Supreme Court of Kentucky

2026-42

ORDER

IN RE: AMENDING SUPREME COURT RULES

The Rules of the Supreme Court as amended below shall be effective July 1, 2027 and until further order of the Court:

I. Amendments to Rules of the Supreme Court, Title II - Admission of Persons to Practice Law

1. Rules of the Supreme Court (SCR) Rule 2.015 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.015
SCR 2.015 Professional responsibility examinations

(1) No person shall be eligible for admission to the Kentucky Bar until that person has first passed the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners by attaining a scaled score thereon of at least 80.

(2) No person shall sit for the Bar Examination administered under SCR 2.080 without first passing the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners by attaining a scaled score thereon of at least 80.

2. Rules of the Supreme Court (SCR) Rule 2.017 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.017
SCR 2.017 Completion of New Lawyer Program

All applicants for admission to the bar of this Commonwealth pursuant to SCR 2.080, 2.090, 2.112 and 2.113 must successfully complete the New Lawyer Program (SCR 3.05.030) upon admission.

3. Rules of the Supreme Court (SCR) Rule 2.042 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.042
SCR 2.042 Conditional admission, restoration and reinstatement

(1) As a part of its certification process for initial Applicants, the Character and Fitness Committee may require that an Applicant enter into an agreement as a condition of his/her admission to the Bar. The conditions of admission, as determined by the Character and Fitness Committee, shall be set forth in a written agreement with specific terms and conditions. These terms and conditions shall be monitored by the Committee or its agents or designees.

(2) Upon failure to comply with the terms and conditions of the agreement, the Committee may:

(a) extend the term and impose additional condition(s); or

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

(3) All information relating to conditional admission of an Applicant or an attorney shall remain confidential in accordance with SCR 2.008.

(4) Any Member whose license is revoked by the Court for failure to comply with the terms of a conditional admission agreement shall be deemed to have been suspended and restoration or reinstatement shall be subject to the rules set forth in SCR 3.09, et seq.

4. Rules of the Supreme Court (SCR) Rule 2.090 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.090
SCR 2.090 Admission by transferred bar examination score

(1) A person who meets all requirements of paragraph 2(a) through (j) of this Rule may be admitted to the practice of law in Kentucky.

(2) The applicant must:

(a) have earned a Legacy UBE score of 266 or higher or a NextGen UBE score of 616 or higher in five (5) or fewer attempts on the Legacy UBE or NextGen UBE taken in any jurisdiction;

(b) have earned the score required in subparagraph (2)(a) in an administration of the Legacy UBE or NextGen UBE that occurred within five (5) years of the date of application for admission pursuant to this Rule;

(c) intend to engage in the practice of law in Kentucky as set out in SCR 2.013, 3.01.020, and 3.02.010;

(d) meet the educational requirements set out in SCR 2.014;

(e) have achieved the required score on the Multistate Professional Responsibility Examination as set out in SCR 2.015;

(f) be a member in good standing in all jurisdictions where the applicant has been admitted;

(g) not be currently subject to lawyer discipline or the subject of a pending disciplinary complaint or matter in any jurisdiction;

(h) possess the good character and fitness to practice law in Kentucky as determined by the Character and Fitness Committee; and

(i) certify that he or she has read and will follow the Kentucky Rules of Professional Conduct.

(3) The Application for Admission by Transferred Bar Examination Score shall be filed with the Kentucky Office of Bar Admissions on a verified form approved by the Board. The application shall be accompanied by a nonrefundable fee of $875.00 for applicants whose Legacy UBE or NextGen UBE score was reported not more than twelve (12) months before the application date, as measured from the date the score was released by the National Conference of Bar Examiners, and $1,200.00 for applicants whose Legacy UBE or NextGen UBE score was reported more than twelve (12) months before the application date, along with written confirmation issued by the National Conference of Bar Examiners that the applicant has submitted a request for an Official Legacy UBE or NextGen UBE Transcript to be sent directly to Kentucky. An applicant shall file with the Character and Fitness Committee such other affidavits, certificates, documents, and materials as shall be required to satisfy the Committee, pursuant to SCR 2.040, of the applicant's good moral character and fitness to be a Member of the Bar of this Commonwealth.

5. Rules of the Supreme Court (SCR) Rule 2.110 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.110
SCR 2.110 Admission without examination

(1) Any person who has been admitted to practice in another jurisdiction and who has been engaged in the active practice of law as defined in SCR 3.01.020

and 3.02.010, in a jurisdiction which has reciprocity or comity with Kentucky, for five of the seven years next preceding the filing of an application may be admitted to the Bar of this Commonwealth without examination provided the applicant meets all requirements for admission to the Bar under these Rules. Active engagement in the teaching of the law, full time at an American Bar Association accredited law school, shall be considered active engagement in the practice of law.

(2) An attorney applying for admission under this Rule shall file with the Kentucky Office of Bar Admissions, on the form provided for application for admission, such information as shall be requested thereon accompanied by a fee of $1500.00, no part of which shall be refunded. An applicant shall file with the Character and Fitness Committee such other affidavits, certificates, documents, and materials as shall be required to satisfy the Committee of the applicant's good moral character and fitness to be a Member of the Bar of this Commonwealth. With respect to character and fitness, the Committee shall process such applications pursuant to Rule 2.040.

(3) Admission under this Rule shall be conditioned on the applicant establishing that the jurisdiction from which the applicant applies and in which the applicant performs the major portion of his or her professional activities has rules or other provisions providing for admission without examination and by reciprocity or comity which are no more restrictive than the rules of this Commonwealth.

(4) Notwithstanding the requirements stated above, if the applicant has practiced five of the last seven years in a jurisdiction that permits the admission without examination of attorneys from Kentucky, the Committee may approve admission without examination under the same provisions that allow admission of Kentucky attorneys.

6. Rules of the Supreme Court (SCR) Rule 2.111 shall read as follows:

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 and shall make payment of the current annual licensing fees to the Kentucky Bar Association, as authorized under SCR 3.04.030.

(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 3.05.040.

(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 3.01.020.

(c) An attorney admitted with a limited practice certificate under this Rule is authorized to donate legal services in Kentucky through: a duly organized legal aid program offering pro bono representation to indigent individuals within the Commonwealth of Kentucky, or 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 and 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 3.05.040.

(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.

7. Rules of the Supreme Court (SCR) Rule 2.113 shall read as follows:

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 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) 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) 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.

8. Rules of the Supreme Court (SCR) Rule 2.116 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.116
SCR 2.116 Supervised practice

1. The purpose of this Rule is to allow law school graduates not licensed in any other jurisdiction to practice under supervision while studying for the Kentucky Bar Examination and awaiting results.

2. Applications for supervised practice shall be electronically submitted on forms approved by the Board of Bar Examiners and the Character and Fitness Committee. Application forms are available on the Kentucky Office of Bar Admissions website at www.kyoba.org.

3. An individual may be eligible for supervised practice if he or she:

a. Has never been licensed to practice law in another state in the United States, the District of Columbia, or U.S. Territories;

b. Meets the moral character and fitness requirements of SCR 2.011;

c. Meets the educational requirements of SCR 2.014;

d. Works in Kentucky under the supervision of a licensed lawyer who is admitted and in good standing in Kentucky; and

e. Has:

i. submitted an application for the Kentucky Bar Examination pursuant to SCR 2.022 or 2.023;

ii. taken the Bar Examination as provided under SCR 2.080 but not yet received notification of the results of the examination; or

iii. submitted a Uniform Bar Examination score transfer application under SCR 2.090 but has not yet been admitted as a Member of the Kentucky Bar.

