

**STATE OF VERMONT
VERMONT SUPREME COURT
FEBRUARY TERM, 2022**

Order Promulgating Amendments to Rules 12.C, 13.B, 14.C(4) and 26.D of Administrative Order No. 9, Permanent Rules Governing Establishment and Operation of the Professional Responsibility Program

Pursuant to the Vermont Constitution, Chapter II, § 30, it is hereby ordered:

1. That Rule 12.C be amended as follows (new matter underlined; deleted matter struck through):

Rule 12. Screening Counsel and Filing and Review of Disciplinary Complaints

C. Formal Investigation. If the conduct which is the subject of the complaint appears to constitute misconduct that may require disciplinary sanctions, Screening Counsel must refer the matter to Disciplinary Counsel, who must investigate further to determine whether formal disciplinary proceedings should be pursued under Rule ~~15~~ 13.

Reporter's Note—2022 Amendment

Rule 12.C is amended to correct a cross reference from Rule 15 to Rule 13.

2. That Rule 13.B be amended as follows (new matter underlined; deleted matter struck through):

Rule 13. Disciplinary and Disability Proceedings

B. Review by Disciplinary Counsel. Following an investigation, disciplinary counsel may dismiss the complaint, refer it to the Bar Assistance Program or other dispute resolution program, initiate formal disciplinary or disability proceedings in accordance with Rule ~~15.D~~ 13.D, or initiate disability proceedings in accordance with Rule 25. Disciplinary counsel must inform the complainant of the disposition of the complaint and the reasons.

Reporter's Note—2022 Amendment

Rule 13.B is amended to correct a cross reference from Rule 15.D to Rule 13.D.

3. That Rule 14.C(4) be amended as follows (deleted matter struck through):

Rule 14. Hearing Panels

C. Powers and Duties. Hearing panels adjudicate all formal disciplinary and disability proceedings. The powers and duties of the hearing panel include:

- (1) Ruling upon requests from Disciplinary Counsel for findings of probable cause;
- (2) Conducting all disability and disciplinary hearings;
- (3) Making findings of fact and conclusions of law;
- (4) Imposing sanctions in accordance with Rule 15:~~D(5)~~; and
- (5) Undertaking other related tasks assigned by the Board.

Reporter's Note—2022 Amendment

Rule 14.C is amended to correct a cross reference in 14.C(4) from Rule 15.D(5) to Rule 15 generally.

4. That Rule 26.D be amended as follows (new matter underlined; deleted matter struck through):

Rule 26. Reinstatement

D. Motions by Disbarred, Suspended, Resigned Attorneys. Motions for reinstatement by a disbarred attorney, an attorney who has resigned, or an attorney who has been suspended for more than six months shall be served upon the Board and disciplinary counsel. In the case of a suspension, the motion may not be filed until three months before the period of suspension expires. Upon receipt of the motion, the Board shall promptly refer the matter to a hearing panel. Such panel shall promptly schedule a hearing, at which the respondent-attorney shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency, and learning required for admission to practice law in the state, and the resumption of the practice of law will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest and that the respondent-attorney has been rehabilitated. At the conclusion of the hearing, the panel shall promptly issue a decision containing its findings and conclusions, and file the decision, together with the record, with the Board for filing with the Court. In the case of a suspension, the hearing panel shall issue its decision within ninety days of the date of the filing of the motion for reinstatement. The hearing panel's decision may be appealed as of right pursuant to the procedures set forth in Rule ~~15.E~~ 13.E.

Reporter's Notes—2022 Amendment

Rule 26.D is amended to correct a cross reference from Rule 15.E to Rule 13.E.

5. That the Court finds that these amendments to Administrative Order 9 must be promulgated without resort to the notice and comment procedures in Administrative Order No. 11 since the amendments fix incorrect cross references that may cause confusion without correction.

6. That this administrative order, as amended, is prescribed and promulgated effective April 11, 2022. The Reporter's Notes are advisory.

7. That the Chief Justice is authorized to report these amendments to the General Assembly in accordance with the provisions of 12 V.S.A. § 1, as amended.

Dated in Chambers at Montpelier, Vermont, this 7th day of February, 2022.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice