pay annual ~~[dues]~~ licensing fees.

(4) Unless the member has been classified under Senior Retired Inactive Member pursuant to SCR 3.030(4) or Disabled Inactive Member pursuant to SCR 3.030(5), the member may apply in writing to the Kentucky Bar Association to be relieved of the payment of ~~[dues]~~ licensing fees by reason of undue hardship arising from disability, sickness or financial condition. The application shall be copied to the Governors from the district in which the attorney lives, who may or may not recommend in writing to the President that such relief be granted, giving the reasons therefor. Thereupon the President shall have the authority to rule on the application and to notify the Treasurer by written order that the attorney is relieved of the payment of ~~[dues]~~ licensing fees. The President shall file the order with the registrar along with the recommendation(s) of the Governor(s).

Rules of the Supreme Court (SCR), Rule 3.050  
SCR 3.050 Collection of ~~[dues]~~ licensing fees; suspension for non-payment

If ~~[dues]~~ licensing fees are not paid on or before September 1, then an additional late payment fee of fifty dollars (\$50.00) shall be assessed. On or before September 15 of each year, the Treasurer shall notify a member in writing of his/her delinquency and late fee. On or before October 15 of each year, the Treasurer shall in writing certify to the Board the names of all members who remain delinquent. The Board shall cause to be sent to the member a notice of delinquency by certified mail, return receipt requested, at the member's bar roster address. Such notice shall require the member to show cause within thirty (30) days from the date of the mailing why the member's law license should not be suspended for failure to pay ~~[dues]~~ licensing fees and the late fee under this rule or SCR 3.023. In addition, such notice shall inform the member that if such ~~[dues]~~ licensing fees and late fees, as well as costs in the amount of fifty dollars (\$50.00), are not paid within thirty (30) days, or unless good cause is shown within thirty (30) days that a suspension should not occur, the lawyer will be stricken from the membership roster as an active member of the KBA and suspended from the practice of law. At the conclusion of the thirty (30) days, unless the ~~[dues]~~ licensing fees, late fees and additional costs payment have been received, or unless good cause has been shown as to why the member should not be suspended, the Board of Governors will vote to suspend any such member from the practice of law. A copy of the suspension notice shall be sent by the Director to the member, the Clerk of the Supreme Court of Kentucky, the Director of Membership, and the Circuit Clerk of the member's roster address district for recording and indexing. The suspended member may apply for restoration to membership under the provisions of SCR 3.504. A member may appeal to the Supreme Court of Kentucky from such suspension within thirty (30) days of the date the suspension notice is recorded in the membership records. Such appeal shall include an affidavit showing good cause why the suspension should be revoked.

Rules of the Supreme Court (SCR), Rule 3.060  
SCR 3.060 Records to show status of members

- (1) The records of the [a]Association shall show the status as to membership and standing of each member and former member of the association. Specifically, those records shall show at least the following data:
- (a) As to each present member of the association concerning whom the information is known, and as to each new member hereafter admitted, the date of his admission to the bar and where the court's order granting such admission may be found.
  - (b) When known, the year of each member's death.
  - (c) The fact and date of each honorary membership, the reason therefor, and, when the honorary membership terminates, the fact and date of such termination and the reason therefor.
  - (d) The final disposition of each motion to resign, and where the court's order finally disposing of each such motion may be found, and, where the motion to resign is sustained, the effective date of the resignation.
  - (e) The effective date of each disbarment, suspension and reinstatement and where the court's judgment or order of disbarment, suspension or reinstatement may be found, and in the case of suspension, the length of time for which the respondent has been suspended.
  - (f) In the case of any disciplinary action other than disbarment or suspension (as, for instance, public reprimand), the date when such disciplinary action was ordered, where the court's judgment or order directing such disciplinary action may be found, and the date when and manner in which such judgment or order was carried out.
  - (g) The final disposition of each contemplated proceeding brought against a former member of the association under the provisions of Rule 3.460, and where the court's judgment or final order in such proceeding may be found, and the date and manner in which the punishment, if any, adjudged therein was inflicted.
  - (h) Disciplinary complaints filed pursuant to Rule 3.160(1) against attorneys that have been dismissed [~~by the Inquiry Commission~~] shall be maintained for a period of 1 year after final disposition of the complaint.
  - (i) Those records which are disciplinary complaints against attorneys that have resulted in discipline of attorneys shall be maintained until 5 years after the death of the attorneys.
  - (j) At the end of the period stated in paragraphs (h) and (i) of this rule, the described complaints and/or records shall be destroyed.

Rules of the Supreme Court (SCR), Rule 3.070  
SCR 3.070 The ~~[b]~~Board; functions and membership

(1) The Board is the governing body of the Association and ~~[the]~~ an [agent] arm of the Court ~~[for the purpose of administering and enforcing the Rules]~~. It shall consist of the President, the President-Elect, the Vice President, the immediate Past President, the Chair of the Young Lawyer's Division, and 2 attorneys elected from the membership of the Association in each ~~[appellate district of the state]~~ Supreme Court District as presently existing or hereafter created.

(2) The President, the President-Elect, and the immediate Past President shall be ex-officio members of the Attorney Discipline Oversight Commission as set forth in SCR 3.154 and shall not participate in disciplinary proceedings before the Board.

(3) The Vice-President shall preside over disciplinary proceedings before the Board but shall be a non-voting member for the purpose of disciplinary proceedings unless necessary to constitute quorum or in the event of a tie vote.

Rules of the Supreme Court (SCR), Rule 3.120  
SCR 3.120 Fiscal provisions

(1) The ~~[dues and bar registration fees]~~ licensing fees prescribed in Rule 3.040 shall constitute a general fund to provide for the ordinary and necessary expenses of the operation of the Kentucky Bar Association, including, as appropriate, compensation of employees; expenses of the Board and officers; publications; maintenance of the client's security fund and the bar center fund and the discharge of the disciplinary, educational and other functions specified by these rules. Other fees, subscriptions, and contributions authorized by these Rules or approved by the court shall constitute a special fund or funds to provide for the specific purpose or purposes of each such collection including the annual conventions and other undertakings for which specific collections are authorized. Excesses in the special fund may be transferred to the general fund on order of the Board. Voluntary section or division funds or contributions may be retained by the sections or divisions annually with the approval of the Board.

(2) An annual budget including all income and expenditures shall be prepared by a budget and finance committee composed of the President-Elect and two members of the Board appointed by him/her; the Vice-President; two members at large appointed by the President-Elect; a member of the ~~[Inquiry]~~ Attorney Discipline Oversight Commission; a member of the Continuing Legal Education Commission; a member of the IOLTA Trustees; a member of the Clients' Security Fund Trustees; and the Director. The President-Elect shall act as chair.

(3) Not less than four (4) months prior to the commencement of the next fiscal year, the budget shall be submitted by the Board to the ~~[e]C~~ourt for its approval. The Board shall include in its budget proposal the budget of the ~~[e]C~~ontinuing ~~[l]L~~egal ~~[e]E~~ducation ~~[e]C~~ommission and Attorney Discipline Oversight Commission. The budget shall distinctly set forth expected revenues according to source, together with carry-over funds from the previous year, and shall list budgeted amounts for each category of expenditure in sufficient detail to identify clearly the nature of the respective expenditures.

(4) Upon approval by the ~~[e]C~~ourt, the budget shall govern the fiscal operations of the Association. Each expenditure category may be increased or decreased by not more than ten (10) percent. Further departures from the budget allotments may be made only upon approval of the ~~[e]C~~ourt.

(5) All receipts of the Association shall be recorded in a cash receipts journal and deposited promptly. Each repository of funds and bank account shall be designated by the Board and approved by the ~~[e]C~~ourt.

(6) All disbursements shall be in accordance with the budget, made by the ~~[t]T~~reasurer and recorded in a cash disbursements journal. Each check shall bear such countersignatures as the Board may direct.

(7) The ~~[d]D~~irector, ~~[t]T~~reasurer and such other employees as the Board designates shall be bonded for the accounting of all funds collected. The bonds shall be in the amount or amounts specified by the Board.

(8) There shall be an annual audit of the Association by the Administrative Office of the Courts or, at the election of the ~~[e]C~~ourt, a private accounting firm approved by the ~~[e]C~~ourt. The report

of the audit shall be submitted to the [e]Court. Each annual audit shall be paid for by the Association.

(9) The compensation of employees of the Association shall be fixed by the Board in accordance with orders of the Court.

Rules of the Supreme Court (SCR) Rule 3.130, Rules of Prof. Conduct Rule 3.130(5.7)  
SCR 3.130(5.7) Activities of suspended lawyer

([a]1) During a period of suspension, a suspended lawyer may not perform any of the following acts:

([1]a) render legal consultation or legal advice to any person;

([2]b) appear on behalf of another person in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, commissioner, or hearing officer, unless the rules of the tribunal involved permit representation by non-lawyers and the represented person has been fully informed of the lawyer's suspension;

([3]c) appear as a representative of another person at a deposition or other discovery matter;

([4]d) knowingly appear as a representative, spokesperson, or salesperson-in any visual, audible, print, or electronic media of any kind for any law firm or legal-related entity providing or proposing to provide legal service to the public or a specific subset of the public at large.

([5]e) negotiate or transact any matter for or on behalf of another person with third parties;

([6]f) receive, disburse, or otherwise handle a client's funds; or

([7]g) engage in activities that constitute the practice of law.

([b]2) A lawyer shall not employ, associate professionally with or aid a person a lawyer knows or reasonably should know has been suspended to do any of the preceding described acts during a suspended lawyer's period of suspension. Further, a lawyer shall not employ or associate professionally with a member whose license to practice law has been suspended if the suspended lawyer was associated with such lawyer or law firm at the time of such member's suspension.

([e]3) Except as provided in paragraph (a) and (b), a suspended lawyer may perform research, draft documents, perform clerical functions, and similar activities for the use by a lawyer who assumes professional responsibility for the suspended lawyer's activities.

([d]4) Prior to or at the time of employing a suspended lawyer, the employing lawyer shall serve upon [Bar] Disciplinary Counsel written notice of the employment of the suspended lawyer, including a description of such suspended member's current license status. The notice shall include a statement that the suspended lawyer shall not be employed to perform any of the activities prohibited by paragraph (a). Upon terminating the employment of a suspended lawyer, the employing lawyer shall promptly serve written notice of such termination upon [Bar] Disciplinary Counsel.

Rules of the Supreme Court (SCR) Rule 3.130, Rules of Prof. Conduct Rule 3.130(6.1)  
SCR 3.130(6.1) Donated legal services

A lawyer is encouraged to voluntarily render public interest legal service. A lawyer is encouraged to accept and fulfill this responsibility to the public by rendering a minimum of fifty (50) hours of service per calendar year by providing professional services at no fee or a reduced fee to persons of limited means, and/or by financial support for organizations that provide legal service to persons of limited means. Donated legal services may be reported on the annual [~~dues~~ licensing fees] statement furnished by the Kentucky Bar Association. Lawyers rendering a minimum of fifty (50) hours of donated legal services shall receive a recognition award for such service from the Kentucky Bar Association.

Rules of the Supreme Court (SCR) Rule 3.130, Rules of Prof. Conduct Rule 3.130(7.02)  
SCR 3.130(7.02) Attorneys' advertising commission

- (1) There shall be created an Attorneys' Advertising Commission which shall perform such functions in regulating lawyer advertising as prescribed in these Rules.
- (2) The Commission shall consist of up to 9 persons appointed by the President and approved by the Board. Each Commission member shall be appointed for a term of 3 years, with terms so established that the terms of the Commission members shall be staggered. Vacancies for unexpired terms shall be filled in the same manner as original appointees, but the appointees shall hold office only to the end of the unexpired term. No member may serve more than 2 terms in succession, and may be removed at any time by a majority vote of the Board.
- (3) Each Commission member shall be a citizen of the United States and licensed to practice law in the Courts of the Commonwealth.
- (4) The Board shall appoint a Chair from among the Commission members. The term shall be 1 year; however, the Chair may serve more than 1 term.
- (5) The Commission shall be provided with sufficient administrative assistance from the Director as from time to time may be required.
- (6) The Commission shall have general responsibilities for the implementation of this Rule. In discharging its responsibilities the Commission shall have authority to:
  - (a) Subject to prior approval by the Board, issue and promulgate regulations and such forms as may be necessary. Each member of the Kentucky Bar Association shall be given at least 60 days advance notice of any proposed regulations and an opportunity to comment thereon. Notice may be given by publication in the journal of the Kentucky Bar Association.
  - (b) Report to the Board at its last meeting preceding the Annual Convention of the Kentucky Bar Association, and otherwise as required, on the status of advertising with such recommendations or forms as advisable.
  - (c) Delegate to an employee of the Kentucky Bar Association, designated by the Director of the Kentucky Bar Association, the authority to review advertisements on its behalf.
  - (d) Issue advisory opinions concerning the compliance of an advertisement with the Advertising Rules and Regulations.
- (7) The Commission shall prepare a budget for the succeeding year and shall submit same to the Board of Governors for inclusion with the budget of the Kentucky Bar Association.
- (8) Nothing in these rules shall be construed as creating any cause of action for any party or right of suit against any member of the Commission. The Kentucky Bar Association, the Board of Governors, the Attorneys' Advertising Commission, the Executive Director of the Kentucky Bar Association, the Kentucky Supreme Court Office of [Bar] Disciplinary Counsel, all of their officers, members, employees or agents shall be immune from civil liability for all acts in the course of their official duties in regulating lawyer advertising.

Rules of the Supreme Court (SCR) Rule 3.130, Rules of Prof. Conduct Rule 3.130(8.3)

SCR 3.130(8.3) Reporting professional misconduct

([a]1) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the ~~[Association's Bar]~~ Kentucky Supreme Court Office of Disciplinary Counsel.

([b]2) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such violation to the Judicial Conduct Commission.

([e]3) A lawyer is not required to report information that is protected by Rule 1.6 or by other law. Further, a lawyer or a judge does not have a duty to report or disclose information that is received in the course of participating in the Kentucky Lawyer Assistance Program or Ethics Hotline.

([d]4) A lawyer acting in good faith in the discharge of the lawyer's professional responsibilities required by paragraphs (a) and (b) or when making a voluntary report of other misconduct shall be immune from any action, civil or criminal, and any disciplinary proceeding before the Bar as a result of said report, except for conduct prohibited by Rule 3.4(f).

([e]5) As provided in SCR 3.435, a lawyer who is disciplined as a result of a lawyer disciplinary action brought before any authority other than the Association shall report that fact to ~~[Bar]~~ Disciplinary Counsel.

([f]6) A lawyer prosecuting any member of the Association who has been arrested for or who has been charged by way of indictment, information, or complaint with a felony or Class A misdemeanor shall immediately notify ~~[Bar]~~ Disciplinary Counsel of such event.

([g]7) As provided in SCR 3.166(2), a lawyer prosecuting a case against any member of the Association to a plea of guilty, conviction by judge or jury or entry of judgment, shall immediately notify ~~[Bar]~~ Disciplinary Counsel of such event.

Rules of the Supreme Court (SCR), Rule 3.140  
SCR 3.140 Appointment and duties of [i]Inquiry [e]Commission

(1) The Chief Justice, with the consent of the Court, shall appoint an Inquiry Commission consisting of nine persons, six of whom shall be lawyers possessing the qualifications of a Circuit Judge and three of whom shall be citizens of the Commonwealth of at least thirty (30) years of age who are not lawyers. One lawyer member shall be designated by the Chief Justice as Chair of the Commission, who shall appoint one lawyer member to serve as Chair of each panel identified in 3.140(2). No lawyer members shall serve more than two (2) consecutive terms of three (3) years. No non-lawyer member shall serve more than three (3) consecutive terms of two (2) years.

(2) The Commission shall meet and act in panels of three (3) persons comprised of two (2) lawyers and one (1) non-lawyer [~~to promptly dispose of all complaints and matters referred to it pursuant to SCR 3.164~~]. When the Commission meets in a panel of three (3), any two (2) members must be present in order that a quorum exist. At least one (1) panel of the Commission shall meet each month if there is unresolved business to conduct.

(3) The terms of the lawyer and non-lawyer members of the Inquiry Commission shall be appointed by the Chief Justice, with the consent of the Court, in such a manner that their terms shall be staggered.

~~[(4) The Inquiry Commission may adopt administrative regulations for the discharge of its responsibility subject to approval of the Court during its regular term. The Commission shall meet as a whole for administrative purposes, at which six (6) persons shall constitute a quorum. The Commission, through its administrative regulations, will provide for the rotation of its members among the different panels.]~~

Rules of the Supreme Court (SCR), Rule 3.150  
SCR 3.150 Access to disciplinary information

(1) Confidentiality. In a discipline matter, the proceeding is confidential prior to the filing of a verified answer to a Charge or, in the case of default, until thirty (30) days following service on the Respondent pursuant to SCR 3.164.

