**ELC 2.3**

**DISCIPLINARY BOARD**

**(a)-(g)** [Unchanged.]

**(h) Disqualification.** A Board member should self-dis­qualify him- or herself from a particular matter in which the member’s impartiality might reasonably be questioned, including, but not limited to, instances in which:

(1)-(5) [Unchanged.]

**(i)-(k)** [Unchanged.]

**ELC 2.5**

**HEARING OFFICERS**

**(a)-(c)** [Unchanged.]

**(d) Terms of Appointment.** Appointment to the hear­ing officer list is for an initial period of two years, followed by periods of four years. Reappointment is in the discretion of the Supreme Court upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel. A hearing officer may continue to act in any matter assigned before his or her their term expires. On the recom­mendation of the Board of Governors in consultation with the Disciplinary Selection Panel, the Supreme Court may remove a person from the list of hearing officers.

**(e)**-**(h)** [Unchanged.]

**ELC 2.7**

**CONFLICTS REVIEW OFFICER**

**(a) Function.** Conflicts Review Officers review grievanc­es filed against disciplinary counsel and other lawyers em­ployed by the Association, hearing officers, conflicts review officers and conflicts review officers pro tempore, members of the Disciplinary Board, officers and members of the Board of Governors, and staff, attorneys, and judicial officers of the Supreme Court. Conflicts Review Officers also review griev­ances filed against persons who have been assigned cases as adjunct disciplinary or special disciplinary counsel, or appointed in disability matters pursuant to ELC 8.2(c)(2), at the time the grievance is filed. A Conflicts Review Officer performs other functions as set forth in these rules.

(1) *Authority*. The Conflicts Review Officer’s duties are limited to performing the initial review of grievances cov­ered by this Rule. A Conflicts Review Officer may, under rule 5.3(b), obtain the respondent lawyer’s response to the grievance, if he/she they feels it is necessary to do so, in his/her their sole discretion. A Conflicts Review Officer may dismiss the grievance under rule 5.7(a), defer the investi­gation under rule 5.3(d), or assign the grievance to special disciplinary counsel for investigation under rules 2.8(b) and 5.3. If a grievant requests review of a dismissal under rule 5.7(b), the Conflicts Review Officer may either reopen the matter for investigation or refer it to a review committee under that rule.

(2) [Unchanged.]

**(b)-(f)** [Unchanged.]

**ELC 2.10**

**REMOVAL OF APPOINTEES**

The power granted by these rules to any person, commit­tee, or board to make any appointment includes the power to remove the person appointed whenever that person ap­pears unwilling or unable to perform his or her their duties, or for any other cause, and to fill the resulting vacancy.

**ELC 4.1**

**SERVICE OF PAPERS**

**(a)** [Unchanged.]

**(b) Methods of Service.**

(1) *Service by Mail*.

(A)-(B) [Unchanged.]

(C) The address for service by mail is as follows:

(i) for the respondent, or his or her their attorney of re­cord, the address in the answer, a notice of appearance, or any subsequent document filed by the respondent or his or her their attorney; or, in the absence of an answer, the re­spondent’s address on file with the Association;

(ii)-(iv) [Unchanged.]

(2) [Unchanged.]

(3) *Personal Service*. Personal service on a respondent is accomplished as follows:

(A) [Unchanged.]

(B) if the respondent cannot be found in Washington State, service may be made either by:

(i) [Unchanged.]

(ii) mailing by registered or certified mail, postage pre­paid, a copy addressed to the respondent at his or her their last known place of abode, office address maintained for the practice of law, post office address, or address on file with the Association, or to the respondent’s resident agent whose name and address are on file with the Association under APR 5(f).

(C) [Unchanged.]

**(c)-(d)** [Unchanged.]

**ELC 4.9**

**SERVICE AND FILING BY AN INCARCERATED PERSON INMATE**

**CONFINED IN AN INSTITUTION**

Service and filing of papers under these rules by an incar­cerated person inmate confined in an institution will con­form to the requirements of GR 3.1.

**ELC 5.1**

**GRIEVANTS**

**(a)-(c)** [Unchanged.]

**(d) Duties.** A grievant should do the following:

(1) give the person assigned to the grievance documents or other evidence in his or her the grievant’s possession, and witnesses’ names and addresses;

(2)-(3) [Unchanged.]

**(e)** [Unchanged.]

**ELC 5.8**

**ADVISORY LETTER**

**(a) Grounds.** An advisory letter may be issued by a re­view committee when:

(1) a respondent lawyer’s conduct constitutes a violation, but does not warrant an admonition or sanction, but it ap­pears appropriate to caution a respondent lawyer concern­ing his or her their conduct; or

(2) [Unchanged.]

**(b)-(c)** [Unchanged.]

**ELC 8.1**

**ACTION ON ADJUDICATION OF INCOMPETENCY OR INCAPACITY**

**(a) Grounds.** The Association must automatically trans­fer a lawyer from active to disability inactive membership status upon receipt of a certified copy of the judgment, or­der, or other appropriate document demonstrating that the lawyer:

(1) was found to be incapable of assisting in his or her their own defense in a criminal action;

(2) [Unchanged.]

(3) had a guardian (but not a limited guardian) appointed for his or her person themself or their estate on a judicial finding of incapacity;

(4)-(5) [Unchanged.]

**(b) Notice to Lawyer.** The Association must forthwith notify the disabled lawyer and his or her their guardian or guardian ad litem, if any, of the transfer to disability inac­tive status. The Association must also notify the Supreme Court of the transfer and provide a copy of the judgment, order, or other appropriate document on which the transfer was based.

**ELC 8.2**

**DETERMINATION OF INCAPACITY TO PRACTICE LAW**

**(a) Review Committee May Order Hearing.** Disci­plinary counsel reports to a review committee on investi­gations into an active, suspended, or inactive respondent lawyer’s mental or physical capacity to practice law. Sub­ject to rule 5.2, the respondent lawyer and his or her their guardian or guardian ad litem, if any, shall be provided with a complete copy of disciplinary counsel’s report and shall be afforded a reasonable opportunity to respond prior to the review committee taking action on the report. The commit­tee orders a hearing if it appears there is reasonable cause to believe that the respondent does not have the mental or physical capacity to practice law. In other cases, the com­mittee may direct further investigation as appears appro­priate or dismiss the matter.

**(b)-(e)** [Unchanged.]

**ELC 8.3**

**DISABILITY PROCEEDINGS DURING COURSE OF DISCIPLINARY PROCEEDINGS**

**(a)** [Unchanged.]

**(b) Purpose of Supplemental Proceedings.** In a sup­plemental proceeding, the hearing officer determines if the respondent:

(1) is incapable of defending himself or herself themself in the disciplinary proceedings because of mental or physi­cal incapacity;

(2)-(3) [Unchanged.]

**(c)** [Unchanged.]

**(d) Procedure for Supplemental Proceedings.**

(1)-(6) [Unchanged.]

(7) *Hearing Officer Decision*.

(A) Capacity To Defend and Practice Law. If the hearing officer finds that the respondent is capable of defending him­self or herself themself and has the mental and physical ca­pacity to practice law, the disciplinary proceedings resume.

(B) Capacity To Defend with Counsel. Regardless of the hearing officer’s determination as to mental or physical ca­pacity to practice law, if the hearing officer finds that the respondent is not capable of defending himself or herself themself in the disciplinary proceedings but is capable of adequately assisting counsel in the defense, the supplemen­tal proceedings are dismissed and the disciplinary proceed­ings resume. If counsel does not appear on behalf of the re­spondent within 20 days of service of the hearing officer’s decision, the Chair must appoint an active member of the Association as counsel for the respondent in the disciplin­ary proceeding.

(C)-(D) [Unchanged.]

(8) [Unchanged.]

**(e)** [Unchanged.]

**ELC 9.3**

**RESIGNATION IN LIEU OF DISCIPLINE**

**(a) Grounds.** A respondent lawyer who desires not to contest or defend against allegations of misconduct may, at any time before the answer in any disciplinary proceeding is due, or thereafter with disciplinary counsel’s consent, re­sign his or her their membership in the Association in lieu of further disciplinary proceedings.