4. An applicant who has been approved under this Rule but is unsuccessful on the Kentucky Bar Examination may continue to practice under supervision if he or she submits a re-application for admission by examination under SCR 2.204 within ten (10) days of being notified of the failing score. An applicant who fails to file a reapplication for admission within ten (10) days will no longer be eligible to engage in supervised practice.

5. Supervision

a. An applicant under this Rule must be under the direct supervision of an attorney who meets the requirements of paragraph (c), below. The applicant shall disclose the name, address, and membership status of the supervising attorney, which disclosure shall be filed with the Office of Bar Admissions and the Kentucky Bar Association.

b. A supervising attorney is responsible for ensuring an applicant is properly supervised and in compliance with the Kentucky Rules of Professional Conduct (SCR 3.6).

c. The supervising attorney must:

i. be a lawyer licensed and in good standing with the Kentucky Bar Association;

ii. have practiced for a minimum of four years;

iii. assume professional responsibility for the direct and immediate supervision of the professional work of the applicant;

iv. file a signed verification form certifying the applicant's association with and supervision by that attorney with the Office of Bar Admissions and the Kentucky Bar Association; and

v. be identified in all papers submitted to a court, government agency or authority, or alternative dispute resolution tribunal, on which the applicant's name appears.

6. The applicant shall be subject to the disciplinary authority of the Kentucky Bar Association and Supreme Court of Kentucky and shall comply with the Kentucky Rules of Professional Conduct (SCR 3.6) and all other ethics and related rules of this jurisdiction, including specifically, but not limited to, rules requiring truthful and non-misleading advertising or other public statements concerning his or her limited authority to practice. The applicant is not permitted to advertise independently of the supervising attorney.

7. The applicant shall affirmatively state in all written (including electronic) communications with the public and clients the following language: “Practice temporarily authorized pending admission to the Kentucky Bar Association.” In the initial consultation, the applicant shall affirmatively inform prospective clients with whom the applicant meets (whether in person, by phone, or any other means) of the applicant's temporary authorization to practice pending admission to the Kentucky Bar Association.

8. Verification. Upon an applicant's satisfactory completion of the application process and provided that the applicant is certified to have the requisite good moral character and fitness to practice law and the applicant has met all of the requirements of this Rule, the Board and the Committee shall certify their recommendations to the Supreme Court that the applicant is eligible for temporary admission pursuant to this Rule.

9. Oath. Any applicant authorized to perform legal services under this Rule must subscribe to the following oath and submit a signed and notarized copy with the Clerk of the Supreme Court:

OATH OF BAR APPLICANT UNDER SUPERVISED PRACTICE RULE

I, _____, do solemnly swear that I will, as an applicant who has been temporarily admitted under Supreme Court Rule 2.116, Supervised Practice of Law Pending Admission, support and defend the Constitution of the United States and the Constitution of the Commonwealth of Kentucky; that cognizant of the trust placed in me and the responsibility it carries, I will conduct myself in all matters to the extent given me as an officer of the court with the utmost fidelity towards the court and all persons whose affairs are in any way entrusted to me; that I will neither take part in deception of the court, nor allow deception to take place, and should any be practiced will inform the court; that I subscribe to and will abide by the Rules of Professional Conduct as adopted by the Supreme Court of Kentucky; and that I will so exercise these privileges given me that it may be alike useful in the service of justice and in my preparation to assume full responsibility later as a Member of the bar.

_____

Bar Applicant

The above and foregoing Oath was sworn to and subscribed to by the above-named Bar Applicant and administered to him/her by me, on this _____ day of _____, 20 ___.

My Commission expires: _____.

10. Automatic Termination. The authority in this Rule shall terminate immediately if the applicant:

a. Successfully passes the Kentucky Bar Examination and takes the oath of office required by Section 228 of the Kentucky Constitution;

b. Withdraws the application for admission by examination or admission by UBE transferred score;

c. Successfully transfers a UBE score and takes the oath of office required by Section 228 of the Kentucky Constitution;

d. Fails to obtain a passing score on the first Bar examination the applicant takes and fails to reapply within ten days, as required by section 4 of this Rule;

e. Fails to obtain a passing score on the second Kentucky bar examination the applicant takes;

f. Is subject to a formal charge in a disciplinary proceeding; or

g. Is subject to an investigation by the Character and Fitness Committee subsequent to its initial certification.

11. The authority in this Rule shall also terminate immediately if the supervising attorney ceases to be an active Member in good standing of the Kentucky Bar Association or withdraws the verification required by this Rule.

12. In no event shall an applicant be permitted to practice under this Rule for more than sixteen (16) months from the date he or she graduated from law school.

13. Required Action After Termination of Authority. Upon termination of authority to practice law pursuant to this Rule, the applicant must notify, in writing, the Clerk of the Supreme Court, the Kentucky Bar Association, and all clients in pending matters, and opposing counsel, co-counsel, and court clerks in pending litigation, of the termination of authority, and immediately cease practicing law in Kentucky. Termination of authority is not the equivalent of disbarment or other disciplinary action.

9. Rules of the Supreme Court (SCR) Rule 2.120 shall read as follows:

Rules of the Supreme Court (SCR), Rule 2.120

SCR 2.120 Administration of oath of issuance of certificate of admission to practice law

An applicant approved for admission under SCR 2.085, 2.090, 2.110, 2.111 or 2.112 must apply for and be granted a certificate of admission prior to engaging in the practice of law in this state. As prerequisites for the issuance of such a certificate an applicant shall pay the current annual licensing fees of the Kentucky Bar Association authorized under SCR 3.04.030, and a final fee of fifty dollars ($50.00) to the Kentucky Office of Bar Admissions, and shall be administered the Constitutional Oath of Office either by a Justice of the Supreme Court or by the Clerk of the Supreme Court. Upon completion of the prerequisites, the Clerk shall deliver to the applicant a Certificate of Admission on a form approved by the Court, and the issuance of the certificate shall be duly recorded by the Clerk.

II. Amendments to Rules of the Supreme Court, Title III - Practice of Law

1. SCR Title III – Practice of Law is divided into 15 chapters as follows:

Supreme Court Rules Title III – Practice of Law

3.01 - Definitions
3.02 - General Practice Requirements
3.03 - Kentucky Bar Association
3.04 - Membership Requirements
3.05 - Continuing Legal Education
3.06 - Kentucky Rules of Professional Conduct
3.07 - Disciplinary Authorities
3.08 - The Disciplinary Process
3.09 - Reinstatement and Restoration
3.10 - Ethics Committee and Unauthorized Practice Committees
3.11 - Paralegals
3.12 - Legal Fee and Negligence Arbitration
3.13 - Clients' Security Fund
3.14 - Kentucky IOLTA
3.15 - Kentucky Lawyer Assistance Program (KYLAP)

2. Rules of the Supreme Court (SCR), Rule 3.010 is renumbered as Rule 3.01.010 and shall read as follows:

SCR 3.01.010 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. "Attorney" and "lawyer" may be used synonymously.

"Board" is the Board of Governors of the Association.

"Bylaws" means the bylaws of the Association.