(2)(a) Notwithstanding subsection (1), the pendency, subject matter and status may be disclosed by ~~[Bar]~~ Disciplinary Counsel if:

~~[(i)]~~ (i) The Respondent has waived confidentiality;

~~[(ii)]~~ (ii) The proceeding involves public reciprocal discipline;

~~[(iii)]~~ (iii) The disclosure of any information is made for the purpose of conducting an investigation by the ~~[Inquiry]~~ Attorney Discipline Oversight Commission or ~~[the Office of Bar]~~ Disciplinary Counsel; or

~~[(iv)]~~ (iv) A Motion for Temporary Suspension is pending.

(b) Notwithstanding subsections (1) and (2), Disciplinary Counsel shall, upon the request of a Complainant, disclose to the Complainant the status of the disciplinary matter that is the subject of their complaint. Both the request and the disclosure shall be in a form approved by the Attorney Discipline Oversight Commission.

~~[(c)]~~ (c) After considering the protection of the public, the interests of the Bar, and the interest of the Respondent in maintaining the confidentiality of the proceeding prior to the filing of a verified answer to a Charge or, in the case of default, until thirty (30) days following service on the Respondent pursuant to SCR 3.164, the pendency, subject matter and status may also be disclosed by ~~[Bar]~~ Disciplinary Counsel at the discretion of the Chair of the ~~[Inquiry]~~ Attorney Discipline Oversight Commission ~~[-, or of the Chair's lawyer member designee,]~~ if:

~~[(i)]~~ (i) The proceeding is based upon an allegation that the Respondent has been charged with a crime arising from the same nexus of facts; or

~~[(ii)]~~ (ii) The proceeding is based upon a finding by a court in a civil matter that an attorney has committed conduct that may constitute a violation of the Rules of Professional Conduct.

(3) Duty of Participants. All Participants in a proceeding under these Rules shall conduct themselves so as to maintain the confidentiality requirement of this Rule. Nothing in the rule shall prohibit Disciplinary Counsel from discussing the disciplinary matter with any potential witnesses, including the Complainant and Respondent, or their counsel, or the Respondent from discussing the disciplinary matter with any potential witness or entity in order to respond in a disciplinary proceeding, or to disclose to any tribunal, or to disclose any information for the purpose of conducting a defense. This provision shall not apply to the Complainant or the Respondent after Disciplinary Counsel or the Inquiry Commission ~~[or its Chair]~~ has taken action on a Complaint including the issuance of a ~~[e]~~ Charge, the issuance of a private admonition, or a dismissal, including those pursuant to SCR ~~[3.160(3)]~~ 3.169

(4)(a) Request for Non-Public Information. A request for non-public information to ~~[the Office of Bar]~~ Disciplinary Counsel may be considered by the ~~[Inquiry]~~ Attorney Discipline Oversight Commission and may be granted if the request is made by:

- ~~[(i)]~~ (i) The Character and Fitness Committee;
- ~~[(ii)]~~ (ii) A Lawyer Disciplinary Enforcement Agency;
- ~~[(iii)]~~ (iii) A Judicial Disciplinary Enforcement Agency; or
- ~~[(iv)]~~ (iv) The Chief Justice of the Kentucky Supreme Court.

(b) A request for non-public information to ~~[the Office of Bar]~~ Disciplinary Counsel may be considered by the Court if the request is made by a Law Enforcement Agency, or other official authorized by federal or any state's law to investigate or prosecute misdemeanors or felonies, or the equivalent thereof, in any jurisdiction, provided that the agency or official certifies under oath with specificity that the information is necessary to a pending investigation. In this event the Respondent shall receive notice unless the Court determines that disclosure of the request would seriously prejudice the investigation.

(c) In the absence of a third-party request, the ~~[Inquiry]~~ Attorney Discipline Oversight Commission may permit the disclosure of any non-public information to any of the entities listed in (4)(a) upon application to it by ~~[the Office of Bar]~~ Disciplinary Counsel.

(d) In the event of a request under (4)(a) or (c) notice to the Respondent is not required, although the ~~[Inquiry]~~ Attorney Discipline Oversight Commission may require notice upon review of the application.

(5) Public Proceedings. Upon the filing of a verified answer to a Charge or, in the case of default, thirty (30) days following service on the Respondent pursuant to SCR 3.164, or upon the filing of a petition for reinstatement, an application for restoration, or an affidavit of compliance pursuant to 3.501, the record of the Disciplinary Clerk, and any further proceedings before the Board or Court, shall be public except for:

(a) deliberations of the Inquiry Commission, Disciplinary Hearing Officers, the Board ~~[of Governors]~~, or the Court; or

(b) information with respect to which a protective order has been issued.

(6) Protective Orders. The Inquiry Commission, the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer, the Board, or the Court, which at the time the order is sought has the case pending before it, may, upon application of any person or entity, and for good cause shown, issue a protective order. Such an order may protect the interests of a Complainant, witness, third party, Respondent, Applicant or ~~[Bar]~~ Disciplinary Counsel. The order may prohibit the disclosure of specific information otherwise privileged or confidential and direct that the proceedings be conducted so as to implement the order, including requiring that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.

(7) Notice to National Discipline Data Bank. The Disciplinary Clerk shall transmit notice of all public discipline imposed against a lawyer and reinstatements to the National Discipline Data Bank maintained by the American Bar Association.

(8) Publication of Disciplinary Action. Except for matters which publication is prohibited by these rules or for which the parties have agreed not to publish, Disciplinary Counsel may file a motion with the Court for the publication of any disciplinary action not otherwise required to be

published by these Rules. Disciplinary Counsel shall serve the parties, the Disciplinary Clerk, and the Court.

Rules of the Supreme Court (SCR), Rule 3.154  
SCR 3.154 Appointment and Duties of Attorney Discipline Oversight Commission

(1) The Attorney Discipline Oversight Commission (Commission) shall be an arm of the Kentucky Supreme Court and shall consist of five persons, four of whom shall be attorneys licensed to practice in the Commonwealth of Kentucky. The Commission shall consist of the following, all of whom shall be voting members:

(a) Immediate Past President of the Kentucky Bar Association Board of Governors ex-officio;

(b) President of the Kentucky Bar Association Board of Governors ex-officio;

(c) President-Elect of the Kentucky Bar Association Board of Governors ex-officio;

(d) An attorney appointed by the Chief Justice (or designee Justice) of the Supreme Court for a three (3) year term; and

(e) A non-attorney member appointed by the Chief Justice (or designee Justice) of the Supreme Court with preference to prior-serving non-attorney members of the Board of Governors for a three (3) year term.

(2) The Chief Justice shall annually designate one member of the Attorney Discipline Oversight Commission as Chair.

(3) No appointed member shall serve more than two (2) consecutive terms of three (3) years.

(4) Three (3) members shall constitute a quorum.

(5) The Commission may adopt administrative regulations for the discharge of its responsibilities with approval of the Court during its regular term.

(6) The Commission shall appoint a Secretary whose duty shall be to maintain the record of the official business of the Commission. All minutes, agendas, reports, and documents generated by the Commission shall be made available for review by the Chief Justice on his or her request.

(7) The Commission shall:

(a) Oversee the attorney discipline system according to these Rules, administrative regulations, and orders of the Court;

(b) Supervise Disciplinary Counsel and the Disciplinary Clerk and conduct annual performance reviews;

(c) Serve as liaison between the Supreme Court and the Kentucky Supreme Court Office of Disciplinary Counsel;

(d) 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;

(e) Develop an annual budget for the operation of the Kentucky Supreme Court Office of Disciplinary Counsel;

(f) 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

(g) Establish administrative regulations, guidelines, and internal standards to:

(i) Maximize efficiency and expediency in the processing of disciplinary cases;

(ii) Increase transparency and public trust in the attorney discipline process;

(iii) Provide standardization and uniformity in the application of alternative discipline;

(iv) Provide guidance to Disciplinary Counsel in carrying out the duties assigned by these Rules;  
and

(v) 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.

Rules of the Supreme Court (SCR), Rule 3.155  
SCR 3.155 Appointment and duties of ~~[Bar]~~ Disciplinary Counsel

(1) ~~[The Board shall appoint a Bar Counsel and such Deputy Bar Counsel as may from time to time be appropriate. Bar Disciplinary Counsel shall be responsible for investigating and prosecuting all disciplinary cases and such other duties as the Board may designate.]~~ The Kentucky Supreme Court Office of Disciplinary Counsel shall be an arm of the Kentucky Supreme Court charged with investigating and prosecuting all attorney discipline cases and such other duties as assigned by the Court and the Attorney Discipline Oversight Commission and shall consist of a Chief Disciplinary Counsel and such Deputy Disciplinary Counsel (together, "Disciplinary Counsel") and staff as authorized by the Court.

(2) ~~[Bar Counsel, and such Deputies]~~ Disciplinary Counsel and staff of the Kentucky Supreme Court Office of Disciplinary Counsel [as may] shall be appointed by and shall serve at the pleasure of the [Board] Court. The Attorney Discipline Oversight Commission shall present recommendations to the Court for approval of the hiring and termination of Disciplinary Counsel and staff of the Kentucky Supreme Court Office of Disciplinary Counsel.

(3) ~~[Bar Counsel and all Deputies]~~ Disciplinary Counsel shall be attorneys licensed to practice law in the Commonwealth.

(4) ~~[The Board may employ such Bar Counsel staff as may be appropriate.]~~ Whenever Disciplinary Counsel become aware of criminal charges or allegations against an attorney that provide a reasonable basis to believe there is a risk of harm to the attorney's clients, Disciplinary Counsel shall exercise all due diligence afforded by these Rules, as the circumstances require, to protect clients, the public, and other members of the Bar.

(5) Absent good cause shown and as approved by the Attorney Discipline Oversight Commission, Disciplinary Counsel shall not place attorney discipline matters in abeyance pending the disposition of criminal charges against an attorney.

(6) Whenever Disciplinary Counsel becomes aware, through means other than a complaint filed under SCR 3.160, that an attorney may have committed unprofessional or criminal conduct, Disciplinary Counsel shall exercise all due diligence afforded by these Rules to preliminarily investigate the conduct and, where appropriate under the circumstances, shall initiate a formal investigation under SCR 3.160. Such other means include but are not limited to word of mouth, information shared by law enforcement, media publications, discovery through other investigations, and firsthand knowledge.

~~[(5)]~~ Annually, on or before November 1, the [Inquiry] Attorney Discipline Oversight Commission shall submit to the [Board] finance committee a recommended budget for the succeeding fiscal year along with any recommended changes in annual membership [dues] licensing fees to cover costs of administering the duties of the [Inquiry] Attorney Discipline Oversight Commission and [the office of Bar] Disciplinary Counsel.

Rules of the Supreme Court (SCR), Rule 3.157  
SCR 3.157 Appointment and duties of Disciplinary Clerk

The ~~[Board shall appoint a]~~ Disciplinary Clerk and ~~[such]~~ Deputy Clerks ~~[as may from time to time become appropriate]~~ shall be appointed by and shall serve at the pleasure of the [Board] Court. The Attorney Discipline Oversight Commission shall present recommendations to the Court for approval of the hiring and termination of the Disciplinary Clerk and Deputy Clerks. The Disciplinary Clerk shall have such qualifications as the [Board] Court deems appropriate, and shall be responsible for accepting the filing of [c]Charges issued by the Inquiry Commission, pleadings or other paper, issuing process, and the preparation and maintenance of the records of each disciplinary proceeding, other than the files of [the Office of Bar] Disciplinary Counsel, and other duties as are assigned by the [Board] Attorney Discipline Oversight Commission.

Rules of the Supreme Court (SCR), Rule 3.160  
SCR 3.160 Initiation and processing of disciplinary cases

- (1) A disciplinary case against an attorney may be commenced by:
- (a) the submission of a written complaint for unprofessional conduct which shall be:
- (i) made in writing (either electronically or by hard copy); and
- (ii) signed by the complainant (either electronically or physically); and
- (iii) notarized or contain a signed verification statement as to the truth and accuracy of the statements made therein;
- (b) the initiation of an investigation by Disciplinary Counsel into an attorney's unprofessional or criminal conduct.
- (2) Failure of a complaint to meet the required elements set forth in (1)(a) may be a basis for rejecting a complaint, subject to subsequent correction by the Complainant, in the discretion of Disciplinary Counsel.
- (3) Failure of a complaint to meet the required elements does not prohibit Disciplinary Counsel from initiating an investigation based upon the facts contained therein, in the discretion of Disciplinary Counsel.
- (4) If Disciplinary Counsel deems any complaint not to state an ethical violation, it may decline further proceedings without investigation.
- (5) Disciplinary Counsel shall provide a method for a complainant to file their written complaint electronically through the Office of Disciplinary Counsel website.
- (6) Complaints shall be made on a form approved by the Attorney Discipline Oversight Commission.
- (7) Individual complaints must be made for each attorney against whom the complainant alleges unprofessional conduct in order to be valid for processing.
- (8) ~~After review by Bar Counsel pursuant to subparagraph (3) of this Rule, a~~ Any ~~[sworn statement of]~~ complaint against an attorney for unprofessional conduct which states an ethical violation on its face and is not suitable for alternative disposition shall be ~~[filed with the Office of Bar Counsel]~~ assigned a case number by Disciplinary Counsel, who shall promptly notify the attorney by certified mail, sent to the address maintained by the Director pursuant to SCR 3.035, or other means consistent with the Supreme Court Rules and Civil Rules, of the complaint, and that he/she has twenty (20) days to respond to the complaint. ~~[Upon completion of the investigation by the Office of Bar Counsel the matter shall be assigned to an Inquiry Commission panel by rotation.]~~
- (9) Upon the expiration of forty-five (45) days after service upon Respondent by certified mail or other means, or receipt of a response to a complaint, Disciplinary Counsel shall refer the matter, together with such investigative evidence as may have been obtained, to the Inquiry Commission.

(10) The Inquiry Commission may dismiss the complaint; direct that the complaint be returned to Disciplinary Counsel for further investigation; issue a private admonition, with or without conditions as set forth in SCR 3.162(1); issue a warning letter, with or without conditions, as set forth in SCR 3.162(2); or issue a Charge.

(11) If either Disciplinary Counsel or the Inquiry Commission dismisses a complaint, no reason must be given, and there shall be no appeal of the dismissal.

(12) All deliberations of the Inquiry Commission shall be private and confidential, with neither Disciplinary Counsel nor Respondent having access to deliberations.