**(b) Process.** The respondent first notifies disciplinary counsel that the respondent intends to submit a resigna­tion and asks disciplinary counsel to prepare a statement of alleged misconduct and to provide a declaration of costs and a proposed resignation form. After receiving the statement and the declaration of costs, if any, the respondent may re­sign by signing and submitting to disciplinary counsel the resignation form prepared by disciplinary counsel, sworn to or affirmed under oath, that must include the following:

(1) [Unchanged.]

(2) Respondent’s statement that he or she is they are aware of the alleged misconduct stated in disciplinary coun­sel’s statement and that rather than defend against the al­legations, he or she they wishes to permanently resign from membership in the Association.

(3)-(8) [Unchanged.]

**(c)-(g)** [Unchanged.]

**ELC 10.14**

**EVIDENCE AND BURDEN OF PROOF**

**(a) Proceedings Not Civil or Criminal.** Hearing of­ficers should be guided in their evidentiary and procedural rulings by the principle that disciplinary proceedings are neither civil nor criminal but are sui generis hearings to determine if a lawyer’s conduct should have an impact on his or her the lawyer’s license to practice law.

**(b)-(e)** [Unchanged.]

**ELC 11.12**

**DECISION OF BOARD**

**(a)-(b)** [Unchanged.]

**(c) Oral Argument.** The Board hears oral argument if requested by either party or the Chair. A party’s request must be filed no later than the deadline for that party to file his or her their last brief, including a response or reply, under rule 11.9. The Chair’s notice of oral argument must be filed and served on the parties no later than 14 days be­fore the oral argument. The Chair sets the time, place, and terms for oral argument.

**(d)-(g)** [Unchanged.]

**ELC 12.4**

**DISCRETIONARY REVIEW**

**(a)-(c)** [Unchanged.]

**(d) Subsequent Petition by Other Parties.** If a timely petition for discretionary review is filed by the Respondent or disciplinary counsel, and the other party wants relief from the Board’s decision, he or she they must file a petition for discretionary review with the Clerk within the later of:

(1)-(2) [Unchanged.]

**(e)-(f)** [Unchanged.]

**ELC 12.6**

**BRIEFS**

**(a) Brief Required.** The party seeking review must file a brief stating his or her their objections to the Board’s decision.

**(b)-(g)** [Unchanged.]

**ELC 14.1**

**NOTICE TO CLIENTS AND OTHERS; PROVIDING CLIENT PROPERTY**

**(a)-(c)** [Unchanged.]

**(d) Notice if Transferred to Disability Inactive Sta­tus.** A lawyer transferred to disability inactive status, or his or her their guardian if one has been appointed, must give all notices required by subsection (c), except that while the notices need not refer to the specifics of the disability, the notice must advise that the lawyer has been transferred to disability inactive status.

**(e) Address of Client.** All notices to lawyers, adverse parties, courts, or agencies as required by sections (b), (c), or (d) must contain the client’s name and last known address, unless doing so would disclose a confidence or secret of the client. If the name and address are omitted, the client must be advised that so long as his or her their address remains undisclosed and no new lawyer is substituted, the client may be served by leaving papers with the clerk of the court under CR 5(b)(1) in pending superior court actions, and that comparable provisions may allow similar service in other court proceedings or administrative actions.

**ELC 14.2**

**LAWYER TO DISCONTINUE PRACTICE**

**(a) Discontinue Practice.** A disbarred or suspended lawyer, or a lawyer who has resigned in lieu of disbarment or discipline, or a lawyer transferred to disability inactive status, must not practice law after the effective date of the disbarment, resignation in lieu of disbarment or discipline, suspension, or transfer to disability inactive status, and also must take whatever steps necessary to avoid any rea­sonable likelihood that anyone will rely on him or her them as a lawyer authorized to practice law.

**(b)** [Unchanged.]

**ELC 14.4**

**LAWYER TO KEEP RECORDS OF COMPLIANCE**

A lawyer who has been disbarred, suspended, or trans­ferred to disability inactive status must maintain written records of the various steps they have taken by him or her under this title, so that proof of compliance will be available in any subsequent proceeding.