"Charge" means the pleading by which the Inquiry Commission 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 person or entity who causes to be initiated an investigation of an attorney, or who causes to be initiated a proceeding under Rule 3.08.020.

"Court" is the Supreme Court of Kentucky.

"Disciplinary Hearing Officer" means the hearing officer appointed pursuant to the provisions of Rule 3.08.160 and other rules governing disciplinary procedures.

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

"Executive Director" is the Executive Director of the Association.

"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.

"Vice-President" is the Vice-President of the Association.

3. Rules of the Supreme Court (SCR), Rule 3.010 is renumbered as Rule 3.01.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.01.020
SCR 3.01.020 Practice of law defined

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services. Nothing herein shall prevent any natural person not holding himself out as a practicing attorney from drawing any instrument to which he is a party without consideration unto himself. An appearance in the Small Claims Division of the District Court by a person who is an officer of or who is regularly employed in a managerial capacity by a corporation or partnership which is a party to the litigation in which the appearance is made shall not be considered as unauthorized practice of law.

4. Rules of the Supreme Court (SCR), Rule 3.022 is renumbered as Rule 3.02.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.02.010
SCR 3.02.010 Forms of practice of law

Lawyers may engage in the practice of law in Kentucky in the following forms:

a. As sole practitioners;

b. As employees of a private corporation, a United States government agency or department, or a state, county or municipal government agency, a legal aid society, or a corporation organized to provide public defender services (but if for a private corporation, may render professional services in that employment only for the employing corporation and its subsidiaries and not the general public; except pro bono or legal aid);

c. As instructors or professors of law in a law school located in Kentucky;

d. As a judge of the Court of Justice, a federal court or as an administrative law judge in federal or state government;

e. As employees or general partners of a Kentucky general partnership organized for the practice of law; or

f. As employees of or partners, shareholders, members or co-owners of a registered limited liability partnership, professional service corporation, or limited liability company or any other limited liability entity organized pursuant to applicable statutes.

Subject to judicial or prosecutorial immunity which may be recognized by law, each lawyer practicing law in Kentucky shall be personally liable and accountable to his or her clients for: (i) all of his or her acts, errors, and omissions in the practice of law; and (ii) the acts, errors, and omissions of other lawyers under such lawyer's direct supervision.

5. Rules of the Supreme Court (SCR), Rule 3.023 is renumbered as Rule 3.02.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.02.020
SCR 3.02.020 Disclosure of professional liability insurance

(1) On or before September 1 of each year, every active Member of the Association shall certify to the Executive Director in such form and manner as the Board may designate:

(a) Whether the Member is engaged in the private practice of law;

(b) If engaged in the private practice of law, whether the Member is currently covered by a policy of professional liability insurance with minimum limits of $100,000.00 per claim and $300,000.00 aggregate for all claims during the policy term; and

(c) Whether the Member is exempt from the disclosure provisions of this Rule.

(2) If any active Member not exempt from the provisions of this Rule as provided in paragraph (5) fails to certify by October 1 of each year that the Member is in compliance with this Rule, the Member shall be assessed a late fee of fifty dollars ($50.00).

(3) Each Member who has previously reported being covered by professional liability insurance as set forth in paragraph 1(b) of this Rule shall notify the Executive Director in writing in such form and manner as the Board may designate within 30 days if the insurance policy providing coverage lapses, terminates, or is no longer in effect for any reason.

(4) The information disclosed pursuant to this Rule will be made available to the public by such means as the Board may designate.

(5) The following members are exempt from the disclosure provisions of this Rule:

(a) Members who are employed by a government entity and who do not represent clients outside of that capacity;

(b) Members who are employed by an organization client and who do not represent clients outside of that capacity; and

(c) Members who are designated as Honorary Members in the Association Bylaws under SCR 3.04.010(4).

6. Rules of the Supreme Court (SCR), Rule 3.024 is renumbered as Rule 3.02.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.02.030
SCR 3.02.030 Requirements of practicing law in limited liability entities

Lawyers may engage in the practice of law as a partner, shareholder, member, manager, co-owner or employee of a registered limited liability partnership, professional service corporation, limited liability company or any other limited liability entity recognized by the Commonwealth so long as such entity maintains at all times adequate professional liability insurance in force and effect or has established and maintains at all times other acceptable forms of adequate financial coverage for the acts, errors and omissions of its partners, shareholders, members, managers, co-owners and employees arising out of the performance of legal services.

For purposes of the preceding sentence, “adequate insurance” shall mean one or more policies of lawyers professional liability insurance which shall insure the limited liability entity and its individual owners and employees. The insurance shall be in an amount of at least $50,000 per claim, multiplied by the number of attorneys of the limited liability entity, with an aggregate maximum limit of liability per policy year for all claims in the amount of at least $100,000, multiplied by the number of attorneys of the limited liability entity, provided that: i) the minimum insurance coverage that a limited liability entity shall be required to carry is $250,000 per claim and $500,000 for all claims during the policy year; and ii) no limited liability entity shall be required to carry insurance in excess of $5,000,000 per claim and $10,000,000 for all claims during the policy year. Each co-owner of a limited liability entity shall remain jointly and severally liable for acts, errors and omissions excluded from coverage by such insurance policies, but in no event shall that joint and several liability exceed, for each claim and for all claims during the policy year, an amount (net of the payment of any insurance claims in such year) equal to the minimum amount of coverage per claim and for all claims during the policy year described in the second sentence of this paragraph.

For purposes of this Rule, a limited liability entity has established “other acceptable forms of adequate financial coverage” if the limited liability entity provides funds (in amounts no less than as described in the next sentence) specifically designated and segregated for the satisfaction of judgments against the limited liability entity and/or the co-owners by:

1. deposit in trust, or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations;

2. a bank letter of credit; or

3. a surety bond to be payable to any person presenting a valid final judgment of any court of competent jurisdiction in the Commonwealth of Kentucky, or a foreign judgment registered in a Kentucky federal court, or a settlement or mediation award for acts, errors and omissions arising out of the performance of professional legal services by the limited liability entity. The funds required to be so designated and segregated shall be no less than $50,000 multiplied by the number of attorneys employed by the limited liability entity, with the minimum amounts of funding for the year to be no less than $250,000 and the maximum limit of funding for the year shall not be required to exceed $5,000,000.

Nothing in this Rule shall relieve a co-owner of a limited liability entity from personal liability for the acts, errors and omissions committed by such individual or any person under his or her direct supervision and control arising out of the performance of professional legal services.

7. Rules of the Supreme Court (SCR), Rule 3.025 is renumbered as Rule 3.03.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.010
SCR 3.03.010 Kentucky Bar Association

The mission and purpose of the Association is to maintain a proper discipline of the Members of the bar in accordance with these rules and with the principles of the legal profession as a public calling, to initiate and supervise, with the approval of the court, appropriate means to insure a continuing high standard of professional competence on the part of the Members of the bar, and to bear a substantial and continuing responsibility for promoting the efficiency and improvement of the judicial system.

8. Rules of the Supreme Court (SCR), Rule 3.030 is renumbered as Rule 3.04.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.04.010
SCR 3.04.010 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 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 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 Executive Director, 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 3.05.040. 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 3.09.050.

