

ELC 3.3

APPLICATION TO STIPULATIONS, DISABILITY PROCEEDINGS, CUSTODIANSHIPS, AND DIVERSION CONTRACTS

(a) Application to Stipulations. A stipulation under rule 9.1 providing for imposition of a disciplinary sanction or admonition is confidential until approved, except that a grievant may be advised concerning a stipulation and its proposed or actual content at any time. An approved stipulation is public, unless:

(1) it provides for dismissal of a grievance without a disciplinary sanction or admonition;
and

(2) proceedings have not been instituted for failure to comply with the terms of the stipulation.

(b) Application to Disability Proceedings. Disability proceedings under Title 8 or rule 9.2 are confidential. However, the following are public information: the fact that a lawyer has been transferred to disability inactive status, the fact that a lawyer has been reinstated to active status from disability inactive status, and the fact that a disciplinary proceeding is stayed pending supplemental proceedings under Title 8.

(c) Custodianships. The fact that a custodian has been appointed under rule 7.7, together with the custodian's name and contact information and orders appointing and discharging such custodians, are public information and the notices required by rule 3.5(d) will be given. Client files and records under the control of such custodians will be held confidential absent authorization to release from the client.

(d) Diversion Contracts. Except as provided by rule 6.6, diversion contracts and supporting affidavits and declarations under rules 6.5 and 6.6 are confidential, despite rule 3.1(b)(1). However, release of a diversion contract or supporting affidavit may be authorized under rule 3.4, provided that a respondent must be given notice of a decision to make a discretionary release under ELC 3.4(e) and a reasonable opportunity to seek a protective order under ELC 3.2(e). When a matter that has previously become public under rule 3.1(b) is diverted by a diversion contract, that contract and the supporting documents are confidential but the fact that the matter was diverted from discipline is public information and a notice of diversion will be placed in the public file. Upon the conclusion of the diversion, whether by successful completion of diversion and dismissal of the grievance, or by breach of the diversion contract, a notice of that result will be placed in the public file.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; January 1, 2015;
January 2, 2018.]