~~[(2) Notwithstanding the provisions of paragraph (1), when it comes to the attention of the Inquiry Commission from any source that an attorney may have engaged in unprofessional conduct, the Inquiry Commission, or a three-person panel thereof, may initiate and conduct an investigation. If it believes from its investigation that there is sufficient evidence to justify its filing a complaint against the attorney it may file such a complaint or it may issue a warning letter. The attorney who receives the warning letter may, within 30 days from the date of the letter, respond to the letter and request it be reconsidered by the Inquiry Commission.~~

~~(3)(a) Upon receipt of a verbal allegation of a violation of the Rules of Professional Conduct, or sworn complaint, the Office of Bar Counsel will initially determine, under the direction of the Chair and Inquiry Commission, whether the matter is appropriate for alternative disposition. Alternative disposition may include, but is not limited to:~~

- ~~i. Informal resolution;~~
- ~~ii. Referral to Fee Arbitration under SCR 3.810;~~
- ~~iii. Legal negligence arbitration under SCR 3.800;~~
- ~~iv. Legal or management education programs;~~
- ~~v. Remedial ethics education programs;~~
- ~~vi. Referral to KYLAP under SCR 3.970(1)(c); or~~
- ~~vii. Issuance of a warning letter.~~

~~(b) A complaint is not suitable for alternative disposition if it alleges serious misconduct in which the sanction would more than likely result in a suspension. Additionally, some ethical violations warranting a private or public reprimand may not, under all circumstances, be eligible for alternative disposition.~~

~~(c) After review and such preliminary investigation as may reasonably be necessary, the Office of Bar Counsel may attempt informal resolution and subsequently close the Complaint. If the acts or course of conduct complained of merit referral under 3(A)(ii) (vi), and do not warrant a greater degree of discipline, the Office of Bar Counsel may issue a warning letter with or without conditions, which will be maintained in the investigative file of the Office of Bar Counsel but not be considered as discipline, or it may recommend remedial ethics, related legal or management education programs, fee arbitration, or KYLAP, completion of which would result in the complaint being dismissed. The attorney who receives the warning letter may, within 30 days from the date of the letter, file a response thereto and may request reconsideration of the matter~~

~~by the Inquiry Commission. Any response or request so submitted shall be retained in the Bar Counsel file.~~

~~(d) If Bar Counsel deems a written and sworn complaint to state an ethical violation, such that alternative disposition is not appropriate or the Respondent will not consent to or complete the alternative disposition program, the matter shall proceed under subsection (1) above.~~

~~(e) If Bar Counsel deems any written and sworn complaint against a member not to state an ethical violation and it is not suitable for alternative disposition, it may decline, without investigation, to entertain it.~~

~~(4) Once a complaint has been filed, it cannot be withdrawn and shall be processed and reviewed pursuant to this rule. A complainant may file an affidavit of disavowal if they realize a mistake was made or the filing of the complaint was in error.~~

~~(5) Neither the Association, the Board, the Director, the Inquiry Commission, the Trial Commission, the Office of Bar Counsel, nor their officers, employees, agents, delegates or members shall be liable, to any person or entity initiating a complaint or investigation, or to any member of the bar or any other person or entity being charged or investigated by, or at the direction of, the Inquiry Commission, for any damages incident to such investigation or any complaint, charge, prosecution, proceeding or trial.]~~

~~[Rules of the Supreme Court (SCR), Rule 3.161  
SCR 3.161 Processing disciplinary cases~~

~~(1) Upon the expiration of sixty (60) days after service upon Respondent by certified mail or other means, or receipt of a response to a complaint, whichever is later, the Office of Bar Counsel shall refer the matter, together with such investigative evidence as may have been obtained, to the Inquiry Commission.~~

~~(2) The Inquiry Commission may dismiss the Complaint; issue a Private Admonition, with or without conditions as set forth in SCR 3.162(1); issue a warning letter, with or without conditions, as set forth in SCR 3.162(2); or issue a Charge,~~

~~(3) If the Inquiry Commission dismisses a complaint, no reason must be given, and there shall be no appeal of the dismissal.~~

~~(4) The Inquiry Commission may direct that the complaint be returned to Bar Counsel for further investigation.]~~

Rules of the Supreme Court (SCR), Rule 3.162

SCR 3.162 [~~Informal~~] Private admonitions, [procedure] warnings and conditional dismissals

(1) After a complaint against an attorney for unprofessional conduct is investigated and a response filed, the Inquiry Commission may direct a private admonition, with or without conditions, to the attorney if the acts or course of conduct complained of are shown not to warrant a greater degree of discipline. The attorney so admonished may, within [~~30~~]twenty (20) days from the date of the filing of the admonition with the Disciplinary Clerk, reject such admonition and request that a [~~e~~]Charge be issued and filed as is provided by Rule 3.163[~~; whereupon, the issues shall be processed under the applicable rules~~].

(2) The Inquiry Commission may also issue a warning or a conditional dismissal letter including, but not limited to, conditions such as referral to KYLAP, attendance at a remedial ethics program or related classes as directed by [~~the Office of Bar~~] Disciplinary Counsel, or referral to fee arbitration under SCR 3.810. The attorney who receives the warning or conditional dismissal letter may, within [~~30~~]twenty (20) days from the date of the letter, respond to the letter and request that it be reconsidered by the Inquiry Commission.

Rules of the Supreme Court (SCR), Rule 3.163  
SCR 3.163 Charges; form; by whom and where filed

(1) If a panel of or the entire Inquiry Commission determines, by a majority vote, that probable cause exists for a [e]Charge to be filed, it shall cause to be prepared such [e]Charge stating the name and bar roster address of the attorney, ~~[and]~~ facts alleged to constitute unprofessional conduct and the Supreme Court Rule(s) alleged to be violated. The [e]Charge shall be signed by a member of the panel which considers the case. It shall then be filed with the Disciplinary Clerk ~~[within twenty (20) days]~~immediately thereafter.

(2) Upon notice to the [f]Respondent, the Inquiry Commission may amend or dismiss the [e]Charge upon its own motion, or that of ~~[the Office of Bar]~~ Disciplinary Counsel, or the Respondent, at any time before ~~[hearing or submission by default]~~ assignment of a Disciplinary Hearing Officer pursuant to SCR 3.240. The Inquiry Commission shall rule on the motion at the next meeting of the issuing panel.

(3) Any number of acts or omissions, and any number of separate and distinct transactions, alleged to constitute unprofessional conduct on the part of any attorney may be alleged in a single Charge in separate counts.

(4) A Charge may be filed against two or more attorneys if based on the same or related state of facts, and separate Charges against two or more attorneys based upon the same or related state of facts may, by order of the Chief Disciplinary Hearing Officer, be consolidated and tried as a single disciplinary proceeding. Where two or more attorneys are proceeded against in the same proceeding, the Disciplinary Hearing Officer shall report to the Board as to each.

(5) Charges against two or more attorneys may be consolidated by order of the Chief Disciplinary Hearing Officer for limited purposes including, but not limited to, preservation of testimony, out of state depositions, or document production pursuant to subpoena.

(6) Any party may file a motion with the Chief Disciplinary Hearing Officer to sever separate Charges against any attorney as provided in subsection (3), or to sever Charges against two or more attorneys as provided in subsection (4) or (5). However, the filing of such motions shall not delay further processing of the Charges under these rules.

Rules of the Supreme Court (SCR), Rule 3.164

SCR 3.164 Notice of filing [e]Charges; time to answer; filings with Disciplinary Clerk

(1) Upon the filing of a [e]Charge, the Disciplinary Clerk shall furnish the Respondent with a copy, by certified mail return receipt requested to the Respondent's bar roster address, or by service on the Director as set forth in SCR 3.035, and notify the Respondent that within [~~thirty (30)~~ twenty (20)] days after receipt of the notice, he/she must file a verified answer [~~and three (3) copies~~] with the Disciplinary Clerk [~~for transmittal to the Inquiry Commission~~], with service on Disciplinary Counsel as set forth in CR 5. The [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer may rule on motions to file late answers for good cause shown as set forth in CR 6.02.

(2) All further pleadings, notices, motions, and orders shall be filed with the Disciplinary Clerk, with service on opposing counsel and the Disciplinary Hearing Officer (if any) as set forth in CR 5.

(3) All filings shall be deemed by the Disciplinary Clerk to be timely filed if filed in accordance with RAP 5(E).

Rules of the Supreme Court (SCR), Rule 3.165  
SCR 3.165 Temporary suspension by the Supreme Court

(1) On petition of [~~the Inquiry Commission~~] Disciplinary Counsel, [~~authorized by its Chair, or the Chair's lawyer member designee,~~] and supported by an affidavit, an attorney may be temporarily suspended from the practice of law by order of the Court provided:

(a) It appears that probable cause exists to believe that an attorney is or has been misappropriating funds the attorney holds for others to his/her own use or has been otherwise improperly dealing with said funds; or

(b) It appears that probable cause exists to believe that an attorney's conduct poses a substantial threat of harm to his clients or to the public; or

(c) An attorney has been convicted of a crime as set out in SCR 3.320 and it appears from the record of such conviction that the attorney has so acted as to put in grave issue whether he/she has the moral fitness to continue to practice law; or,

(d) It appears that probable cause exists to believe that an attorney is mentally disabled or is addicted to intoxicants or drugs and probable cause exists to believe he/she does not have the physical or mental fitness to continue to practice law. If the attorney denies that he/she is mentally disabled or denies that he/she is addicted to intoxicants or drugs, the Court may order the attorney to submit to a physical or mental examination by a physician or other health care professional appointed by the Court. The examining health care professional shall file with the Clerk of the Court a detailed written report setting out the findings of the health care professional, including results of all tests made, diagnosis and conclusions, together with like reports of all earlier examinations by any health care professional of the same condition. The Clerk of the Court shall furnish a copy of the examining health care professional's entire report to the attorney and to ~~[Bar]~~ Disciplinary Counsel. The Court may order the attorney to produce to the Court and ~~[Bar]~~ Disciplinary Counsel any relevant medical, psychiatric, psychological or other health care or treatment records, including alcohol or drug abuse patient records, evidencing prior or ongoing treatment for mental disability or addiction to drugs or to execute appropriate releases which would comply with applicable federal and state law in order to permit the treating health care professional to release those records to the Court and ~~[Bar]~~ Disciplinary Counsel. Any such order and the resulting records regarding the treatment shall be confidential and sealed in the record.

(2) Any such order of temporary suspension may restrict the attorney in dealing with client funds and shall, when served on any bank maintaining any account upon which said attorney may make withdrawals, serve as an injunction to prevent said bank from making further payment from such account or accounts on any obligation except in accordance with restrictions imposed by the Court, and shall direct such bank not to disclose (except to those entitled to withdraw from the account or accounts or to receive payment of such obligation, or upon the express written permission of at least one of such persons as to each such account or obligations) that such order has been received or the contents thereof. Any fees tendered to such attorney thereafter shall be deposited in a trust fund from which withdrawals may be made only in accordance with restrictions imposed by the Court. The Court may appoint a trustee to receive, transfer, or disburse any funds that are in the possession of or are under the control of the attorney if the funds came into the attorney's possession from the attorney's clients or from third parties during or as a result of the practice of law prior to suspension. The Court may require the

trustee to render an accounting of said funds to the Court and to furnish a copy of the accounting to ~~[the Director]~~ Disciplinary Counsel.

(3) The petition of temporary suspension authorized by this rule shall be filed with the Clerk of the Court. ~~[The Chair of the Commission, or the Chair's designee, or the Commission's counsel,]~~ Disciplinary Counsel shall certify that a copy of the petition has been served on the Respondent or Respondent's attorney at his/her bar roster address. The Respondent shall file a response to the petition within twenty (20) days of the date the petition was filed with the Clerk. The Court may schedule an oral argument or a show cause hearing after the filing of the response or after the expiration of the time for a response to be filed.

(4) The Respondent may for good cause request dissolution or amendment of any such temporary order by petition filed with the Court, a copy of which will be served on the ~~[Director and on Bar]~~ Disciplinary Counsel, who shall respond [on behalf of the Association]. The Court may refer such petition for dissolution to a person who possesses the qualifications of a Trial Commissioner under Rule 3.230 sitting as a Special Commissioner for immediate hearing. The Special Commissioner shall hear evidence and argument upon such petition forthwith and submit his/her report and recommendations to the Court within thirty (30) days. Upon receipt of the foregoing report, the Court may refer the matter to the Character and Fitness Committee for recommendation and/or may modify its order if deemed appropriate until final disposition of all pending disciplinary charges against said attorney.

(5) Within ~~[twenty (20)]~~ ten (10) days from the date of the entry of the order of temporary suspension, the attorney shall notify all courts or tribunals in which the attorney has matters pending and all clients in writing of his/her inability to continue to represent them and shall furnish copies of all such letters of notice to the Director.

(6) Upon the issuance of an order of temporary suspension, the attorney affected shall immediately, to the extent reasonably possible, cancel and cease any advertising activities in which the attorney is engaged, and remove the attorney's name from any firm with which the attorney is associated.

(7) Failure to comply with this rule shall subject the Respondent to a charge of contempt of court.

Rules of the Supreme Court (SCR), Rule 3.166

SCR 3.166 Automatic suspension after conviction of a felony; notice requirements after conviction of a felony or class A misdemeanor

(1) Any member of the Kentucky Bar Association who pleads guilty to a felony, including a no contest plea or a plea in which the member allows conviction but does not admit the commission of a crime, or is convicted by a judge or jury of a felony, in this State or in any other jurisdiction, shall be automatically suspended from the practice of law in this Commonwealth. "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year is authorized by law. The imposition of probation, parole, diversion or any other type of discharge prior to the service of sentence, if one is imposed, shall not affect the automatic suspension. The suspension shall take effect automatically beginning on the day following the plea of guilty or finding of guilt by a judge or jury or upon the entry of judgment whichever occurs first. The suspension under this rule shall remain in effect until dissolved or superseded by order of the Court. Within thirty (30) days of the plea of guilty, or the finding of guilt by a judge or jury, or entry of judgment, whichever occurs first, the suspended attorney may file a motion with the Clerk of the Supreme Court of Kentucky setting forth any grounds which the attorney believes justify dissolution or modification of the suspension.

~~[(2) The attorney prosecuting the case to a plea of guilty, conviction by judge or jury or entry of judgment, whichever occurs first, shall immediately notify Bar Counsel and the Clerk of the Supreme Court that such plea, finding or entry of judgment has been made.]~~

~~[(3)]~~(2) The suspended attorney shall serve a copy of any motion filed under paragraph (1) above on [Bar] Disciplinary Counsel by mailing a copy to 514 West Main Street, Frankfort, Kentucky 40601. [Bar] Disciplinary Counsel shall file a response to the suspended attorney's motion within twenty (20) days of receipt of the motion.

~~[(4)]~~(3) Any attorney suspended under this rule shall notify all courts or tribunals in which the attorney has matters pending and all clients in writing of the attorney's inability to continue to represent them and shall furnish copies of all such letters to the Director. These letters shall be mailed to the client within ten (10) days after the plea of guilty, conviction by judge or jury, or entry of judgment has been made. The attorney shall make arrangements to return all active files to the client or new counsel and shall return all unearned attorney fees and client property to the client and shall advise the Director of such arrangements within the same ten (10) day period.

~~[(5)]~~(4) Any attorney suspended under this rule shall immediately, to the extent possible, cancel and cease any advertising activities in which the attorney is engaged, and remove the attorney's name from any firm with which the attorney is associated.

(5) Any member of the Association who is convicted of a felony or class "A" misdemeanor, shall within 10 days following the plea of guilty, finding of guilt by a judge or jury, or upon the entry of judgment, whichever occurs first, file a copy of the judgment with Disciplinary Counsel and the Clerk of the Supreme Court. The prosecuting attorney shall also file a copy of said judgment with Disciplinary Counsel.

~~[(6) Disciplinary proceedings against such attorney shall be initiated by the Inquiry Commission pursuant to SCR 3.160, unless already begun or unless the suspended attorney resigns under terms of disbarment.]~~

Rules of the Supreme Court (SCR), Rule 3.167

SCR 3.167 Indefinite suspension in default cases or for failure to participate after answer

- (1) The Court may in its discretion, sua sponte, or on motion by ~~[the Office of Bar]~~ Disciplinary Counsel, suspend the Respondent from the practice of law for an indefinite period of time in cases in which the Respondent has failed to file an answer to a Charge pursuant to SCR 3.164, or having answered, has thereafter failed to participate in the disciplinary process.
- (2) Motions filed by ~~[the Office of Bar]~~ Disciplinary Counsel for failure to file an answer to a Charge, or failure to participate in the disciplinary process shall state: (i) the history of the proceedings ~~[before the Inquiry Commission]~~ and the Respondent's participation therein; (ii) any communication between the Respondent and ~~[the Office of Bar]~~ Disciplinary Counsel; (iii) proof of service of the Charge; and (iv) whether KYLAP has been able to contact the Respondent.
- (3) Within ten (10) days after the entry of an order indefinitely suspending a Respondent pursuant to sections (1) and (2) above, the Respondent may file a Motion to Set Aside Indefinite Suspension. The Motion shall be verified by the Respondent. The Respondent shall provide an accounting for the failure to respond and/or participate in the disciplinary process. The burden is on the Respondent to show good cause. ~~[Bar]~~ Disciplinary Counsel may file a response to the Motion within ten (10) days.
- (4) Any disciplinary proceedings pending against a Respondent who has been indefinitely suspended or who has had an indefinite suspension set aside shall continue and proceed pursuant to SCR 3.160, et seq.
- (5) If a Respondent fails to seek reinstatement within five (5) years after entry of an Order of Indefinite Suspension, ~~[the Office of Bar]~~ Disciplinary Counsel shall move the Court for permanent disbarment.

Rules of the Supreme Court (SCR), Rule 3.168  
SCR 3.168 Discipline by Consent

(1) Approval. At any time after the filing of formal charges and before final disposition, the Respondent may agree with Disciplinary Counsel that the Respondent shall admit to any or all of the formal charges in exchange for a stated sanction.

(a) If the agreement is submitted before the beginning of a trial before the Disciplinary Hearing Officer, the agreement shall be submitted to the Court for approval.

(b) If the agreement is submitted after the beginning of the trial before the Disciplinary Hearing Officer, the agreement shall be submitted to the Disciplinary Hearing Officer assigned to the case, who shall either:

(i) reject the agreement; or

(ii) submit the agreement to the Court for approval.