(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 actively practicing law shall upon notification to the Registrar be classified as a Senior Retired Inactive Member and shall not be required to pay annual licensing fees and shall be exempt from the annual CLE requirement in SCR 3.05.040. Any Member who has been classified as a 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. A Senior Retired Inactive Member may not otherwise 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 3.09.050. Upon reaching the age of 70 years, a Regular Inactive Member shall automatically be converted to a Senior Retired Inactive Member, effective upon the next occurring licensing fee assessment date, pursuant to SCR 3.04.030.

(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 Executive 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 Executive Director shall present the matter to the Board who may enter an order transferring the attorney to Disability Inactive status. An attorney classified under this subsection is not required to pay licensing fees or obtain the annual CLE requirement pursuant to SCR 3.05.040. 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 may be stayed by Disciplinary Counsel 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 Disabled Inactive status may file a petition with the Court for restoration to active status. A copy of the petition shall be served on Disciplinary Counsel, who shall have twenty (20) days to file a response to the petition. If Disciplinary Counsel objects to the petition, the matter shall be referred to the Character and Fitness Committee to conduct proceedings under SCR 3.09.020 and SCR 3.09.030. If 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 3.09.020 and SCR 3.09.030. If an attorney is restored to active status, any disciplinary proceedings that have been stayed will be resumed.

9. Rules of the Supreme Court (SCR), Rule 3.035 is renumbered as Rule 3.04.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.04.020
SCR 3.04.020 Membership registration requirements and service

(1) Each attorney licensed by the Supreme Court to practice law in this Commonwealth shall:

(a) Maintain with the Executive Director one official Bar Roster address at which he or she may be communicated with by mail and shall upon a change of that address notify the Executive Director within ten (10) days of the new official address.

If the Member's official Bar Roster address is a Post Office address, he or she must also provide an alternate address for service of process.

Failure to maintain a current address which allows for physical service of process with the Executive Director may be prosecuted in the same manner as a violation of the Rules of Professional Conduct;

(b) Maintain with the Executive Director one official email address and shall upon change of that address notify the Executive Director within ten (10) days of the new official email address, except however, that “Senior Retired inactive” members, “Disabled Inactive” members and those “Honorary” members who no longer actively practice law or maintain an office shall not be required to maintain an official email address. An official email address shall be unique to the attorney and not be used by another KBA Member; and

(c) Include his or her 5-digit Member Identification Number on all filings with the Courts of the Commonwealth and in all communications with the Association.

(2) Every Member of the Association shall be deemed to have appointed the Executive Director as that Member's agent for service of any document that is required to be served upon that Member by any provision of Supreme Court Rule 2 or 3, provided that service of a document upon the Executive Director shall constitute constructive service of that document upon the Member only upon proof that all of the following requirements have been satisfied:

(a) Reasonable efforts have been made to achieve actual service of the document upon the Member;

(b) Two (2) true copies of the document have been provided to the Executive Director, accompanied by a written request that the Executive Director serve the document upon the Member at the Member's current Bar Roster address;

(c) Within seven (7) days after receipt of such request, the Executive Director mailed one (1) copy of the document to the Member at the aforesaid address, posted by certified mail, return receipt requested, restricted delivery-addressee only, in an envelope bearing the return address of the Executive Director and marked on the outside as “OFFICIAL COMMUNICATION--IMMEDIATE ATTENTION REQUIRED”; and

(d) No less than thirty (30) days after mailing the document pursuant to subparagraph (c), the Executive Director shall enter a Return of Service which attests:

(i) that the Executive Director mailed one of the copies of the document mentioned in subparagraph (b) to the Member's Bar Roster address in accordance with the requirements of subparagraph (c);

(ii) that the Executive Director has attached to the Return of Service all communications received in response to the service or attempted service of the document, including any certified mail receipt or other postal notice or return receipt relating to the delivery or attempted delivery of the document and any

communication from the Member of the Association or other person acting on behalf of such Member; and

(iii) that the Executive Director has provided a true copy of the Return of Service, with copies of all attachments, to the person or entity who requested service of the document upon the Member of the Association.

(3) The Association may reject any communication to the Association which fails to comply with paragraph (1)(c) of this Rule provided that a Member's failure to include his or her Member Identification Number in a document shall not result in a default in any disciplinary proceeding.

10. Rules of the Supreme Court (SCR), Rule 3.040 is renumbered as Rule 3.04.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.04.030
SCR 3.04.030 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 licensing fees for the ensuing twelve months. Licensing fees shall be fixed by the Supreme Court on recommendation of the Board. 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 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 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 3.04.010, shall not be required to pay annual licensing fees.

(4) Unless the Member has been classified under Senior Retired Inactive Member pursuant to SCR 3.04.010(6) or Disabled Inactive Member pursuant to SCR 3.04.010(5), the Member may apply in writing to the Kentucky Bar Association to be relieved of the payment of 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. Applications from attorneys

residing outside of the Commonwealth shall be copied to the Governor from the 5th Supreme Court District. 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 licensing fees. The President shall file the order with the Registrar along with the recommendation(s) of the Governor(s).

11. Rules of the Supreme Court (SCR), Rule 3.050 is renumbered as Rule 3.04.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.04.040
SCR 3.04.040 Collection of licensing fees; suspension for non-payment

If 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 licensing fees and the late fee under this Rule or SCR 3.02.020. In addition, such notice shall inform the Member that if such 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 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 Executive 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 3.09.040. 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.

12. Rules of the Supreme Court (SCR), Rule 3.060 is renumbered as Rule 3.04.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.04.050
SCR 3.04.050 Records to show status of members

(1) The records of the 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 3.08.310, 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 under SCR 3.08.020 and all records associated with the resolution, investigation, and disposition of the complaints shall be maintained as follows:

(i) Complaints that result in the discipline of an attorney shall be maintained until 5 years after the death of the attorney.

(ii) All other complaints, regardless of how the complaint is disposed, shall be retained for a period of one (1) year after final disposition.

(j) At the end of the periods stated in paragraph (h) of this Rule, the described complaints and/or records shall be destroyed.

13. Rules of the Supreme Court (SCR), Rule 3.070 is renumbered as Rule 3.03.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.020
SCR 3.03.020 The Board; functions and membership

(1) The Board is the governing body of the Association and an arm of the Court . 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 Supreme Court District as presently existing or hereafter created.

(2) The immediate Past President shall be an ex-officio member of the Attorney Discipline Oversight Commission as set forth in SCR 3.07.020 and shall not participate in or be present during disciplinary proceedings before the Board.

14. Rules of the Supreme Court (SCR), Rule 3.080 is renumbered as Rule 3.03.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.030
SCR 3.03.030 Selection and tenure of Board of Governors; filling vacancies on the Board

The elected members of the Board for each Supreme Court District shall be nominated and elected, in the manner prescribed in the bylaws, by the members of the Association residing in the Supreme Court District. Each governor shall hold office for two years and/or until his successor is elected and qualified. No governor who has served three consecutive full terms, after July 1, 1971, shall be eligible to again serve without at least one term of said office intervening. The terms of the two governors from each Supreme Court

District shall expire in alternate years. Bylaws shall provide for an annual election, to be held simultaneously in all Supreme Court Districts in which more than one person has been nominated as governor, for the purpose of electing successors to those governors whose terms of office shall expire. Any vacancy on the Board may be filled for the remainder of the term in such manner as the bylaws may prescribe. The *Bench & Bar magazine* shall in the April and July issues prior to the expiration of the term of governor carry a notice to the membership of the expiration.

