

RULE 509. General Procedure for Disciplinary Proceedings

- (a) **Evaluation.** Bar Counsel shall evaluate all information and grievances coming to his or her attention to determine the nature of the issue. Bar Counsel may refer the information or grievance to another entity if its subject matter falls outside the jurisdiction of these Rules or the Rules of Professional Conduct. If the information or grievance alleges facts that, if true, would constitute a violation of these Rules or the Rules of Professional Conduct, Bar Counsel shall conduct an investigation.
- (b) **Investigation.** All investigations shall be conducted by or under the authority and direction of Bar Counsel. Upon the conclusion of an investigation, Bar Counsel may:
- (1) Disregard or dismiss the matter as unfounded, frivolous or beyond the purview of these Rules or the Rules of Professional Conduct and discontinue the investigation and proceedings concerning the matter; or
 - (2) Take any of the disciplinary actions provided by Rule 509(c).
- (c) **Disposition by Bar Counsel.** If, after due investigation, Bar Counsel determines that a violation of these Rules or the Rules of Professional Conduct has occurred, Bar Counsel may:
- (1) Issue an informal admonition or private reprimand to the Respondent;
 - (2) Impose probation as provided by Rule 506(f) either as an independent Sanction or in conjunction with actions taken under subsection (c)(1) above;
 - (3) Impose restitution and/or costs as provided by Rules 506(i) and (j), either as an independent Sanction or in conjunction with actions taken under subsections (c)(1) or (c)(2) above;
 - (4) Seek, in appropriate circumstances, transfer to disability inactive status under Rule 515;
 - (5) File Formal Charges, with concurrence of the Board of Commissioners; and/or
 - (6) Petition for interim suspension, as provided in Rule 510.
- Bar Counsel shall not recommend a disposition other than dismissal without first providing the Respondent with written notice of the substance of the matter and affording him or her the opportunity to respond to the allegations. Bar Counsel shall also provide written notice to the Grievant regarding the disposition of the matter stating the reasons for the action taken.
- (d) **Request for Review.** Either the Grievant or Respondent may request review by a Hearing Committee of Bar Counsel's disposition under subsections (b)(1), (c)(1), (2), or (3) in the following manner:
- (1) **Mode and Content of Request.** A written request for such review, stating the reasons for the request, shall be sent to the Clerk of the Professional Conduct Board within 14 days following the receipt of notice by the Respondent or Grievant under subsection (c) of this Rule.
 - (2) **Service of Request.** The Clerk shall send a copy of the request for review to the Respondent or Grievant.
 - (3) **Assignment to Hearing Committee.** The Chair of the Professional Conduct Board shall appoint from among its approved membership a Hearing Committee to review the matter. Within 14 days of the assignment to a Hearing Committee, the Clerk shall notify the Grievant, Respondent and Bar Counsel of the assignment. The Clerk shall forward a copy of the request for review, together with the file concerning the matter, to the Hearing Committee, the Grievant and the Respondent.

- (4) **Review by Hearing Committee.** The Hearing Committee shall review the matter upon the record before it, unless either party requests a hearing. If the party seeking review of the decision desires such a hearing, he or she shall so state in the request for review. If the other party desires a hearing, he or she shall make a request, in writing, to the Clerk of the Professional Conduct Board within seven days of being served with the request for review. All hearings shall be by telephone, unless the Hearing Committee prescribes another method. The Hearing Committee shall review the existing record prior to holding a hearing, if one is requested. If a hearing is held, the parties shall be permitted to file briefs and make oral argument related to the grievance under review, and the Hearing Committee may ask questions regarding the record before it. The Hearing Committee chair may limit the presentation at the hearing, in his or her sole discretion. All written materials related to the hearing shall be sent to the Clerk, who shall disseminate them to all parties and to the Hearing Committee.
- (5) **Decision.** The Hearing Committee, following its review, may:
- (A) remand the matter, or any new matter arising from the hearing, to Bar Counsel for further investigation;
 - (B) approve Bar Counsel's disposition;
 - (C) reject Bar Counsel's disposition and dismiss the matter;
 - (D) recommend a modification and remand the matter to Bar Counsel for disposition; or
 - (E) recommend the filing of Formal Charges.
- (6) **Time for Rendering Decision.** The Hearing Committee shall render its decision within 21 days following the date upon which the record is submitted to the Hearing Committee or the date of the telephonic hearing (if any), whichever is later.
- (7) **Service of Decision.** The Hearing Committee chair shall enter an appropriate order reflecting the decision of the Hearing Committee and file the same with the Clerk, who shall then serve the order upon Grievant, Respondent and Bar Counsel.
- (8) **Effect of Hearing Committee Decision.** If the Hearing Committee's decision results in no Sanction being imposed on the Respondent, its review of Bar Counsel's disposition shall be final. If the filing of Formal Charges is recommended by the Hearing Committee, subsequent proceedings shall be processed as provided in Rule 511.
- (9) **Supreme Court Review.** If the Hearing Committee's decision results in a Sanction being imposed on the Respondent, either the Grievant or Respondent may seek Supreme Court review of the Hearing Committee's decision. A written petition for such review, stating the reasons for the request, shall be filed with the Supreme Court, within 21 days of service of the Hearing Committee's decision. The petition shall contain a simple statement of the reasons the Grievant or Respondent believes that the Hearing Committee decision is clearly erroneous or arbitrary and capricious. Upon receipt of a petition under this subsection, the Supreme Court may, in its sole discretion, order briefing, allow oral argument or decide the matter upon the petition before it.