(2) Rejection of Sanction. If the stated sanction is rejected by the Court or the Disciplinary Hearing Officer, the admission shall be withdrawn and cannot be used against the Respondent in any proceedings.

(3) Affidavit of Consent. A Respondent who consents to a stated sanction shall sign an affidavit stating that:

(a) the Respondent consents to the sanction;

(b) the consent is freely and voluntarily rendered;

(c) there is presently pending a proceeding involving allegations of misconduct; and

(d) the facts set forth in the affidavit are true.

(4) Order of Discipline. Disciplinary Counsel or the Disciplinary Hearing Officer, as appropriate, shall file the affidavit with the Court. The affidavit shall remain confidential until it is accepted by the Court. The Court shall either reject the agreement or enter the order disciplining the respondent. The final order of discipline shall be based upon the formal charges and the conditional admission.

Rules of the Supreme Court (SCR), Rule 3.169  
SCR 3.169 Alternative disposition

(1) Upon receipt of an oral or written complaint of a violation of the Rules of Professional Conduct, Disciplinary Counsel will initially determine whether the matter is appropriate for alternative disposition. Alternative disposition may include, but is not limited to:

- (a) Informal resolution;
- (b) Referral to Fee Arbitration under SCR 3.810;
- (c) Legal negligence arbitration under SCR 3.800;
- (d) Legal or management education programs;
- (e) Remedial ethics education programs;
- (f) Referral to KYLAP under SCR 3.970(1)(c); or
- (g) Issuance of a warning letter with or without conditions.

(2) A complaint is not suitable for alternative disposition if it alleges serious misconduct in which the sanction would more than likely result in a suspension. Additionally, some ethical violations warranting a private admonition or public reprimand may not, under all circumstances, be eligible for alternative disposition.

(3) After review and such preliminary investigation as may reasonably be necessary, Disciplinary Counsel may attempt informal resolution and subsequently close the complaint. If the acts or course of conduct complained of merit referral under (1)(a)-(g), but do not warrant a greater degree of discipline, Disciplinary Counsel may issue a warning letter with or without conditions, which will be maintained in the investigative file of Disciplinary Counsel but not be considered as discipline, or it may recommend remedial ethics, related legal or management education programs, fee arbitration, or KYLAP, completion of which would result in the complaint being dismissed. The attorney who receives the warning letter may, within 20 days from the date of the letter, file a response thereto and may request consideration of the matter by the Inquiry Commission. Any response or request so submitted shall be retained in the disciplinary file.

(4) If Disciplinary Counsel deems a complaint to state an ethical violation such that alternative disposition is not appropriate, or the Respondent will not consent to or complete the alternative disposition, the matter shall proceed under SCR 3.160(3).

Rules of the Supreme Court (SCR), Rule 3.180  
SCR 3.180 Investigations and trials to be prompt; subpoena power

(1) All investigations and the trial of all disciplinary cases shall be begun, prosecuted, and completed as promptly as the ends of justice will permit. Neither the unwillingness of the complainant to prosecute, nor an offer of settlement, compromise or restitution shall delay the investigation, trial or report to the Board or Court.

(2) Proceedings may be deferred by the [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer if there is pending civil [~~or criminal~~] litigation or an investigation by another lawyer disciplinary jurisdiction directly involving the Respondent or proposed Respondent involving substantially similar material allegations to that or those in the disciplinary proceedings, provided, however, that the Respondent-attorney proceeds with reasonable dispatch to insure the prompt disposition of the pending litigation. Proceedings deferred pursuant to this subsection shall be reviewed quarterly by the [~~Inquiry~~] Attorney Discipline Oversight Commission.

(3) Upon application of [~~Bar~~] Disciplinary Counsel to the [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer, [~~and after a hearing of which Respondent is given at least five (5) days' notice,~~] for good cause shown the [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer may authorize [~~the Director or~~] the Disciplinary Clerk to issue a subpoena to a Respondent, or any other person or legal entity, to produce to [~~Bar~~] Disciplinary Counsel any evidence [~~deemed by the Inquiry Commission to be~~] material to the investigation of a complaint or investigative file opened pursuant to SCR 3.160[~~(2)~~], and to testify regarding such production. Such an application may be made in connection with complaints against more than one Respondent if the complaints are based on the same or a related set of facts. The person or entity so subpoenaed will not divulge, except to his/her own attorney, that such a subpoena has been served nor what evidence is sought or obtained. The Respondent may be present at the time the evidence or material is examined or obtained by [~~Bar~~] Disciplinary Counsel and will be furnished copies of all documents obtained, unless obtained from the Respondent.

(4) The recipient of a subpoena may file a motion to quash or for protective order with the Chief Disciplinary Hearing Officer within fourteen (14) days of service of a subpoena. For good cause shown, the Chief Disciplinary Hearing Officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (a) that the testimony or production not be had; (b) that it may be had only on specified terms and conditions, including a designation of the time or place; (c) that it may be had only by a method other than that selected by the party seeking testimony or production; (d) that certain matters not be inquired into, or that the scope of the subpoena be limited to certain matters; (e) that the testimony be taken with no one present except persons designated by the Chief Disciplinary Hearing Officer; (f) that testimony may be sealed to be opened only by order of the original issuing jurisdiction; (g) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (h) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the original issuing jurisdiction. The Chief Disciplinary Hearing Officer's disposition of a motion to quash or for protective order is dispositive and may not be appealed.

(5) If any witness refuses to testify concerning any matter for which he or she may lawfully be interrogated, upon application of the [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer to

the Circuit Court of the county in which the witness resides, the Circuit Court may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court.

Rules of the Supreme Court (SCR), Rule 3.181  
SCR 3.181 Assistance to other lawyer disciplinary jurisdictions

(1) Upon receipt by the Director of a subpoena certified to be duly issued under the rules or laws of another lawyer disciplinary jurisdiction, or by a clients' security fund of any jurisdiction, the ~~[Inquiry Commission]~~ Chief Disciplinary Hearing Officer may authorize the ~~[Director or]~~ Disciplinary Clerk to issue the subpoena directing a person domiciled or found within the Commonwealth of Kentucky to give testimony and/or produce documents or other things for use in the other lawyer disciplinary or clients' security fund proceedings as directed in the subpoena of the other jurisdiction.

(2) The testimony or production shall be only in the county wherein the person resides or is employed, or as otherwise fixed by the ~~[Inquiry Commission]~~ Chief Disciplinary Hearing Officer for good cause shown, and shall be taken as provided in CR 28.01.

(3) Any attack on the validity of a subpoena issued by another jurisdiction may be heard and determined by the disciplinary authority of the other state in accordance with the law of the issuing jurisdiction.

(4) In addition to the relief available under the law of the requesting disciplinary jurisdiction or clients' security fund, upon motion made by a party or by the person from whom appearance or production is sought, and for good cause shown, the ~~[Inquiry Commission]~~ Chief Disciplinary Hearing Officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (a) that the testimony or production not be had; (b) that it may be had only on specified terms and conditions, including a designation of the time or place; (c) that it may be had only by a method other than that selected by the party seeking testimony or production; (d) that certain matters not be inquired into, or that the scope of the subpoena be limited to certain matters; (e) that the testimony be taken with no one present except persons designated by the ~~[Inquiry Commission]~~ Chief Disciplinary Hearing Officer; (f) that testimony may be sealed to be opened only by order of the original issuing jurisdiction; (g) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (h) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the original issuing jurisdiction. The Chief Disciplinary Hearing Officer's disposition of a motion to quash or for protective order is dispositive and may not be appealed.

Rules of the Supreme Court (SCR), Rule 3.182  
SCR 3.182 Disqualification of Persons in the Disciplinary Process

(1) Any member or employee of the Office of Disciplinary Counsel, Attorney Discipline Oversight Commission, Inquiry Commission, Board of Disciplinary Hearing Officers, or KBA Board, who would be disqualified from participating in a disciplinary matter under the provisions applicable to judges under SCR 4.300, Canon 2, Rule 2.11 or under the provisions of state law applicable to the disqualification of prosecutors, shall disqualify himself or herself by filing a notice of recusal with the Disciplinary Clerk, on a form to be determined by the Attorney Discipline Oversight Commission.

(2) A party to a disciplinary matter who believes a person in subsection (a) should be disqualified may file with the Disciplinary Clerk a request for disqualification stating the person sought to be disqualified and the grounds for disqualification. The Disciplinary Clerk shall serve the person against whom disqualification is sought. Filing a request for disqualification shall not delay disciplinary proceedings but shall serve to preserve the matter for review by the Court.

Rules of the Supreme Court (SCR), Rule 3.210

SCR 3.210 Processing cases of default [~~admissions of violations or answers raising only issues of law~~]

(1) If no answer is filed after a Respondent is notified, the [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer shall order the record, together with such investigative evidence as may have been obtained, to be submitted to the Board. If there is more than one file, the [~~Inquiry Commission~~] Chief Disciplinary Hearing Officer may at the request of [~~Bar~~] Disciplinary Counsel order the files be consolidated.

(2) After entry of the order of submission, the Vice President of the Board may rule on Motions to file late answers for good cause shown as set forth in CR 6.02. The Office of [~~Bar~~] Disciplinary Counsel shall have an opportunity to file a response. [~~The entire Board shall rule on the Motion.~~] If the Motion is granted, the Board shall return the entire record to the Disciplinary Clerk for further proceedings. If the Motion is overruled, the matter shall stand submitted to the Board.

~~[(3) If the parties agree that the answer raises only issues of law, or the Respondent admits the violation, the case shall be submitted to the Board upon Motion by either party. Bar Counsel may file a brief within 20 days after the order granting the Motion is entered, and the Respondent may file a brief within 20 days thereafter. After briefs are filed, or the time within which briefs may be filed has expired, the record and briefs shall be forwarded to the President for assignment to a member of the Board for a report.]~~

~~(4) In the event of a case submitted under subsection (3), the Board, by a vote of a majority of the Board present and voting, may return the entire record to the Disciplinary Clerk for appointment of a Trial Commissioner pursuant to SCR 3.230 to conduct an evidentiary hearing, which proceeding will be confidential pursuant to 3.150.]~~

Rules of the Supreme Court (SCR), Rule 3.215

3.215 Admissions of violations and answers raising only issues of law

(1) If the parties agree that the answer raises only issues of law, or the Respondent admits the violation, the case shall be submitted to the Board upon Motion to the Chief Disciplinary Hearing Officer by either party. Disciplinary Counsel and the Respondent may file briefs within 30 days after the order granting the Motion is entered. After briefs are filed, or the time within which briefs may be filed has expired, the record and briefs shall be forwarded to the President for assignment to a member of the Board for a report.

(2) The Board, by a vote of a majority of the Board present and voting, may return the entire record to the Disciplinary Clerk for appointment of a Disciplinary Hearing Officer pursuant to SCR 3.230 to conduct an evidentiary hearing.

Rules of the Supreme Court (SCR), Rule 3.225  
SCR 3.225 Appointment of ~~[Trial Commission]~~ Board of Disciplinary Hearing Officers

(1) The Chief Justice shall appoint, subject to the approval of the Supreme Court, from among the membership of the Bar Association, a ~~[Trial Commission]~~ Board of Disciplinary Hearing Officers and shall designate a ~~[chair]~~ Chief Disciplinary Hearing Officer from the Board of Disciplinary Hearing Officers. The ~~[Trial Commission]~~ Board of Disciplinary Hearing Officers shall consist of no more than 15 members. Members of the ~~[Trial Commission]~~ Board of Disciplinary Hearing Officers shall be lawyers licensed in the Commonwealth who possess the qualifications of a Circuit Judge. To the extent practicable, the Chief Justice shall, with the consent of the Court, appoint ~~[Trial Commissioners]~~ Disciplinary Hearing Officers from each appellate district. Such ~~[Trial Commissioners]~~ Disciplinary Hearing Officers shall serve 1 or more 4 year terms. The Board of Disciplinary Hearing Officers shall meet as a whole at least once annually for training at the direction of the Chief Disciplinary Hearing Officer.

(2) The Board of Disciplinary Hearing Officers shall develop a program for the identification and training of persons to be qualified as Disciplinary Hearing Officers.

Rules of the Supreme Court (SCR), Rule 3.230  
SCR 3.230 Procedure when answer raises issues of fact

After an answer to a Charge is filed raising issues of fact, the Disciplinary Clerk shall, by random draw, assign~~[appoint the next available]~~ a member of the ~~[Trial Commissioner]~~ Board of Disciplinary Hearing Officers to serve as a ~~[commissioner]~~ Disciplinary Hearing Officer ~~[upon approval by the Chief Justice]~~. The ~~[Trial Commissioner]~~ Disciplinary Hearing Officer shall reside in a different Supreme Court ~~[d]~~District from that of the Respondent. The Disciplinary Clerk shall immediately notify the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer of his/her appointment and provide the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer a copy of the pleadings.

Rules of the Supreme Court (SCR), Rule 3.240

SCR 3.240 Notice of ~~[appointment]~~assignment of ~~[Trial Commissioner]~~ Disciplinary Hearing Officer and hearing

~~[(1)]~~ Upon the ~~[appointment]~~assignment of a ~~[Trial Commissioner]~~ Disciplinary Hearing Officer, the Disciplinary Clerk shall notify the parties of his/her name and address. The ~~[Trial Commissioner]~~ Disciplinary Hearing Officer shall fix the time and place of the hearing and the Disciplinary Clerk shall give notice thereof to the parties. Such hearing shall occur not less than ~~thirty~~ 30 days, nor more than ~~[180]ninety~~ 90 days, after the date of the notice, but for good cause shown, said time may be extended by the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer for a period not to exceed an additional ~~[180]~~thirty 30 days.

~~[(2)]~~ Any time, not later than 20 days after the appointment of a Trial Commissioner or at such point in the proceeding that facts become known sufficient for such challenge, the Respondent or Bar Counsel may, by motion, challenge for cause the Trial Commissioner. If the challenge is such as might disqualify a Circuit Judge, the Chief Justice shall relieve the challenged member and direct the Disciplinary Clerk to immediately fill the vacancy.

~~[(3)]~~ The Trial Commissioner may convene a pretrial conference. The Trial Commissioner shall have the authority to demand the appearance of counsel representing the respective parties at the pretrial conference or such other conferences as he/she may convene in person or by telephone for the purpose of disposing of pretrial matters or motions.]