15. Rules of the Supreme Court (SCR), Rule 3.090 is renumbered as Rule 3.03.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.040
SCR 3.03.040 Duties and powers of the Board

It shall be the Board's duty to perform the functions prescribed in Rule 3.04.020, and it shall have power to do everything necessary or appropriate to enable it to perform those functions. The Board shall adopt bylaws, subject to the approval of the Court and not in conflict with these Rules, relating to the performance of its functions and providing for the conduct of its business. The Board's power to perform its function as the governing body of the Association expressly includes the power to engage in any program designed to educate and inform the Bar and the public.

16. Rules of the Supreme Court (SCR), Rule 3.100 is renumbered as Rule 3.03.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.050
SCR 3.03.050 Officers of the Board and Association

The officers of the Board shall be a President, a President-Elect, a Vice-President, an Executive Director, a Treasurer, a Registrar and such other officers as the Bylaws may provide for. The Registrar shall be appointed by and hold office at the pleasure of the Chief Justice of the Court. The Registrar shall perform the duties required of him or her by the rules, keep the records required by Rule 3.04.050, keep an indexed file of advisory opinions rendered pursuant to Rule 3.10.010, and perform such other duties as the Court may from time to time prescribe for him. He shall maintain an office in Frankfort, Kentucky. The offices of Executive Director, Registrar and Treasurer may, but

need not, be held by the same person. The manner of selection, tenure and duties of other officers shall be prescribed in bylaws.

17. Rules of the Supreme Court (SCR), Rule 3.115 is renumbered as Rule 3.03.060 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.060
SCR 3.03.060 Bar Center Headquarters

(1) A board of trustees of the Association's Bar Center Headquarters is created. It shall consist of the president, ex officio, a non-voting executive director appointed by the trustees, and six members of the Association, three appointed by the court and three by the Board of governors. Both the court and the Board of governors shall appoint persons for staggered terms of three years each, commencing December 1 of the year of appointment.

(2) The powers and duties of the trustees shall include the right to act for and in the name of the Association with respect to all matters incident to the ownership, management and control of the Bar Center Headquarters to be located in Frankfort, and for the purpose of carrying out such purposes, the right:

(a) To hold the legal title to all real estate acquired in the future for the Bar Center Headquarters building, and to acquire and hold, by lease, purchase, gift, bequest or devise, such additional real estate as may reasonably be required for additions to or incident to the reasonable use of the Bar Center Headquarters building.

(b) To construct, purchase, lease or otherwise acquire such additions to a Bar Center Headquarters building as may reasonably be required, to incur such indebtedness as may be required in the opinion of the trustees in order to finance the acquisition of additional land for and additions to the Bar Center Headquarters building, and to secure the payment of such indebtedness by mortgage or pledge of the property, real and personal, of the trust.

(c) To control, manage, and maintain the Bar Center Headquarters building and all real and personal property incident thereto.

(d) To receive and accept any gifts, devises and bequests of real and personal property, and to hold, sell, mortgage, expend, invest, reinvest and otherwise control and use the same or the proceeds thereof for any purposes incident to the Bar Center Headquarters building.

(e) To accept and hold in trust real and personal property given, devised and bequeathed for any use and purpose germane to the acquisition, maintenance and expansion of the Bar Center Headquarters building, and to administer such trust in accordance with the terms thereof.

(f) To institute, intervene in, or defend any action or proceeding at law or in equity in any state or federal court wherein any issue involving the trustees, the real or personal property within their charge, or the trust is or may be presented.

(g) The trustees shall, annually on or before September 15 of each year, render to this Court and to the Board of governors of the Association, or more often if either shall so direct, a complete account of their administration and transactions.

18. Rules of the Supreme Court (SCR), Rule 3.120 is renumbered as Rule 3.03.070 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.03.070
SCR 3.03.070 Fiscal provisions

(1) The licensing fees prescribed in Rule 3.04.030 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 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 Executive 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 Court for its approval. The Board shall include in its budget proposal the budget of the Continuing Legal Education Commission and the Attorney Discipline Oversight Commission. In the event that the budget submitted by the Board to the Court on behalf of the Continuing Legal Education Commission or the Attorney Discipline Oversight Commission differs from the budget proposed by either or both Commissions, the Board shall also submit to the Court the original budget(s) proposed by the Commission(s), along with a brief explanation for the differences. 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 Court, 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 Court.

(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 Court.

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

(7) The Executive Director, Treasurer 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 Court, a private accounting firm approved by the Court. The report of the audit shall be submitted to the 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.

19. Rules of the Supreme Court (SCR), Rule 3.130 is renumbered as Rule 3.06(1.0) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06(1.0), Rules of Professional Conduct Rule 1.0
SCR 3.06(1.0) Kentucky Rules of Professional Conduct

Preamble: A Lawyer's Responsibilities

I. The Preamble and this note on Scope provide general orientation. The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative.

II. A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

III. As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As an advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As a negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

IV. In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

V. In all professional functions a lawyer shall be competent, prompt and diligent. A lawyer shall maintain communication with a client concerning the representation. A lawyer shall keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

VI. A lawyer's conduct shall conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer shall use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer shall demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public

officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

VII. As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

VIII. Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

IX. A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

X. In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic

principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

XI. The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

XII. To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

XIII. The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

XIV. Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

Scope

XV. The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives, cast in the terms “shall” or “shall not.” These define proper conduct for purposes of professional discipline. Others, generally cast in the term “may,” are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly

obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term “should.” Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

XVI. The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

XVII. Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.

XVIII. Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule 1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

XIX. Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

XX. Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

XXI. Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

XXII. The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative.

20. Rules of the Supreme Court (SCR) Rule 3.130(1.0) is renumbered as Rule 3.01.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.01.030 Rules of Professional Conduct
SCR 3.01.030(1.0) Definitions for the Rules of Professional Conduct

As used in SCR 3.06 et seq., the following definitions shall apply unless the context clearly requires a different meaning:

(a) “Belief” or “believes” denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

(b) “Confirmed in writing,” when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of an informed consent. If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

(c) “Firm” or “law firm” denotes a lawyer or lawyers in a, law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization.

(d) “Fraud” or “fraudulent” denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

(e) “Informed consent” denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

(f) “Knowingly,” “known,” or “knows” denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

(g) “Partner” denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

(h) “Reasonable” or “reasonably” when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

(i) “Reasonable belief” or “reasonably believes” when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

(j) “Reasonably should know” when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(k) “Screened” denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are

reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law.

(l) “Substantial” when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(m) “Tribunal” denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency, disciplinary or admissions entity created by the Supreme Court, or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(n) “Writing” or “written” denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and e-mail. A “signed” writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

21. Rules of the Supreme Court (SCR) Rule 3.130(1.1) is renumbered as Rule 3.06(1.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.1)
SCR 3.06(1.1) Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

22. Rules of the Supreme Court (SCR) Rule 3.130(1.2) is renumbered as Rule 3.06(1.2) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.2)
SCR 3.06(1.2) Scope of representation and allocation of authority between client and lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule of Professional Conduct 1.4, shall consult with the client as to the means by

which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

23. Rules of the Supreme Court (SCR) Rule 3.130(1.3) is renumbered as Rule 3.06(1.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.3)
SCR 3.06(1.3) Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

24. Rules of the Supreme Court (SCR) Rule 3.130(1.4) is renumbered as Rule 3.06(1.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.4)
SCR 3.06(1.4) Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule of Professional Conduct 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

25. Rules of the Supreme Court (SCR) Rule 3.130(1.5) is renumbered as Rule 3.06(1.5) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.5)
SCR 3.06(1.5) Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly

represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. Such a fee must meet the requirements of Rule of Professional Conduct 1.5(a). A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony, maintenance, support, or property settlement in lieu thereof, provided this does not apply to liquidated sums in arrearage; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is in proportion to the services performed by each lawyer, or, each lawyer assumes joint responsibility for the representation;

(2) the client agrees to the arrangement and the agreement is confirmed in writing; and

(3) the total fee is reasonable.

(f) A fee may be designated as an advance fee. An advance fee agreement shall be in a writing signed by the client evidencing the client's informed consent, and shall state the dollar amount of the fee, its application to the scope of the representation and the time frame in which the agreement will exist.

26. Rules of the Supreme Court (SCR) Rule 3.130(1.6) is renumbered as Rule 3.06(1.6) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.6)
SCR 3.06(1.6) Confidentiality of information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to secure legal advice about the lawyer's compliance with these Rules;

(3) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding, including a disciplinary proceeding, concerning the lawyer's representation of the client; or

(4) to comply with other law or a court order.

27. Rules of the Supreme Court (SCR) Rule 3.130(1.7) is renumbered as Rule 3.06(1.7) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.7)
SCR 3.06(1.7) Conflict of interest: current clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing. The consultation shall include an explanation of the implications of the common representation and the advantages and risks involved.

28. Rules of the Supreme Court (SCR) Rule 3.130(1.8) is renumbered as Rule 3.06(1.8) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.8)
SCR 3.06(1.8) Conflict of interest: current clients; specific rules

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a

portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) the client gives informed consent;

(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) information relating to representation of a client is protected as required by Rule of Professional Conduct 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not:

(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement; or

(2) settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them before the client-lawyer relationship commenced.

(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.

29. Rules of the Supreme Court (SCR) Rule 3.130(1.9) is renumbered as Rule 3.06(1.9) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.9)
SCR 3.06(1.9) Duties to former clients

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client

(1) whose interests are materially adverse to that person; and

(2) about whom the lawyer had acquired information protected by Rules of Professional Conduct 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or

(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

30. Rules of the Supreme Court (SCR) Rule 3.130(1.10) is renumbered as Rule 3.06(1.10) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct Rule (1.10)

SCR 3.06(1.10) Imputation of conflicts of interest: general rule

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules of Professional Conduct 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm, unless:

(1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) any lawyer remaining in the firm has information protected by Rules of Professional Conduct 1. 6 and 1.9(c) that is material to the matter.

(c) A disqualification prescribed by this Rule may be waived by the affected client under the conditions stated in Rule of Professional Conduct 1.7.

(d) A firm is not disqualified from representation of a client if the only basis for disqualification is representation of a former client by a lawyer presently associated with the firm, sufficient to cause that lawyer to be disqualified pursuant to Rule of Professional Conduct 1.9 and:

(1) the disqualified lawyer is screened from any participation in the matter and is apportioned no specific part of the fee therefrom; and

(2) written notice is given to the former client.

(e) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule of Professional Conduct 1.11.

31. Rules of the Supreme Court (SCR) Rule 3.130(1.11) is renumbered as Rule 3.06(1.11) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct Rule (1.11)

SCR 3.06(1.11) Special conflicts of interest for former and current government officers and employees

(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to Rule of Professional Conduct 1.9(c); and

(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the appropriate private public body or government agency to enable it to ascertain compliance with the provisions of this Rule.

(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule, the term “confidential government information” means information that has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.

(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:

(1) is subject to Rules of Professional Conduct 1.7 and 1.9; and

(2) shall not:

(i) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the appropriate government agency gives its informed consent, confirmed in writing; or

(ii) negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer or arbitrator may negotiate for private employment as permitted by Rule of Professional Conduct 1.12(b) and subject to the conditions stated in Rule of Professional Conduct 1.12(b).

(e) As used in this Rule, the term "matter" includes:

(1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties, and

(2) any other matter covered by the conflict of interest rules of the appropriate government agency.

32. Rules of the Supreme Court (SCR) Rule 3.130(1.12) is renumbered as Rule 3.06(1.12) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.12)
SCR 3.06(1.12) Judge, arbitrator, mediator or other third-party neutral

(a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer, or as an arbitrator, mediator or other third-party neutral. This Rule does not prohibit an arbitrator, mediator, or third-part neutral from negotiating future cases. A lawyer serving as a law clerk to a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the clerk is participating personally and substantially, but only after the lawyer has notified the judge or other adjudicative officer.

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this Rule.

(d) An arbitrator selected as a partisan of a party in a multimember arbitration panel is not prohibited from subsequently representing that party.

33. Rules of the Supreme Court (SCR) Rule 3.130(1.13) is renumbered as Rule 3.06(1.13) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.13)
SCR 3.06(1.13) Organization as client

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act in behalf of the organization as determined by applicable law.

(c) Except as provided in paragraph (d), if,

(1) despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule of Professional Conduct 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

(f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

(g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule of Professional Conduct 1.7. If the organization's consent to the dual representation is required by Rule of Professional Conduct 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

34. Rules of the Supreme Court (SCR) Rule 3.130(1.14) is renumbered as Rule 3.06(1.14) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.14)
SCR 33.06(1.14) Client with diminished capacity

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, age, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the

client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule of Professional Conduct 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule of Professional Conduct 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

35. Rules of the Supreme Court (SCR) Rule 3.130(1.15) is renumbered as Rule 3.06(1.15) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.15)
SCR 3.06(1.15) Safekeeping property

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client, third person, or both in the event of a claim by each to the property. The separate account referred to in the preceding sentence shall be maintained in a bank which has agreed to notify the Kentucky Bar Association in the event that any overdraft occurs in the account. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) Upon receiving funds or other property in which a client has an interest, a lawyer shall promptly notify the client. Except as stated in this Rule or otherwise permitted by law or by agreement with the client a lawyer shall promptly deliver to the client any funds or other property that the client is entitled to receive and, upon request by the client, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of funds or other property in which the lawyer and client claim interests and are not in agreement regarding those interests, the funds or other property in dispute shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the funds or other property in which the interests are not in conflict.

(d) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(e) Except for advance fees as provided in Rule of Professional Conduct 1.5(f), a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

36. Rules of the Supreme Court (SCR) Rule 3.130(1.16) is renumbered as Rule 3.06(1.16) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.16)
SCR 3.06(1.16) Declining or terminating representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law; or

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client; or

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent; or

(3) the client has used the lawyer's services to perpetrate a crime or fraud; or

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement; or

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; or

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

37. Rules of the Supreme Court (SCR) Rule 3.130(1.17) is renumbered as Rule 3.06(1.17) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.17)
SCR 3.06(1.17) Sale of law practice

A lawyer or a law firm may sell or purchase a law practice, or a field of practice, including good will, if the following conditions are satisfied:

(a) The seller ceases to engage in:

(1) the private practice of law; or

(2) the field(s) of practice sold; or

(3) the practice of law in the geographic area in which the practice has been conducted, all as the seller and purchaser may agree;

(b) The entire practice, or the entire field of practice is sold to one or more lawyers or law firms;

(c) The seller gives written notice to each of the seller's clients regarding:

(1) the proposed sale;

(2) the client's right to retain other counsel or to take possession of the file; and

(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of the date the notice was sent.