[Rules of the Supreme Court (SCR), Rule 3.260  
SCR 3.260 Joinder and consolidation

~~(1) Any number of acts or omissions, and any number of separate and distinct transactions, alleged to constitute unprofessional conduct on the part of any attorney may be alleged in a single charge in separate counts. Separate charges may, by order of the Inquiry Commission, be consolidated and tried as a single disciplinary case.~~

~~(2) A charge may be filed against two or more attorneys if based on the same or related state of facts, and separate charges against two or more attorneys based upon the same or related state of facts may, by order of the Inquiry Commission, be consolidated and tried as a single disciplinary proceeding. Where two or more attorneys are proceeded against in the same proceeding, the Trial Commissioner shall report to the Board as to each.~~

~~(3) Charges against two or more attorneys may be consolidated by order of the Inquiry Commission for limited purposes including, but not limited to, preservation of testimony, out of state depositions, or document production pursuant to subpoena.~~

~~(4) Any party may file a motion with the Inquiry Commission to sever separate charges against any attorney as provided in subsection (1), or to sever charges against two or more attorneys as provided in subsection (2) or (3). However, the filing of such motions shall not delay the evidentiary hearing or the Board's consideration of the case.]~~

~~[Rules of the Supreme Court (SCR), Rule 3.285  
SCR 3.285 Motion to reconsider or dismiss a charge~~

~~(1) Either party may file a motion with the Inquiry Commission to reconsider or dismiss a charge prior to the case being submitted to the Trial Commissioner for determination of factual issues, or to the Board if it presents only a legal issue. However, the filing of such motion shall not delay the evidentiary hearing or the Board's consideration of the case.~~

~~(2) The motion shall be verified and shall state specifically the reasons why the matter should be reconsidered or dismissed and may be accompanied by supporting affidavits and exhibits. The motion shall be filed in the office of the Disciplinary Clerk no later than 30 days prior to the evidentiary hearing or the Board's consideration of the case. Any response shall be filed within 20 days of service of the motion. After a hearing of which the Respondent is given at least 5 days notice and an opportunity to be heard, the Commission shall rule on the motion at the next meeting of the issuing panel. No other motion to reconsider or dismiss shall be permitted in regard to the reconsideration of a charge by the Inquiry Commission, unless good cause is shown.~~

~~(3) Upon such reconsideration, the Inquiry Commission may dismiss a charge, issue a private admonition under SCR 3.162, or deny the motion and direct the Trial Commissioner to proceed with the hearing or refer the matter to the Board for action.]~~

~~[Rules of the Supreme Court (SCR), Rule 3.290  
SCR 3. 290 Filing and processing of pleadings and other papers~~

~~(1) Promptly after a charge is filed all further pleadings, notices, motions, orders, and briefs shall be sent to the Disciplinary Clerk. The Disciplinary Clerk shall file the original and forward one copy each: to the Inquiry Commission, through the Office of Bar Counsel, or to the Trial Commissioner, if after appointment, to Respondent or Respondent's counsel of record and to the Office of Bar Counsel. However, a motion to reconsider, dismiss, or amend a charge shall be sent only to the Inquiry Commission and to counsel of record.~~

~~(2) All pleadings, notices, motions, orders, and briefs shall be filed with sufficient copies to allow service by the Disciplinary Clerk on all persons listed above.]~~

Rules of the Supreme Court (SCR), Rule 3.300  
SCR 3.300 Rights of [r]Respondent against whom a [e]Charge has been filed

The Respondent against whom a [e]Charge has been filed shall have the right to be represented by counsel. The Respondent shall have all the rights secured to a party by the Rules of Civil Procedure and Kentucky Rules of Evidence with respect to the introduction of evidence. The Respondent shall have the right to compel the attendance of witnesses and the production of books, papers and documents or other writings, except those contained in the investigative file of [Bar] Disciplinary Counsel, to the hearing or to such depositions as are permitted under SCR 3.340. The Respondent shall have the right to an oral argument or to file a brief before the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer. The Respondent shall be afforded a full opportunity to defend himself/herself by the introduction of evidence, and to cross-examine witnesses. If the facts in the charge would give rise to a criminal proceeding, respondent shall not be compelled to give evidence against himself or herself. ~~[If the Respondent is unable to employ counsel, the Chair, or Chair's lawyer member designee, upon written request accompanied by an in forma pauperis affidavit, made within twenty (20) days after service of the charge, shall appoint counsel for the Respondent.]~~

~~[Rules of the Supreme Court (SCR), Rule 3.320~~

~~SCR 3.320 Procedure where an attorney has been convicted of a misdemeanor or a felony~~

~~Any member of the Association who is convicted of a felony or class "A" misdemeanor, shall within 10 days following the plea of guilty, finding of guilt by a judge or jury, or upon the entry of judgment, whichever occurs first, file a copy of the judgment with Bar Counsel. The prosecuting attorney shall also file a copy of said judgment with Bar Counsel for action under SCR 3.160. Bar Counsel shall submit copies of the judgment to the Inquiry Commission which may take action under SCR 3.165.]~~

Rules of the Supreme Court (SCR), Rule 3.330  
SCR 3.330 [~~Order of proceedings and burden of proof~~] Procedure before the Disciplinary  
Hearing Officer

(1) The [~~Trial Commissioner~~] Disciplinary Hearing Officer shall determine and regulate the order of proceedings at the hearing, and may convene a pretrial conference for scheduling purposes and to dispose of pretrial matters and motions. Upon request of a party or upon direction of the [~~Trial Commissioner~~] Disciplinary Hearing Officer, the Disciplinary Clerk shall issue subpoenas for the attendance of witnesses or the production of evidence.

~~[(2)]~~(a) Every subpoena shall command each person to whom it is directed to attend and give testimony and/or to produce designated documents in that person's possession, custody, or control, at the time and place therein specified. Notice of the subpoena, except those issued for a hearing, shall be served on each party and any person or entity whose information is being requested. Copies of all documents received in response to the subpoena shall be furnished to the opposing party, except on Motion and for good cause shown.

(b) The recipient of a subpoena may file a motion to quash or for protective order with the Disciplinary Hearing Officer within fourteen (14) days of service of a subpoena. For good cause shown, the Disciplinary Hearing Officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (i) that the testimony or production not be had; (ii) that it may be had only on specified terms and conditions, including a designation of the time or place; (iii) that it may be had only by a method other than that selected by the party seeking testimony or production; (iv) that certain matters not be inquired into, or that the scope of the subpoena be limited to certain matters; (v) that the testimony be taken with no one present except persons designated by the Disciplinary Hearing Officer; (vi) that testimony may be sealed to be opened only by order of the original issuing jurisdiction; (vii) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (viii) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the original issuing jurisdiction.

~~[(3)]~~ (2) Prehearing discovery shall proceed [~~in accordance with this rule~~] as directed by the [~~Trial Commissioner~~] Disciplinary Hearing Officer rather than by the Kentucky Rules of Civil Procedure. If reasonably necessary to prepare the case for hearing, the [~~Trial Commissioner~~] Disciplinary Hearing Officer may allow the taking of depositions and require the production of documents.

(3) (a) The testimony at all hearings shall be live, except that the parties may use depositions under the same standards as those prescribed by the Kentucky Rules of Civil Procedure. The Kentucky Rules of Evidence shall apply, and the Disciplinary Hearing Officer will rule on all evidentiary issues.

(b) Where, in any proceeding, evidence has been taken under oath upon due notice to the Respondent, and at the taking of which Respondent has appeared, either in person or by counsel, or as attorney for any party, a duly certified transcript, videotape or digital recording made by a court reporter or official of a court, of all, or the essential portions, of such

proceedings may be used as evidence in any hearing or in any investigation antecedent to or in connection with any disciplinary case involving the same Charge, or any Charge growing out of the matters connected therewith. Such transcript, tapes, or digital recordings of the record, or parts thereof, may be made a part of the record on any hearing or investigation.

(4) The burden of proof shall rest upon ~~[the Association]~~ Disciplinary Counsel in a disciplinary proceeding, and the facts must be proven by a preponderance of the evidence. In reinstatement hearings the burden shall rest upon the Applicant, and he/she must demonstrate by clear and convincing evidence his/her suitability for reinstatement.

(5) Before submission the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer may direct such oral argument as he/she deems appropriate and may allow briefs, not to exceed 30 pages, from all parties, which shall be filed simultaneously within 30 days after the record is filed with the Disciplinary Clerk. The ~~[trial commissioner]~~ Disciplinary Hearing Officer shall have discretion to extend the page limit of briefs.

(6) Proceedings before the Disciplinary Hearing Officer shall be electronically recorded by video or stenographic means and filed with the Disciplinary Clerk as the official record of proceedings.

(7) In each disciplinary case to be presented to the Disciplinary Hearing Officer, there shall be supplied with the Disciplinary Clerk's file a sealed envelope containing a statement of the Respondent's years of membership in the Association, all orders of unprofessional conduct, and all withdrawals from the association and reasons therefor. Before submission of a case to the Disciplinary Hearing Officer or the Board a copy of said statement shall be sent to the Respondent, who may review documents relative to it at the Bar Center and may respond to address any errors in the statement to the Disciplinary Hearing Officer or the Board within 10 days. The envelope will be opened only if the Disciplinary Hearing Officer or Board makes a finding of a violation and may be considered in deciding what discipline to impose. Such statement will become part of the record of the case and be transmitted with the rest of the file to the Disciplinary Clerk, Board or Court.

[Rules of the Supreme Court (SCR), Rule 3.340

~~SCR 3. 340 Introduction and admissibility of evidence, evidence taken in other proceedings~~

~~The testimony at all hearings shall be in person, except that the parties may use depositions under the same standards as those prescribed by the Kentucky Rules of Civil Procedure. The rules of evidence applicable in civil actions shall apply, and the Trial Commissioner will rule on all evidentiary issues.~~

~~Where, in any proceeding, evidence has been taken under oath upon due notice to the Respondent, and at the taking of which Respondent has appeared, either in person or by counsel, or as attorney for any party, a duly certified transcript, videotape or digital recording made by a court reporter or official of a court, of all, or the essential portions, of such proceedings may be used as evidence in any hearing or in any investigation antecedent to or in connection with any disciplinary case involving the same charge, or any charge growing out of the matters connected therewith. Such transcript, tapes, or digital recordings of the record, or parts thereof, may be made a part of the record on any hearing or investigation.]~~

~~[Rules of the Supreme Court (SCR), Rule 3.350  
SCR 3.350 Electronic record~~

~~The proceedings before the Trial Commissioner shall be electronically reported and immediately filed with the Disciplinary Clerk.]~~

Rules of the Supreme Court (SCR), Rule 3.360

SCR 3.360 ~~[Trial Commissioner]~~ Disciplinary Hearing Officer to file report with Disciplinary Clerk

(1) When the record in a disciplinary proceeding has ~~been finally submitted~~ closed, the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer shall promptly file with the Disciplinary Clerk a written report setting forth his/her findings of fact and conclusions of law as to whether a violation of the rules has occurred. The ~~[Trial Commissioner's]~~ Disciplinary Hearing Officer's Report shall contain a concise statement of:

- (a) the charge(s) made and the defense(s) offered by the Respondent;
- (b) the proceedings had;
- (c) the facts which the ~~[Commissioner]~~ Disciplinary Hearing Officer deems proved by a preponderance of the evidence, and;
- (d) the sanction, if any, recommended.

(2) The ~~[Trial Commissioner's]~~ Disciplinary Hearing Officer's report shall constitute a part of the record in the case. The report shall be advisory.

The ~~[Trial Commissioner]~~ Disciplinary Hearing Officer shall file the report with the Disciplinary Clerk within 30 days after the record has been filed with the Disciplinary Clerk or after any briefs have been filed with the Disciplinary Clerk, whichever is later. Said deadline may be extended by agreement of the parties or by the President upon verified motion by the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer. If an extension is sought by the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer, a verified motion stating with particularity the grounds for the extension of time shall be filed with the Disciplinary Clerk, with service on parties. The President may grant up to a 60 day extension of time for the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer to file the report. If the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer fails to timely file the report or a verified motion for extension of time, the Board shall request the Supreme Court to issue a show cause order to the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer.

(3) Within 10 days after the filing of the report with the Disciplinary Clerk and service on the parties by the Disciplinary Clerk, either party may move to amend the findings or for additional findings of fact or conclusions of law by the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer. Any response shall be filed within 10 days. Such motion shall be ruled upon within 30 days of the filing of the motion.

(4) Within 30 days after the filing with the Disciplinary Clerk of: (a) the report, (b) an order ruling on a motion under SCR 3.360(3), or (c) an amended report, whichever is later, either party may file a notice of appeal with the Disciplinary Clerk. The notice of appeal shall specify by name the appellant and the report appealed from, and shall be filed with the Disciplinary Clerk and served on opposing counsel and the Disciplinary Hearing Officer pursuant to CR 5. If no notice of appeal is timely filed, the entire record shall be forwarded to the Court for entry of a final order pursuant to SCR 3.370(9).

(5) Upon finality of the report, the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer shall return to the Disciplinary Clerk the entire record and such original papers ~~[as may have been filed and are]~~ in the possession of the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer.

(6) Upon the finality of the report of the [~~Trial Commissioner~~] Disciplinary Hearing Officer, the Disciplinary Clerk shall certify the record of the proceedings and send notice of certification to the parties.

~~[Rules of the Supreme Court (SCR), Rule 3.365  
SCR 3.365 Notice of appeal~~

~~(1) A notice of appeal, if any, shall be filed within thirty (30) days of the final report of the Trial Commissioner.~~

~~(2) The notice of appeal shall specify by name the appellant and the report appealed from.~~

~~(3) The notice of appeal shall be filed with the Disciplinary Clerk pursuant to SCR 3.290.]~~

Rules of the Supreme Court (SCR), Rule 3.370  
SCR 3.370 Procedure before the Board and the [e]Court

(1) Thirty days after the filing of the notice of appeal, the Appellant shall file a brief supporting his/her position on the merits of the case. Fifteen days thereafter, the Appellee shall file his/her brief. Briefs shall not exceed 30 pages. No reply brief shall be permitted.

(2) Within sixty (60) days of completion of briefing by the parties the Board shall consider and act upon the entire record.

~~[(2)3]~~ Upon motion by the parties, which shall be filed contemporaneously with the parties' briefs, or upon the Board's own motion, oral arguments may be scheduled before the Board. The oral argument proceedings shall be open to the public and shall be [electronically] recorded either by video recording or by a stenographer and be considered a part of the record.

~~[(3) (a) Within sixty (60) days of completion of briefing by the parties the Board shall consider and act upon the entire record.]~~

~~(4)[Only the President, the President-Elect, the Vice President,]~~ Deliberations of the Board in disciplinary and reinstatement cases shall take place in confidential closed session. The Vice President shall participate in accordance with Rule 3.070. Only the fourteen (14) duly-elected members of the Board from their respective Supreme Court Districts, and four (4) adult citizens of the Commonwealth who are not lawyers appointed by the Chief Justice pursuant to Rule 3.375 [as hereinafter described,] shall be eligible to [be present,] participate in and vote on any disciplinary or reinstatement case. The Board may, at its discretion, include its own counsel in its deliberations, but counsel will have no vote.

(5) 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 under section (4).

~~[(b) Any member, including a non-lawyer member, who has participated in any phase of a disciplinary or reinstatement case submitted to the Board under this rule, or who has been challenged on grounds sufficient to disqualify a Circuit Judge shall be disqualified. If disqualification or absence results in lack of a quorum the Chief Justice shall appoint a member or members (or, if applicable, non-lawyer participants) sufficient to provide a quorum to consider and act on the cases. Any challenge to a member's qualifications shall be determined by the Chief Justice in accordance with KRS 26A.015, et seq.]~~

~~[(4)6] [Eleven (11)]~~ Ten (10) of those qualified to sit in a disciplinary or reinstatement matter must be present to constitute a quorum for consideration of such matters.

~~[(5)7]~~(a) The Board, after deliberation and consideration of oral argument, if any, shall decide by a roll call vote:

(i[-]) To accept the ~~[Trial Commissioner's]~~ Disciplinary Hearing Officer's Report as to the guilty, innocence, and the discipline imposed, by concluding that the ~~[Trial Commissioner's]~~ Disciplinary Hearing Officer's report is supported by substantial evidence and is not clearly erroneous as a matter of law, or

(ii[-]) To conduct a de novo review, in its discretion. In that event it shall make findings as to the guilty or innocence on each Count, and the appropriate discipline to be imposed, if any, and

take separate votes as to each. If the Board votes to take de novo review of the case, said review shall be confined to the ~~[evidence presented and the]~~ record of the case. The Board may consider the admissibility of evidence as well as the appropriate weight of it. The Board shall state, in its written report required by subsection (~~[6]9~~), the difference between its findings and recommendations and the report of the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer.

(b) In the event of a case submitted under SCR 3.210, the Board shall decide, by a roll call vote, guilt or innocence on each Count and the appropriate discipline to be imposed, if any. It shall make findings of fact in the event of a disputed fact~~;~~ and make conclusions of law. Failure to answer may be deemed an admission of the facts stated in the charge.

(c) Each roll call vote under (~~[5]7~~)(a) or (b) shall be agreed upon by ~~[4]10 members~~ or 3/4 of the members ~~[of the Board]~~ present and voting on the proceedings, whichever is less.

(d) At any time during deliberations the Board by a vote of a majority of the Board present and voting, may remand the case to the Inquiry Commission for reconsideration of the form of the charge or remand the case to the ~~[Trial Commissioner]~~ Disciplinary Hearing Officer for clarification of the ~~[Trial Commissioner's]~~ Disciplinary Hearing Officer's report or for an evidentiary hearing on points specified in the order of remand. The Board may order the parties to file additional briefs on specific issues.

(~~[6]8~~) In a reinstatement matter, the Board shall review the record, report and brief and recommend approval or disapproval of the application.

(~~[7]9~~) The Board shall issue a written decision within ~~[forty five (45)]~~thirty (30) days of voting on the cases. The Disciplinary Clerk shall mail copies of such report to the Respondent, counsel of record, and to ~~[each member of the Inquiry Commission]~~ the Disciplinary Hearing Officer, if one was appointed. The Disciplinary Clerk shall place ten (10) copies of the report in the record and file the entire record of the case with the Court, unless the Board has taken actions under subsection (~~[5]7~~)(d), in which case the matter will proceed in accordance with the Board's direction.

(~~[8]10~~) Within thirty (30) days after the Board's decision is filed with the Disciplinary Clerk, ~~[Bar]~~ Disciplinary Counsel or the Respondent may file with the Court a Notice for the Court to review the Board's decision stating reasons for review, accompanied by a brief, not to exceed thirty (30) pages in length, supporting his/her position on the merits of the case. The opposing party may file a brief, not to exceed thirty (30) pages in length, within thirty (30) days thereafter. No reply brief shall be filed unless by order of the Court. All filings shall be deemed to be timely filed if filed in accordance with RAP 5(E).