(d) The fees charged clients shall not be increased by reason of the sale.

(e) If a client with active matters cannot be given notice, the file(s) of that client may be transferred to the purchaser only upon entry of an order by the circuit court in the county of the principal place of business of the seller. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of the file. Notification of the entry of the order shall be sent to the Kentucky Bar Association.

(f) In the event the sale includes files that are closed matters, and the attorney has mailed notice to the client's last known address, the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of the date the notice was sent.

(g) Upon the sale of a law practice, the seller shall make reasonable arrangements for the maintenance of client trust account records.

38. Rules of the Supreme Court (SCR) Rule 3.130(1.18) is renumbered as Rule 3.06(1.18) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.18)
SCR 3.06(1.18) Duties to prospective client

(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule of Professional Conduct 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that

lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or;

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.

39. Rules of the Supreme Court (SCR) Rule 3.130(1.19) is renumbered as Rule 3.06(1.19) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (1.19)
SCR 3.06(1.19) Dissolution of law firm

Upon dissolution of a law firm or of any legal professional corporation, the partners shall make reasonable arrangements for the maintenance of client trust account.

40. Rules of the Supreme Court (SCR) Rule 3.130(2.1) is renumbered as Rule 3.06(2.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (2.1)
SCR 3.06(2.1) Advisor

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation.

41. Rules of the Supreme Court (SCR) Rule 3.130(2.3) is renumbered as Rule 3.06(2.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct Rule (2.3)

SCR 3.06(2.3) Evaluation for use by third persons

(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client.

(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.

(c) Except as disclosure is authorized in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by Rule of Professional Conduct 1.6.

42. Rules of the Supreme Court (SCR) Rule 3.130(2.4) is renumbered as Rule 3.06(2.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct Rule (2.4)

SCR 3.06(2.4) Lawyer serving as third-party neutral

(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them. Service as a third-party neutral may include service as an arbitrator, a mediator or in such other capacity as will enable the lawyer to assist the parties to resolve the matter.

(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them. When the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client.

43. Rules of the Supreme Court (SCR) Rule 3.130(3.1) is renumbered as Rule 3.06(3.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct Rule (3.1)

SCR 3.06(3.1) Meritorious claims and contentions

A lawyer shall not knowingly bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

44. Rules of the Supreme Court (SCR) Rule 3.130(3.2) is renumbered as Rule 3.06(3.2) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.2)
SCR 3.06(3.2) Expediting litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

45. Rules of the Supreme Court (SCR) Rule 3.130(3.3) is renumbered as Rule 3.06(3.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.3)
SCR 3.06(3.3) Candor toward the tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal published legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal

or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule of Professional Conduct 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse.

46. Rules of the Supreme Court (SCR) Rule 3.130(3.4) is renumbered as Rule 3.06(3.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.4)
SCR 3.06(3.4) Fairness to opposing party and counsel

A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) knowingly falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or deliberately fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or

(f) present, participate in presenting, or threaten to present criminal or disciplinary charges solely to obtain an advantage in any civil or criminal matter; or

(g) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(1) the person is a relative or agent who supervises, directs or regularly consults with the client concerning the matter or has authority to obligate the client with respect to the matter; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

47. Rules of the Supreme Court (SCR) Rule 3.130(3.5) is renumbered as Rule 3.06(3.5) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.5)
SCR 3.06(3.5) Impartiality and decorum of the tribunal

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) communicate ex parte with such a person as to the merits of the cause except as permitted by law or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(1) the communication is prohibited by law, local rule, or court order;

(2) the juror has made known to the lawyer a desire not to communicate; or

(3) the communication involves misrepresentation, coercion, duress or harassment; or

(d) engage in conduct intended to disrupt a tribunal.

48. Rules of the Supreme Court (SCR) Rule 3.130(3.6) is renumbered as Rule 3.06(3.6) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.6)
SCR 3.06(3.6) Trial publicity

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) information contained in a public record;

(3) that an investigation of the matter is in progress;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and information necessary thereto;

(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) in a criminal case, in addition to subparagraphs (1) through (6):

(i) the identity, residence, occupation and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) the fact, time and place of arrest; and

(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a)

49. Rules of the Supreme Court (SCR) Rule 3.130(3.7) is renumbered as Rule 3.06(3.7) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.7)
SCR 3.06(3.7) Lawyer as witness

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule of Professional Conduct 1.7 or Rule of Professional Conduct 1.9.

50. Rules of the Supreme Court (SCR) Rule 3.130(3.8) is renumbered as Rule 3.06(3.8) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.8)
SCR 3.06(3.8) Special responsibilities of a prosecutor

The prosecutor in a criminal case shall:

(a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

(b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

(d) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:

(1) the information sought is not protected from disclosure by any applicable privilege;

(2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and

(3) there is no other feasible alternative to obtain the information;

(e) refrain, except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons under the supervision of the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule of Professional Conduct 3.6 or this Rule of Professional Conduct.

51. Rules of the Supreme Court (SCR) Rule 3.130(3.9) is renumbered as Rule 3.06(3.9) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (3.9)
SCR 3.06(3.9) Advocate in nonadjudicative proceedings

A lawyer representing a client before a legislative body or administrative agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules of Professional Conduct 3.3(a) through (c), 3.4(a) through (c), and 3.5.

52. Rules of the Supreme Court (SCR) Rule 3.130(4.1) is renumbered as Rule 3.06(4.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (4.1)
SCR 3.06(4.1) Truthfulness in statements to others

In the course of representing a client a lawyer:

(a) shall not knowingly make a false statement of material fact or law to a third person; and

(b) if a false statement of material fact or law has been made, shall take reasonable remedial measures to avoid assisting a fraudulent or criminal act by a client including, if necessary, disclosure of a material fact, unless prohibited by Rule of Professional Conduct 1.6.

53. Rules of the Supreme Court (SCR) Rule 3.130(4.2) is renumbered as Rule 3.06(4.2) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (4.2)
SCR 3.06(4.2) Communication with person represented by counsel

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

54. Rules of the Supreme Court (SCR) Rule 3.130(4.3) is renumbered as Rule 3.06(4.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (4.3)
SCR 3.06(4.3) Dealing with unrepresented person

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person. The lawyer may suggest that the unrepresented person secure counsel.

55. Rules of the Supreme Court (SCR) Rule 3.130(4.4) is renumbered as Rule 3.06(4.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (4.4)
SCR 3.06(4.4) Respect for rights of third persons

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall:

(1) refrain from reading the document,

(2) promptly notify the sender, and

(3) abide by the instructions of the sender regarding its disposition.

56. Rules of the Supreme Court (SCR) Rule 3.130(4.5) is renumbered as Rule 3.06(4.5) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (4.5)
SCR 3.06(4.5) Solicitation of clients

(1) No lawyer shall directly or through another person by in person, live telephone, or real-time electronic means, solicit professional employment when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless:

(a) the person contacted is a lawyer;

(b) the person contacted has an immediate family relationship, or prior attorney-client relationship with the lawyer; or

(c) the lawyer is advocating a public interest issue and is not significantly motivated by the lawyer's pecuniary gain.