(~~[9]11~~) If no notice of review is filed by either party, the Court may notify ~~[Bar]~~ Disciplinary Counsel and Respondent that it will review the decision. If the Court so acts, ~~[Bar]~~ Disciplinary Counsel and Respondent may each file a single brief~~s~~, not to exceed thirty (30) pages in length, within thirty (30) days, with no right to file response or reply briefs unless by order of the Court, whereupon the case shall stand submitted. All filings shall be deemed to be timely filed if filed in accordance with RAP 5(E). Thereafter, the Court shall enter such orders or opinion as it deems appropriate on the entire record.

(~~[10]12~~) If no notice of review is filed by either of the parties, or the Court under subsection (8) of this rule, the Court shall enter an order adopting the decision of the Board, ~~[Trial Commissioner]~~

Disciplinary Hearing Officer, or the Character and Fitness Committee, whichever the case may be, relating to all matters.

~~[(11) In each disciplinary case to be presented to the Trial Commissioner, there shall be supplied with the Disciplinary Clerk's file a sealed envelope containing a statement of the Respondent's years of membership in the Association, all orders of unprofessional conduct, and all withdrawals from the association and reasons therefor. The envelope will be opened only if the Trial Commissioner makes a finding of a violation and may be considered in deciding what discipline to impose. Such statement will become part of the record of the case and be transmitted with the rest of the file to the Disciplinary Clerk, Board and/or Supreme Court. Before submission of a case to the Trial Commissioner or the Board a copy of said statement shall be sent to the Respondent, who may review documents relative to it at the Bar Center and may comment to the Trial Commissioner or the Board upon the statement and point out errors contained in it.]~~

(13) The Clerk of the Court shall furnish a copy of the Court's order or opinion to all parties and the Director. Every final order or opinion shall be published in the same manner as are other opinions of the Court.

Rules of the Supreme Court (SCR), Rule 3.380  
SCR 3.380 Degrees of discipline

Upon findings of a violation of these rules, discipline may be administered by way of public reprimand, probation for a definite time, suspension from practice for a definite time, all of which may be with or without such conditions as the Court may impose, or permanent disbarment.

Rules of the Supreme Court (SCR), Rule 3.381  
SCR 3.381 Authority of American Bar Association Standards

The American Bar Association (ABA) Standards for Imposing Lawyer Sanctions are not binding authority but may be cited as persuasive authority by any party in a disciplinary action.

Rules of the Supreme Court (SCR), Rule 3.390  
SCR 3.390 Effective date; duties upon suspension or disbarment

(1) Any order suspending a lawyer from the practice of law, other than an order of suspension under SCR 3.165 or 3.166, shall take effect on the twentieth (20th) day following its entry unless otherwise provided within the order. The suspended lawyer shall promptly take all reasonable steps to protect the interests of the lawyer's clients. A lawyer suspended from the practice of law shall not during the term of suspension accept new clients or collect unearned fees and shall comply with the provisions of SCR 3.130(7.50(5)).

(2) Within twenty (20) days after the issuance of an order of disbarment, or suspension under SCR 3.167, SCR 3.050, ~~SCR 3.675(4)~~, or SCR 3.480, or upon issuance of an order of suspension from the practice of law for more than sixty (60) days, the disbarred or suspended lawyer shall notify, by letter duly placed with the United States Postal Service, all courts or other tribunals in which that lawyer has matters pending, and all clients of the lawyer's inability to represent them and of the necessity and urgency of promptly retaining new counsel. The lawyer shall simultaneously provide a copy of all such letters of notification to ~~[the Office of Bar]~~ Disciplinary Counsel. Upon issuance of an order of disbarment or suspension, the affected lawyer shall immediately cancel any pending advertisements, to the extent possible, and shall terminate any advertising activity for the duration of the term of suspension or disbarment.

Rules of the Supreme Court (SCR), Rule 3.400  
SCR 3.400 Rehearing [~~by Trial Commissioner~~]

Rehearing shall not be permitted except for newly discovered evidence so material to the rights of either party as to affect the finding and recommendation which could not have been discovered by the exercise of reasonable diligence and then only if such evidence is first presented in affidavit form, together with the affidavit of counsel that such evidence could not have been discovered sooner by the exercise of reasonable diligence. After the [~~Trial Commissioner~~] Disciplinary Hearing Officer has made his/her report to the Board, no rehearing shall be permitted by the [~~Trial Commissioner~~] Disciplinary Hearing Officer. After the Board has conducted its review, no rehearing shall be permitted by the Board. Rehearing before the Court shall proceed as provided in RAP 43. After the Board has filed its order under Rule 3.370, the Court may remand the case to the Board for such action as the Court may direct.

Rules of the Supreme Court (SCR), Rule 3.435  
SCR 3.435 Reciprocal discipline

(1) Any attorney subject to the provisions of this Rule shall, upon being subjected to professional disciplinary action in another jurisdiction, promptly inform ~~[the Bar]~~ Disciplinary Counsel of such action. Upon being informed that an attorney subject to the provisions of these Rules has been subjected to discipline in another jurisdiction, ~~[the Bar]~~ Disciplinary Counsel shall obtain a certified copy of such disciplinary order and shall file the same with this Court.

(2) Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this State has been disciplined in another jurisdiction, this Court shall forthwith issue a notice directed to the attorney containing:

(a) a copy of said order from the other jurisdiction; and

(b) an order directing that the attorney inform the Court, within twenty (20) days from the service of the notice, of any claim by the attorney predicated upon the grounds set forth in paragraph (4) hereof that the imposition of the identical discipline in this State would be unwarranted and the reasons therefor.

(3) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this State shall be deferred until such stay expires.

(4) Upon the expiration of thirty (30) days from the service of the notice issued pursuant to the provisions of (2) above, this Court shall impose the identical discipline unless Respondent proves by substantial evidence:

(a) a lack of jurisdiction or fraud in the out-of-state disciplinary proceeding, or

(b) that misconduct established warrants substantially different discipline in this State.

(c) In all other respects, a final adjudication in another jurisdiction that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this State.

~~[Rules of the Supreme Court (SCR), Rule 3.440  
SCR 3.440 Disposition of case~~

~~The provisions of the Rules regarding petition for rehearing shall apply. The Clerk shall promptly furnish a copy of the order of disposition to all parties, Bar Counsel, and the Director. Every final order or opinion shall be published as are other opinions of the Court.]~~

Rules of the Supreme Court (SCR), Rule 3.455  
SCR 3.455 Subpoena power- Client Security Fund

Upon application by ~~[the Office of Bar]~~ Disciplinary Counsel or a claimant, or upon the initiation of the Trustees of the Client's Security Fund, the Director may issue a subpoena to any person or legal entity to appear before it and to produce to the Trustees any evidence deemed by the Trustees to be material to the investigation of a claim for compensation being considered under the Client's Security Fund Plan of the Association. The Director shall mail a copy of the application to the person or legal entity to be subpoenaed, to the claimant, ~~[the Office of Bar]~~ Disciplinary Counsel, and to the attorney against whom the claim is made, each of whom shall have twenty (20) days from the date of the application to file an objection. If no objection is made, or a timely objection is overruled by the Chair of the Trustees the Director shall issue the subpoena. The subpoenaed party shall appear or produce the documents, whichever is directed by the subpoena. Any such documents will be produced to the Clients' Security Fund Trustees by delivery to ~~[the Office of Bar]~~ Disciplinary Counsel, which shall provide copies to the claimant and the attorney against whom the claim is made.

Rules of the Supreme Court (SCR), Rule 3.460  
SCR 3.460 Unauthorized practices proceeding

(1) When it comes to the attention of the Director that any person or entity not having the right to practice law is directly or indirectly practicing law, the Director shall have the authority to cause such investigation to be made concerning the matter as he deems appropriate. ~~[Bar Counsel may participate in such investigation.]~~ The Director shall have the authority to subpoena any person or entity to produce any evidence relevant to the investigation including testimony by deposition pursuant to the Rules of Civil Procedure. Any motion to quash a subpoena shall be filed in and ruled on by the Supreme Court. If the Director determines that any person or entity has been engaged in the unauthorized practice of law, the Director shall send a letter or warning by certified mail, return receipt requested, to the person's or entity's last known address, requesting that the unauthorized practice of law be discontinued. If future violations occur and in the opinion of the Board action should be taken, it shall direct that a motion in the name of the Association for a show cause rule be filed with the Clerk. The Clerk shall docket the motion and issue a rule against the alleged offender to show cause why he/she should not be held in contempt for unauthorized practice of law. The rule shall be returnable on the 15th day following service. When procedure is by warning order, service shall be deemed to have been made thirty (30) days after the date of making the warning order.

(2) If the Respondent fails to file due response on the rule's return day or files a response admitting the offense, the rule shall forthwith be made absolute, and the Court shall enter such orders as it deems appropriate to deter and punish, which may include injunctive relief.

(3) If the Respondent timely files response denying the offense, the Court shall within twenty (20) days refer the case to a Trial Commissioner appointed under Rule 3.230 sitting as a Special Commissioner, who shall thereupon hold a hearing within sixty (60) days at such time and place as he/she may fix, at which hearing the Association shall be represented by counsel designated by the Board for that purpose. The parties may obtain compulsory attendance of witnesses and the production of documents as provided in the Civil Rules. The Special Commissioner, at the conclusion of the hearing, may permit the filing of briefs by the parties, with each brief being filed within thirty (30) days, and shall make and submit to the Court written findings of fact and recommendations within thirty (30) days thereafter.

(4) Upon filing of the Special Commissioner's report, the Court may permit the filing of briefs by the parties or may summarily dispose of the matter and shall enter such order as may be appropriate. The Clerk shall furnish counsel and the Director copies of every order entered under this rule and every such order shall be reported and published as are other opinions of the Court.

(5) If the Respondent is adjudged guilty, he/she shall be liable for all Court costs, and the provisions of Civil Rule 73.07 shall apply.

Rules of the Supreme Court (SCR), Rule 3.480  
SCR 3.480 Withdrawal from the association[; ~~negotiated sanctions~~]

(1) Any member who desires to withdraw from membership and is not under investigation pursuant to Rule 3.160(2), and does not have a complaint or charge pending against him/her in any jurisdiction, shall file a written motion to that effect with the Court and serve a copy on the Registrar [~~and the Inquiry Commission~~]. The motion shall be docketed by the Clerk. The Registrar shall, after consultation with the [~~Inquiry~~] Attorney Discipline Oversight Commission and Disciplinary Counsel, within ten (10) days after the filing of the motion, certify in writing to the Court whether the movant is an active member in good standing of the Association and whether movant is under a disciplinary investigation [~~by the Inquiry Commission~~] or has a complaint or charge pending against him/her in this or any jurisdiction. Said motion may be granted if movant is an active member in good standing and has no pending disciplinary investigation, complaints, or charges.

~~[(2) The Court may consider negotiated sanctions of disciplinary investigations, complaints or charges prior to the commencement of a hearing before a Trial Commissioner under SCR 3.240. Any member who is under investigation pursuant to SCR 3.160(2) or who has a complaint or charge pending in this jurisdiction, and who desires to terminate such investigation or disciplinary proceedings at any stage of it may request Bar Counsel to consider a negotiated sanction. If the member and Bar Counsel agree upon the specifics of the facts, the rules violated, and the appropriate sanction, the member shall file a motion with the Court which states such agreement, and serve a copy upon Bar Counsel, who shall, within 10 days of the Clerk's notice that the motion has been docketed, respond to its merits and confirm its agreement. The Disciplinary Clerk shall submit to the Court within the 10 day period the active disciplinary files to which the motion applies. The Court may approve the sanction agreed to by the parties or may remand the case for hearing or other proceedings specified in the order of remand.]~~

~~[(3)]~~ (2) Any member who has been engaged in unethical or unprofessional conduct and desires to withdraw his membership under terms of permanent disbarment shall file a verified motion with the Court stating as follows:

(a) He/she has violated the Rules of Professional Conduct, or his/her conduct fails to comply with those rules, the specifics of which shall be detailed in the motion.

(b) He/she will not seek reinstatement and understands the provisions of SCR 3.510 and SCR 3.520 do not apply.

(c) He/she will not practice law in the Commonwealth of Kentucky subsequent to the permanent disbarment order.

The motion shall be served on [~~Bar~~] Disciplinary Counsel and docketed by the Clerk. [~~Bar~~] Disciplinary Counsel may file a response within 10 days after the filing of the motion to resign under terms of permanent disbarment. Simultaneously with service of the motion on [~~Bar~~] Disciplinary Counsel, the member [~~will~~]shall immediately cancel all advertising for which the member has contracted and shall direct the publisher of such advertising to immediately cease publication of such advertising insofar as the medium of that advertising makes such action practicable and whether or not the member has paid for the advertising in advance. The Disciplinary Clerk shall, within ten (10) days after the filing of such a motion, submit to the Court

any active disciplinary files [~~maintained by the Inquiry Commission~~] relating to movant. The Court [~~will~~]shall then enter an appropriate order, stating the conditions, if any, under which the motion is granted, or deny the motion and direct the completion of disciplinary proceedings under these rules.

~~[(4) Any member suspended or disbarred by order of this Court shall:~~

~~(a) Take all steps necessary and practicable to cease all forms of advertisement of the member's practice immediately upon entry of an order of suspension or disbarment and shall report the fact and effect of those steps to the Director in writing within twenty (20) days after the order of suspension or disbarment is entered.~~

~~(b) Pay all costs of the disciplinary investigation and proceedings in accordance with Rule 3.450, and~~

~~(c) Comply with the provisions of Rule 3.390 regarding notice to clients of suspension or disbarment.]~~

Rules of the Supreme Court (SCR), Rule 3.485  
SCR 3.485 Actions upon suspension or disbarment

Any member suspended or disbarred by order of this Court shall:

(a) Take all steps necessary and practicable to cease all forms of advertisement of the member's practice immediately upon entry of an order of suspension or disbarment and shall report the fact and effect of those steps to the Director in writing within twenty (20) days after the order of suspension or disbarment is entered.

(b) Pay all costs of the disciplinary investigation and proceedings in accordance with Rule 3.450, and

(c) Comply with the provisions of Rule 3.390 regarding notice to clients of suspension or disbarment.

Rules of the Supreme Court (SCR), Rule 3.501

SCR 3.501 Reinstatement after a disciplinary suspension prevailing fewer than 181 days

(1) If the period of suspension has prevailed fewer than 181 days, a suspended member ("Applicant") may request reinstatement upon the filing of an affidavit of compliance with the Disciplinary Clerk. The affidavit of compliance shall be on a form or forms provided by ~~the Inquiry~~ Attorney Discipline Oversight Commission. An Applicant shall certify that a copy of the affidavit was mailed to ~~Bar~~ Disciplinary Counsel. The affidavit shall be filed no earlier than ten (10) days before the end of the suspension period and shall be accompanied by a filing fee as established by ~~the Inquiry~~ Attorney Discipline Oversight Commission ~~[pursuant to SCR 3.140(4)]~~ and payable to the ~~Kentucky Bar~~ Association.

(2) The affidavit of compliance shall contain the following information, statements, and attachments:

(a) That the Applicant has complied with all terms and conditions in the Court's suspension order(s);

~~[-](i)~~ (i) If the Applicant was ordered to make a refund to a client or other person(s), proof of such refund(s) shall be attached along with a certification from the ~~KBA~~ Association's Accounting Department that all costs of the disciplinary proceedings have been paid;

~~[-](ii)~~ (ii) If the Applicant was ordered to comply with any conditions involving the Kentucky Lawyer Assistance Program (KYLAP), Applicant shall attach a statement from the KYLAP Director that he/she is in compliance with the Court's suspension order and any KYLAP agreement(s);

(b) A certification from ~~the Office of Bar~~ Disciplinary Counsel that:

~~[-](i)~~ (i) The Applicant has no pending Client Security Fund claims, nor any unpaid Client Security Fund awards;

~~[-](ii)~~ (ii) The Applicant is not the subject of any pending disciplinary matters in any jurisdiction;

(c) A certification from the CLE Commission that the suspended member is in compliance with SCR 3.685;

(d) That the Applicant is not the subject of any pending criminal matter in any jurisdiction, nor were any criminal matters in which the Applicant was a defendant concluded during the period of suspension;

(e) A disclosure of whether the Applicant is a defendant or respondent in any civil or administrative matter where it is alleged the Applicant committed acts of dishonesty, fraud, deceit, or misrepresentation;

(f) That the Applicant has not been found in contempt of court during the period of suspension, nor has the Applicant become the subject of a domestic violence order; and

(g) That the Applicant appreciates the wrongfulness of his/her prior adjudicated misconduct.

(3) ~~[The Inquiry Commission shall deny reinstatement if the Applicant fails to provide the complete, required information listed in subsection (2) or demonstrates a lack of candor in the materials provided.]~~ An Applicant has a continuing obligation 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.

~~(4) [Within ten (10) days after the filing of a completed affidavit of compliance, Bar Counsel may file an objection to the Applicant's reinstatement, stating its grounds for the objection. Bar Counsel shall certify that a copy of its objection is sent to the Applicant at the address provided on the affidavit of compliance. The Applicant may file a response to the objection or supplement the application within twenty (20) days of the filing of the objection.]~~ Not later than ten (10) days following receipt of a completed affidavit of compliance, Disciplinary Counsel shall review the affidavit for compliance with subsections (1) and (2) and either:

(a) certify its compliance with subsections (1) and (2) to the Disciplinary Clerk; or

(b) if the required information listed in subsection (2) is missing or the affidavit demonstrates a lack of candor in the materials provided, return the affidavit to the Applicant as noncompliant, along with a statement of why the affidavit is noncompliant.

(5) An Applicant may remedy and resubmit a noncompliant affidavit within 30 days or may request review by the Attorney Discipline Oversight Commission of Disciplinary Counsel's decision to reject the affidavit. An Applicant may appeal the decision of the Commission to the Board.

~~[(5)]~~ (6) [If Bar Counsel does not file an objection to an Applicant's reinstatement,] Upon receipt of a certified affidavit of compliance, the Disciplinary Clerk shall notify the Registrar of the Association. The Registrar shall make appropriate entries in the Association's records reflecting that the Applicant has been reinstated and shall file a notice of reinstatement with the Disciplinary Clerk. The Disciplinary Clerk shall provide a copy of the notice to the Applicant and ~~[Bar]~~ Disciplinary Counsel. An Applicant shall not resume practice until the notice of reinstatement is filed with the Disciplinary Clerk.

~~[(6) If Bar Counsel files an objection to an Applicant's reinstatement, the matter shall be placed on the Inquiry Commission's docket within thirty (30) days.~~

~~(a) If the Inquiry Commission determines that the Applicant should be reinstated, the Inquiry Commission shall file an order approving the Applicant's reinstatement with the Disciplinary Clerk. The order shall authorize the Registrar to make appropriate entries in the Association's records reflecting that the Applicant has been reinstated and shall file a notice of reinstatement with the Disciplinary Clerk. The Disciplinary Clerk shall provide a copy of the notice to the Applicant and Bar Counsel. An Applicant shall not resume practice until the notice of reinstatement is filed with the Disciplinary Clerk.~~

~~(b) If the Inquiry Commission determines that the Applicant should not be reinstated, the Inquiry Commission shall file an order denying reinstatement with the Disciplinary Clerk.~~

~~(7) An Applicant may file a request for review of the Inquiry Commission's order denying with the Disciplinary Clerk within thirty (30) days. The request for review shall be accompanied by a complete application for reinstatement, on a form or forms provided by the Inquiry Commission, and a filing fee as established by the Inquiry Commission pursuant to SCR 3.140(4) and payable to the Kentucky Bar Association. The matter shall then proceed to the Character and Fitness Committee for hearing consistent with SCR 3.502(6).]~~



Rules of the Supreme Court (SCR), Rule 3.502

SCR 3.502 Reinstatement after a disciplinary suspension prevailing for 181 days or more

(1) No former member of the Association who has been suspended for disciplinary reasons for 181 days or more, or whose suspension has prevailed for 181 days or more, shall resume practice until he/she is reinstated by order of the Court.

(2) An application for reinstatement shall be on a form or forms provided by the [~~Inquiry Commission~~] Attorney Discipline Oversight Commission and filed with the Disciplinary Clerk. The application shall be accompanied by the following items:

(a) A certification from the KBA Accounting Department that all costs of the disciplinary proceedings and all applicable Bar [~~dues~~] licensing fees have been paid;

(b) A certification from the Office of [~~Bar~~] Disciplinary Counsel that:

[i.](i) There are no pending disciplinary matters against the Applicant;

[ii.](ii) There are no pending Client Security Fund claims against the Applicant; and

[iii.](iii) There are no unpaid Client Security Fund awards against the Applicant.

(c) A certification from the CLE Commission that the Applicant is in compliance with SCR 3.685; and

(d) A filing fee as established by the [~~Inquiry Commission~~] Attorney Discipline Oversight Commission [~~pursuant to SCR 3.140(4)~~] and payable to the Kentucky Bar Association.

(3) If the application is not accompanied by the items listed above, the Disciplinary Clerk shall reject the application and issue a notice to Applicant and the Office of [~~Bar~~] Disciplinary Counsel, that the application is incomplete. The notice shall list the missing item(s).

(4) Within sixty (60) days after the filing of an application that is accepted by the Disciplinary Clerk, the [~~Inquiry Commission~~] Attorney Discipline Oversight Commission shall review the application. [~~Bar~~] Disciplinary Counsel shall have the right to file a notice identifying any deficiencies in the application. If the Commission determines that deficiencies exist in the application and/or additional information is required from the Applicant, it shall issue a notice listing the deficiencies and/or the additional required information. An Applicant shall have no longer than 180 days to cure any deficiencies. If an Applicant fails to cure any deficiencies within the time allowed by this Rule, the Commission shall enter an order denying the application for reinstatement from which there will be no appeal.

(5) If the [~~Inquiry Commission~~] Attorney Discipline Oversight Commission determines an application is complete, a scheduling order shall be entered setting out the time for the Office of [~~Bar~~] Disciplinary Counsel to investigate the application, which may involve the use of independent investigators. Failure of an Applicant to cooperate or participate in the investigative process may result in the denial of the application for reinstatement. The burden of proof shall rest upon the Applicant to prove by clear and convincing evidence that he/she possesses the requisite character, fitness and moral qualification for re-admission to the practice of law.

(6) Upon completion of the investigatory process, the matter shall proceed to the Character and Fitness Committee to conduct a formal hearing on the record. The ~~[Executive Director and]~~ Disciplinary Clerk shall transmit the record to the Committee for its review.

(a) A formal hearing on the record will not be required if the Applicant, Office of ~~[Bar]~~ Disciplinary Counsel, and a majority of the Committee all agree within thirty (30) days of receipt of the matter from the ~~[Inquiry Commission]~~ Attorney Discipline Oversight Commission that based upon the record, the Applicant has met his/her burden and should be reinstated to practice. In that event, the matter shall proceed directly from the Committee to the Court for its review. The Committee shall return the record to the Executive Director and Disciplinary Clerk to file with the Court.

(b) If there is no agreement pursuant to subsection (a) above, the Committee shall hold a formal hearing on the record within ~~[ninety (90)]~~ sixty (60) days of receipt of the record from the Disciplinary Clerk. Notice of the hearing date will be served on the parties not less than fourteen (14) days before the hearing. The parties shall be allowed to file post-hearing memoranda. The Committee shall file its report and the record with the Disciplinary Clerk within ~~[sixty (60)]~~ thirty (30) days of receipt of the hearing transcript.

(c) Prior to the formal hearing, the Committee may request the parties to file a pre-hearing memorandum to address any issues of fact or law and/or may identify certain issues of law or fact the Committee would like addressed at the formal hearing.

(d) Either party may file a notice of appeal of the Committee's report within thirty (30) days after the filing with the Disciplinary Clerk. If no notice of appeal is timely filed, the entire record shall be forwarded to the Court for entry of a final order pursuant to SCR 3.370(9).

(e) If a notice of appeal to the Board of Governors is timely filed pursuant to subsection (6)(d), the matter shall proceed to the Board of Governors pursuant to SCR 3.370. The Board of Governors by a vote of a majority of the Board of Governors present and voting may remand the case to the Character and Fitness Committee for clarification of the report or for an evidentiary hearing on points specified in the order of remand. The Board of Governors may order the parties to file additional briefs on specific issues.

Rules of the Supreme Court (SCR), Rule 3.503  
SCR 3.503 Reinstatement standards

(1) The burden of proof shall rest upon the Applicant throughout the entire reinstatement process to prove by clear and convincing evidence that he/she possesses the requisite character, fitness and moral qualifications for re-admission to the practice of law. Issues to be considered include, but are not limited to, those listed below:

(a) The nature of the misconduct for which the Applicant was suspended; an Applicant for reinstatement shall be held to a substantially more rigorous standard than a first-time Applicant. The prior determination that the Applicant engaged in professional misconduct continues to be evidence against him/her and the proof presented must be clear and convincing to overcome the prior adverse judgment against Applicant's good moral character;

(b) Whether the Applicant has presented clear and convincing evidence that he/she has complied with every term of the order of suspension;

(c) Whether the Applicant has presented clear and convincing evidence that his/her conduct while under suspension shows that he/she is worthy of the trust and confidence of the public;

(d) Whether the Applicant has presented clear and convincing evidence that he/she possesses sufficient professional capabilities to serve the public as a lawyer;

(e) Whether the Applicant has presented clear and convincing evidence that he/she presently exhibits good moral character;

(f) Whether the Applicant has presented clear and convincing evidence that he/she appreciates the wrongfulness of his/her prior professional misconduct, including the Applicant's sense of wrongdoing and conception of the serious nature of the misconduct, and has rehabilitated himself/herself from past derelictions;

(g) The Applicant's previous and subsequent conduct and attitude toward the courts and the practice;

(h) The time elapsed since Applicant's suspension; and

(i) The Applicant's candor in the reinstatement process, including whether the Applicant has timely and completely provided required information and supplemented his/her application for reinstatement throughout the process.

(2) Failure to meet any of the criteria in subsection (1) shall constitute a sufficient basis for denial of an application for reinstatement.

(3) Following a formal hearing, the panel of the Character and Fitness Committee shall issue a report containing specific findings whether an Applicant has met his/her burden of proof on each issue listed in subsection (1). The Committee shall, at the formal hearing, inquire fully into all matters at issue, and shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure. The Committee shall receive into evidence the testimony of the witnesses and parties, the evidence of record, any such additional evidence as may be submitted. However, the Committee may entertain the objections of any party to the evidence submitted under this subsection.

(4) When the mental and/or physical fitness of an Applicant pursuant to subsection (1)(d) above is identified as an issue by the Inquiry Commission, Committee, or ~~[Office of Bar]~~ Disciplinary Counsel, the Inquiry Commission or Committee, for good cause shown, may order the Applicant to submit to a physical and/or mental health examination by a physician or qualified health care or mental health care provider. The order shall specify the purpose and extent of the examination(s). Any reports pursuant to such order shall become part of the reinstatement record and subject to SCR 3.150(6) upon proper motion by the Applicant or ~~[the Office of Bar]~~ Disciplinary Counsel. An Applicant's failure to comply with such an order shall constitute grounds to deny the application. Cost of the examination(s) shall be paid by the ~~[KBA]~~ Association and certified as costs of the proceedings.

(5) Costs of reinstatement proceedings pursuant to SCR 3.501 and SCR 3.502 beyond the amount of any filing fees shall be certified as in SCR 3.450(1) and paid by the Applicant.

~~[(6) If the period of suspension has prevailed for more than five (5) years, and the Committee recommends approval of the application and no appeal is taken to the Board [of Governors], or if the Board recommends approval of the application upon appeal from the Committee, the Disciplinary Clerk shall issue a notice of recommended approval to the Board of Bar Examiners. The Board of Bar Examiners shall administer to the Applicant a written examination which includes the subject of professional ethics and 5 of the subjects listed in SCR 2.080(1). A general average score of 75% or higher shall be deemed passing. Any required fees shall be paid by an Applicant prior to taking the examination. The Board of Bar Examiners shall certify the results of the examination to the Disciplinary Clerk and the Court. If the Applicant successfully completes the examination, the Court may, at its discretion, enter an order reinstating the suspended member to the practice of law. However, if the Applicant fails to pass the examination, the Court shall enter an order denying the application.]~~

~~[(7)6]~~ A suspended member of the Association who desires to resume practice as quickly as possible following a period of suspension may file an application to do so at any time during the last ninety (90) days of the period of suspension.

~~[(8)7]~~ If the Committee and Board recommend approval of reinstatement with conditions, the Court may include such conditions in any order of reinstatement.

~~[(9)8]~~ In the event of failure to comply with any conditions imposed by the Court upon reinstatement, ~~[the Office of Bar]~~ Disciplinary Counsel may:

- (a) Request that the Court extend the term and impose additional condition(s); or
- (b) Recommend to the Court revocation of the license to practice law.

(9) This Rule shall not apply to reinstatement under SCR 3.501.

Rules of the Supreme Court (SCR), Rule 3.504  
SCR 3.504 Restoration to membership

(1) A former member who has withdrawn from membership pursuant to SCR 3.480(1), or who was suspended for failure to pay ~~[dues]~~ licensing fees as provided by SCR 3.050, or for failure to comply with the continuing legal education requirements of SCR 3.645 may be restored to membership upon compliance with the conditions set forth in this rule. No application for restoration shall be effective until entry of an order of restoration by the Board ~~[of Governors]~~ or the Court, as provided herein. Until the entry of such an order, the suspension or withdrawal from membership remains in force.

(2) A former member whose withdrawal or suspension from membership has prevailed for less than 5 years may apply for restoration by:

(a) Submitting an application for restoration using the forms provided by the ~~[Director]~~ Attorney Discipline Oversight Commission, with a fee as established by the ~~[Inquiry]~~ Attorney Discipline Oversight Commission ~~[pursuant to SCR 3.140(4)]~~ and all applicable unpaid ~~[Bar]~~ Association ~~[dues]~~ licensing fees; and

(b) Submitting with the application a certificate from ~~[the Office of Bar]~~ Disciplinary Counsel that the former member has no pending disciplinary matters; and

(c) Submitting with the application a certificate from the Director of Continuing Legal Education pursuant to SCR 3.685.

(d) Upon the filing of the foregoing items, ~~[the Office of Bar]~~ Disciplinary Counsel shall present the matter to the Board at its next meeting, or, if not contested, at any time by mail or electronic means. Within 30 days of its review of the complete application materials, the Board may restore the Applicant to membership or refer the matter to the Inquiry Commission for proceedings pursuant to SCR 3.502, et seq. If the matter is referred to the ~~[Inquiry]~~ Attorney Discipline Oversight Commission, the Applicant shall pay a fee as established by the ~~[Inquiry]~~ Attorney Discipline Oversight Commission ~~[pursuant to SCR 3.140(4)]~~ to the ~~[Kentucky Bar]~~ Association.

(3) A former member whose withdrawal or suspension from membership has prevailed for 5 years or longer may apply for restoration by:

(a) Submitting an application for restoration using the forms provided by the Director, with a fee as established by the ~~[Inquiry]~~ Attorney Discipline Oversight Commission ~~[pursuant to SCR 3.140(4)]~~ and all applicable unpaid ~~[Bar]~~ Association ~~[dues]~~ licensing fees; and

(b) Submitting with the application a certificate from ~~[the Office of Bar]~~ Disciplinary Counsel that the former member has no pending disciplinary matters; and

(c) Submitting with the application a certificate from the Director of Continuing Legal Education pursuant to SCR 3.685.

(d) Upon the filing of the foregoing items, the Director shall refer the application to the ~~[Inquiry]~~ Attorney Discipline Oversight Commission for proceedings pursuant to SCR 3.502, et seq. An additional fee as established by the ~~[Inquiry]~~ Attorney Discipline Oversight Commission ~~[pursuant to SCR 3.140(4)]~~ shall be paid to the ~~[Kentucky Bar]~~ Association.

(e) If, after review of the application pursuant to SCR 3.502, the Character and Fitness Committee recommends approval of the application after proceedings pursuant to SCR 3.502(6) and no appeal is taken to the Board [~~of Governors~~], within 30 days the application shall be referred to the Disciplinary Clerk, who shall transmit the record to the Court for its consideration of the application for restoration. [~~issue a notice of recommended approval to the Board of Bar Examiners of the Kentucky Office of Bar Admissions, for the administration of a written examination which includes the subject of professional ethics and 5 of the subjects listed in SCR 2.080(1). A general average score of 75% or higher shall be deemed a passing score. Any required fees shall be paid prior to taking the examination. As an alternative and upon referral from the Board of Governors, if the Applicant has practiced in a reciprocal jurisdiction after withdrawal pursuant to SCR 3.480 and meets all requirements of SCR 2.110, the Applicant may elect to have the Character and Fitness Committee consider an application for admission without examination. All fees required shall be paid prior to the processing of the application, instead of the fee referenced in subsection 3(d) of this rule. If the Applicant passes the examination or is approved for admission without examination, such fact shall be certified to the Court and to the Director, together with a recommendation for the Applicant's restoration to membership. Upon this certification, the Disciplinary Clerk shall transmit the record to the Court for its consideration of the application for restoration. If the Applicant fails the examination, the Board of Bar Examiners shall certify the fact of the failure to the Court and the Director. Upon that certification, the Disciplinary Clerk shall transmit the record to the Court for entry of an order denying restoration.~~] The provisions of SCR 2.015, SCR 2.080, and SCR 2.110 shall apply where not inconsistent with these provisions.

(4) All costs incurred in excess of the filing fee shall be paid by the Applicant.

(5) The burden of proof for establishing the Applicant's present qualifications to practice law in Kentucky is on the Applicant.

(6) If the [~~Inquiry~~] Attorney Discipline Oversight Commission or the Board [~~of Governors~~] recommends restoration of membership on conditions, such conditions may be imposed by the Board for an application processed by it under subsection (2)(d) of this rule, or by the Court in any order of restoration.

(7) In the event of failure to comply with any conditions imposed by the Board or the Court upon restoration, [~~the Office of Bar~~] Disciplinary Counsel may:

(a) Request that the Board or the Court extend the term and impose additional condition(s); or

(b) Recommend to the Court revocation of the license to practice law.

Rules of the Supreme Court (SCR), Rule 3.506  
SCR 3.506 Reinstatement from Regular Inactive Status

(1) A Regular Inactive Member may apply for reinstatement to regular membership by submitting the following:

(a) An application for reinstatement using the forms provided by the Attorney Discipline Oversight Commission, with a fee as established by the Attorney Discipline Oversight Commission; and

(b) A certificate from Disciplinary Counsel that the former member has no pending disciplinary matters; and

(c) A certificate of good standing from the Registrar; and

(d) A certificate of good standing from every jurisdiction in which the Regular Inactive Member is currently licensed.

(e) A certificate:

(i) From the Director of 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

(ii) 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.

(2) Upon the filing of the foregoing items, Attorney Discipline Oversight Commission shall notify the Registrar, who shall reinstate the Regular Inactive Member to regular active status in the Association's records.

Rules of the Supreme Court (SCR), Rule 3.507  
SCR 3.507 Immunities

Neither the Association, the Board, the Director, the Attorney Discipline Oversight Commission, the Inquiry Commission, the Board of Disciplinary Hearing Officers, Disciplinary Counsel, nor their officers, employees, agents, delegates or members shall be liable, to any person or entity initiating a complaint or investigation, or to any member of the bar or any other person or entity being charged or investigated for any damages incident to such investigation or any complaint, charge, prosecution, proceeding or trial.

Rules of the Supreme Court (SCR), Rule 3.605  
SCR 3.605. The [e]Continuing Legal Education Commission

(1) The Continuing Legal Education Commission shall consist of 7 attorneys, 1 of whom shall be from each appellate district of the Commonwealth as presently existing or hereafter created. Under the policy direction of the Court and the Board, the Commission shall be responsible for the administration and regulation of all continuing legal education programs and activities for the members of the Association.

(2) Selection and tenure of the Commission; Filling Vacancies on the Commission

(a) The Court shall appoint all members of the Commission from a list of nominees consisting of the same number of members to be appointed submitted to the Court by the Board. Of the members first appointed, 3 shall be appointed for 1 year, 2 for 2 years and 2 for 3 years. Thereafter, appointments shall be made for a 3-year term.

(b) Members may be reappointed but no member shall serve more than 2 successive 3 year terms. Each member shall serve until a successor is appointed and qualified.

(c) Vacancies shall be filled for the vacant term in the same manner as initial appointments are made by the Court.

(d) A chair shall be designated by the Court for such time as the Court may direct.

(e) Each Commission member must be licensed to practice law in the courts of this Commonwealth and have been a resident in the appellate district from which nominated for 2 years immediately preceding the appointment.

(f) Members of the Commission shall serve without compensation but shall be paid their reasonable and necessary expenses incurred in the performance of their duties. The Association shall have the responsibility of funding the Commission and any necessary staff, who shall be employees of the Association.

(3) Commission Duties: The Commission shall be responsible for the administration of these continuing legal education rules, subject to policy approval and other direction by the Board and the Court. In discharging this responsibility, the Commission shall:

(a) Encourage and promote the offering of high-quality continuing legal education.

(b) Conduct, sponsor, or otherwise provide high-quality continuing legal education, specifically including, but not limited to, one seminar offering at least 12 credits in each Supreme Court District each year.

(c) Encourage and promote quality legal writing.

(d) Promptly approve or deny all applications provided for by these rules.

(e) Establish standards, procedures, and forms to evaluate applications made pursuant to these rules.

(f) Promulgate rules and regulations for the administration of the mandatory continuing legal education program subject to approval of the Board and the Court

(g) Report annually, on or before September 15, and as otherwise required, to the Board and the Court on the status of continuing legal education in the Commonwealth. Such report shall include recommended changes to these rules and regulations and their implementation.

(h) Submit to the Board annually, on or before November 1, a recommended budget for the succeeding year with any recommended changes in annual membership [~~dues~~] licensing fees to cover costs of administering these rules.

(i) Perform such other acts and duties, not inconsistent with these rules, as are necessary and proper to improve the continuing legal education programs within the Commonwealth.

(4) A quorum consisting of at least 4 Commission members is required for conducting the business of the Commission.

(5) The Commission shall be provided with a Director for Continuing Legal Education and sufficient administrative and secretarial assistants as are from time to time required. Selection and qualifications of the Director for Continuing Legal Education shall be determined by the Board except that the person selected shall be an attorney licensed to practice law in the courts of this Commonwealth. The Director for Continuing Legal Education shall be responsible to the Commission for the proper administration of the rules applying to the Commission and any regulations issued by the Commission.

Rules of the Supreme Court (SCR), Rule 3.665  
SCR 3.665 Exemptions and removal of exemptions

(1) For each educational year, the following members of the Association shall be exempt from the mandatory CLE requirement:

(a) In recognition of their positions, which prohibit the practice of law and have significant continuing education requirements by statute or rule of court as a result of the positions they hold, members who, during any portion of that educational year, are serving as:

- (i) Justices, Judges, or Magistrates of the Commonwealth or Court of the United States; or
- (ii) full-time administrative law judges for an agency of the United States or Commonwealth of Kentucky executive branch.

(b) Justices and Judges of the Commonwealth leaving the bench will be allowed to use accumulated Continuing Judicial Education credits toward the required CLE minimum, up to 12 credits, including 2 ethics, for the first year they are subject to the CLE requirement after leaving the bench.

(c) New lawyers who have been admitted less than 1 full educational year as of the June 30th deadline. Such members shall be subject to the New Lawyer Program requirement, as set forth in SCR 3.640.

(d) Members who are at least 75 years of age or at least 50 year members, including members who will become 75 years of age and those who become 50 year members within the educational year.

(e) Members who have been transferred to disabled inactive status pursuant to SCR 3.030.

(f) Regular Inactive Members and Senior Retired Inactive Members.

(2) Upon application to the Commission, the following members may be exempted from the mandatory CLE requirement:

~~[(a) Non-practice exemption: Members who do not practice law, as defined in SCR 3.020, within the Commonwealth and agree to refrain from such practice until the Commission approves an application for removal of the exemption.~~

~~(i) Non-practice exemptions shall not be effective retroactively unless the applicant certifies that he or she has not practiced law, as defined in SCR 3.020, within the Commonwealth, for all time periods covered by such exemption.~~

~~(ii) Practice of law as defined in SCR 3.020, within the Commonwealth, during the effective period of this exemption shall constitute the unauthorized practice of law. Information known by the Commission regarding the practice of law during any period for which a member has certified non-practice status is not confidential as provided by SCR 3.695 and shall be provided along with the member's continuing legal education transcript by the Director for CLE to the Office of [Bar] Disciplinary Counsel and the Inquiry Commission in writing.~~

~~(iii) Any member who has been classified as Senior Retired Inactive status pursuant to SCR 3.030(4), and so holds a non-practice exemption from the mandatory minimum annual CLE requirement as set forth in this Rule, may donate legal services through a duly organized legal~~

~~aid program offering pro bono representation, or a local bar association legal pro bono program or initiative.~~

~~(iv) A member seeking removal of a non-practice exemption shall be required to file a written application with the Commission, addressed to the Director for CLE. Required as an attachment to the application shall be certification for each educational year during which he or she was exempt, either: (1) proof of completion of sufficient continuing legal education credits to meet the minimum annual continuing legal education requirement; or (2) proof that he or she was compliant with the mandatory CLE requirement of another jurisdiction. In no case shall a member be required to certify completion of more than 12 credits, including 2 ethics credits, as a condition of removal of the exemption. Timely certification shall include only continuing legal education credits earned during the current educational year and 2 prior educational years. This Rule in no way affects the member's responsibility to complete the current year minimum annual education requirement by June 30th. The member shall be notified in writing of the commission's action on the application for the removal of the exemption.~~

~~(v) Application for removal of a non-practice exemption may not be made within 30 days of the granting of the exemption.]~~

~~([b]a) Hardship exemption: Members who practice law within the Commonwealth[;] but demonstrate that meeting the mandatory CLE requirement would work an undue hardship by reason of disability, sickness, or other clearly mitigating circumstances.~~

~~([e]b) Military exemption: Any member who, for any portion of an educational year, was on active duty in the United States armed forces or whose spouse was on active duty in the United States armed forces for any portion of an educational year.~~

(3) Every member seeking an exemption from the mandatory continuing legal education requirement shall submit an application on forms provided by the Association or shall make other such written request providing information necessary for determination by the Commission of circumstances warranting exemption.

(4) Exemptions granted based on hardship or military service are considered temporary in nature unless specifically designated otherwise. In order to maintain an exemption based on a temporary hardship or military service, annual application is necessary. Failure to so certify will result in loss of the exempt status.

Rules of the Supreme Court (SCR), Rule 3.910  
SCR 3.910 Kentucky lawyer assistance program (KYLAP)

(1) There is hereby established a state-wide program to be called the Kentucky Lawyer Assistance Program (or "KYLAP"), which shall be operated by the Association in accordance with these Rules. It shall be the mission and purpose of KYLAP to address impairment issues within the Kentucky legal community in a manner that serves and promotes the general mission and purpose of the Association as set forth in SCR 3.025.

(2) KYLAP shall offer certain types of assistance as described in this Rule to members of the Kentucky legal community who suffer from actual or potential impairment[;] and may proceed to provide such assistance to any member of the said community as requested or authorized. The types of assistance offered and provided by KYLAP in a particular case may include lay counseling and encouragement; assisting, planning and execution of interventions; providing information about treatment alternatives; monitoring progress of recovery from impairment, which may include assistance in arranging, scheduling and tracking attendance at recovery programs, appointments with counselors, therapists and medical care providers and compliance with alcohol or drug screens; monitoring compliance with voluntary or involuntary treatment or recovery programs, which may include documentation and reports concerning compliance or non-compliance; obtaining authorizations in conformity with federal and state law; and other related tasks that may assist a member of the said community in addressing an actual or potential impairment; provided, however, that KYLAP shall perform the aforesaid types of assistance in such a manner that KYLAP's staff does not render legal or medical advice and does not engage in any activity which constitutes the practice of law or medicine.

(3) KYLAP shall develop and present educational programs for the Kentucky legal community regarding issues of impairment and shall pursue other appropriate opportunities to increase awareness and understanding of such matters and cultivate an environment in which issues of impairment are properly addressed.

(4) KYLAP shall serve as a resource within the Association with respect to matters of impairment, so that all functions and activities of the Association may benefit from KYLAP's information and expertise in matters of impairment.

(5) KYLAP may engage in other activities consistent with these Rules and as authorized by the operating policies and procedures adopted by the KYLAP Commission.

(6) KYLAP shall perform all of the aforementioned duties in a manner consistent with the confidentiality provisions of Rule 3.990.

(7) KYLAP shall be funded from the annual [~~dues~~] licensing fees collected by the Association pursuant to these Rules. KYLAP may also charge reasonable and appropriate fees for services rendered and accept monetary gifts in support of its activities, to the extent authorized by the KYLAP Commission and approved by the Board.

(8) KYLAP may, with the approval of the Board, establish such non-profit tax exempt Foundations as are necessary for the purpose of carrying out its mission. This may include establishment of a Foundation to obtain donations in order to furnish financial assistance, in the form of loans, to enable members of the legal community to obtain treatment for their impairment. The Board will appoint the Directors of any such Foundation.

Rules of the Supreme Court (SCR), Rule 3.970  
SCR 3.970 Agency referrals

(1) A member of the Kentucky legal community who is the subject of a pending admission, disciplinary or continuing legal education proceeding before an agency of the Supreme Court of Kentucky may authorize that agency to make a confidential request for assistance from KYLAP in evaluating or addressing any actual or potential impairment that may be relevant to the issues which the agency is charged with considering in the proceeding. In particular:

(a) A member of the Kentucky legal community who is the subject of an application for admission, restoration or reinstatement to the practice of law in the Commonwealth may authorize the Office of Bar Admissions to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to the OBA's consideration or disposition of the application for admission, restoration or reinstatement.

(b) A member or former member of the Association who is the subject of a disciplinary complaint or investigation pending before the Inquiry Commission may authorize that Commission to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to that Commission's consideration or disposition of that complaint or investigation.

(c) A member or former member of the Association who is the subject of an investigation or prosecution by the Office of ~~[Bar]~~ Disciplinary Counsel may authorize OBC to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to OBC's recommended disposition of that investigation or prosecution.

(d) A member or former member of the Association who is the subject of a continuing legal education proceeding pursuant to SCR 3.675 by the Continuing Legal Education Commission may authorize the Director for Continuing Legal Education to communicate in confidence with KYLAP for the purpose of requesting assistance from KYLAP in evaluating and addressing any actual or potential impairment that may be relevant to the CLE Commission's recommended disposition of that proceeding.

(2) Before an agency of the Court makes any contact with KYLAP pursuant to paragraph (1) of this Rule, it shall obtain a written authorization from the person who is the subject of the proposed assistance clearly evidencing the fact that such person has authorized the agency to communicate with KYLAP for one or more purposes set forth in paragraph (1).

(3) Upon receiving any request for assistance from an agency of the Court pursuant to paragraph (1) of this Rule, KYLAP shall satisfy itself: (a) that the person who is the subject of the proposed assistance has authorized the agency to communicate with KYLAP, in accordance with paragraphs (1) and (2) of this Rule; and (b) that the requested assistance falls within the scope of KYLAP's mission and services as set forth in Rule 3.910. KYLAP shall not take any other steps in response to the request until it has satisfied itself of these two threshold matters.

(4) After satisfying itself of the threshold matters set forth in paragraph (3), KYLAP shall determine whether it is able to provide any assistance to the requesting agency and respond appropriately to that agency. KYLAP is not obligated by these Rules to accept any request for

assistance or become involved in any proceeding before any agency of the Court, and shall do so only when it determines that it is able to provide assistance in accordance with these Rules.

(5) Before providing any assistance pursuant to a request from an agency of the Court, KYLAP shall obtain a written authorization, waiver and release from the person who is the subject of the proposed assistance, in which that person authorizes KYLAP to:

(a) provide appropriate status reports to the requesting agency, and to any other appropriate agencies of the Court, regarding any aspect of the assistance provided by KYLAP after the date KYLAP has accepted the request for assistance, including, without limitation, (i) any assessment or diagnosis of the person's condition rendered after the date KYLAP has accepted the request for assistance, (ii) the person's progress in addressing the actual or potential impairment after the date KYLAP has accepted the request for assistance, and (iii) the person's compliance or non-compliance with any terms or conditions imposed by the Court, any agency of the Court, or KYLAP, after the date KYLAP has accepted the request for assistance;

(b) disclose to the requesting agency, and to any other appropriate agencies of the Court, any information gathered or received by KYLAP after the date KYLAP has accepted the request for assistance, for use as evidence in any admission, disciplinary, restoration or reinstatement proceeding, subject to the rules of evidence and procedure in that proceeding; and

(c) provide testimony in any admission, disciplinary, restoration or reinstatement proceeding regarding assistance provided by KYLAP after the date KYLAP has accepted the request for assistance, subject to the rules of evidence and procedure in that proceeding.