This Rule shall not prohibit response to inquiries initiated by persons who may become prospective clients at the time of any other incidental contact not designed or intended by the lawyer to solicit employment.

(2) No lawyer shall solicit professional employment by written, recorded, or electronic communication or by in-person, live telephone, or real-time electronic contact even when not otherwise prohibited by paragraph (1) if:

(a) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(b) the solicitation involves coercion, duress or harassment.

(3) Every written, recorded or electronic communication from a lawyer soliciting professional employment from anyone known to be in need of legal services in a particular matter shall include the words “Advertising Material” on the outside of the envelope, if any, or in the subject line if sent as an email, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (1)(a) or (1)(b).

(4) Except as provided in paragraph (1), no communication shall be sent to those individuals and related targets of solicitation who have been involved in a

disaster, as defined in SCR 3.06(7.60), until 30 days have elapsed from the occurrence of the disaster.

(5) Notwithstanding the prohibitions in paragraph (1), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer which uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular manner covered by the plan.

(6) This Rule shall not prohibit response to inquiries initiated by persons who may become prospective clients at the time of any other incidental contact not designed or intended by the lawyer to solicit employment.

57. Rules of the Supreme Court (SCR) Rule 3.130(4.6) is renumbered as Rule 3.06(4.6) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (4.6)
SCR 3.06(4.6) Waiver and forfeiture of fees for prohibited solicitation

If a lawyer illegally or unethically solicited a client for which compensation is paid or payable, all fees arising from such transaction shall be deemed waived and forfeited and shall be returned to the client. A civil action for recovery of such fees may be brought in a court of competent jurisdiction. Violations may be addressed by the Inquiry Commission as a disciplinary matter.

58. Rules of the Supreme Court (SCR) Rule 3.130(5.1) is renumbered as Rule 3.06(5.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.1)
SCR 3.06(5.1) Responsibilities of partners, managers and supervisory lawyers

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyers violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

59. Rules of the Supreme Court (SCR) Rule 3.130(5.2) is renumbered as Rule 3.06(5.2) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.2)
SCR 3.06(5.2) Responsibilities of a subordinate lawyer

(a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person.

(b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

60. Rules of the Supreme Court (SCR) Rule 3.130(5.3) is renumbered as Rule 3.06(5.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.3)
SCR 3.06(5.3) Responsibilities regarding nonlawyer assistants

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer only if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

61. Rules of the Supreme Court (SCR) Rule 3.130(5.4) is renumbered as Rule 3.06(5.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.4)
SCR 3.06(5.4) Professional independence of a lawyer

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule of Professional Conduct 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price;

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

62. Rules of the Supreme Court (SCR) Rule 3.130(5.5) is renumbered as Rule 3.06(5.5) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.5)
SCR 3.06(5.5) Unauthorized practice of law; multijurisdictional practice of law

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish or maintain an office or other presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction if such services:

(1) comply with SCR 3.04.010(2), or they do not require compliance with SCR 3.04.010(2) due to federal statute, rule or regulation; or

(2) are in, or reasonably related to, a pending or potential proceeding before a tribunal or alternative dispute resolution proceeding in another jurisdiction for a client, or prospective client pursuant to Rule of Professional Conduct 1.18, if the services arise out of, or are reasonably related to, the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission pursuant to SCR 3.04.010(2); or

(3) are not within paragraph (c) (2) and arise out of, or are reasonably related to, the representation of the lawyer's client in the jurisdiction in which the lawyer is admitted.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) comply with SCR 2.111 regarding a Limited Certificate of Admission to Practice Law in this jurisdiction; or

(2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A lawyer authorized to provide legal services under this Rule shall be subject to the Kentucky Rules of Professional Conduct and shall comply with SCR 3.04.010(2) or, if such legal services do not require compliance with that Rule, the lawyer must actively participate in, and assume responsibility for, the representation of the client.

63. Rules of the Supreme Court (SCR) Rule 3.130(5.6) is renumbered as Rule 3.06(5.6) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.6)
SCR 3.06(5.6) Restrictions on right to practice

A lawyer shall not participate in offering or making:

(a) a partnership or, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or

(b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

64. Rules of the Supreme Court (SCR) Rule 3.130(5.7) is renumbered as Rule 3.06(5.7) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.7)
SCR 3.06(5.7) Activities of suspended lawyer

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

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

(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;

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

(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.

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

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

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

(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.

(3) Except as provided in paragraph (1) and (2), 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.

(4) Prior to or at the time of employing a suspended lawyer, the employing lawyer shall serve upon 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 (1). Upon terminating the employment of a suspended lawyer, the employing lawyer shall promptly serve written notice of such termination upon Disciplinary Counsel.

65. Rules of the Supreme Court (SCR) Rule 3.130(5.8) is renumbered as Rule 3.06(5.8) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (5.8)
SCR 3.06(5.8) Responsibilities regarding law-related services

(1) A lawyer shall be subject to the Rules of Professional Conduct with respect to the provision of law-related services, as defined in subsection (2), if the law-related services are provided:

(a) by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients; or

(b) in other circumstances by an entity controlled by the lawyer individually or with others if the lawyer fails to take reasonable measures to assure that a person obtaining the law-related services knows that the services are not legal services and that the protections of the client-lawyer relationship do not exist.

(2) The term "law-related services" denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.

66. Rules of the Supreme Court (SCR) Rule 3.130(6.1) is renumbered as Rule 3.06(6.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (6.1)
SCR 3.06(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 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.

67. Rules of the Supreme Court (SCR) Rule 3.130(6.2) is renumbered as Rule 3.06(6.2) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (6.2)
SCR 3.06(6.2) Accepting appointments

A lawyer should not seek to avoid appointment by a tribunal to represent a person except for good cause, such as:

(a) Representing the client is likely to result in violation of the Rules of Professional Conduct or other law;

(b) Representing the client is likely to result in an unreasonable financial burden on the lawyer; or

(c) The client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

68. Rules of the Supreme Court (SCR) Rule 3.130(6.3) is renumbered as Rule 3.06(6.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (6.3)
SCR 3.06(6.3) Membership in legal services organization

A lawyer may serve as a director, officer or member of a legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests adverse to a client of the lawyer. The lawyer shall not knowingly participate in a decision or action of the organization:

(a) If participating in the decision would be incompatible with the lawyer's obligations to a client under Rule of Professional Conduct 1.7; or

(b) Where the decision could have a material adverse effect on the representation of a client who will be served by lawyers provided by the organization whose interests are adverse to a client of the lawyer.

69. Rules of the Supreme Court (SCR) Rule 3.130(6.4) is renumbered as Rule 3.06(6.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (6.4)
SCR 3.06(6.4) Law reform activities affecting client interests

A lawyer may serve as a director, officer or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially affected by a decision in which the lawyer participates, the lawyer shall disclose that fact but need not identify the client.

70. Rules of the Supreme Court (SCR) Rule 3.130(6.5) is renumbered as Rule 3.06(6.5) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (6.5)
SCR 3.06(6.5) Nonprofit and court-annexed limited legal services programs

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules of Professional Conduct 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule of Professional Conduct 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule of Professional Conduct 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule of Professional Conduct 1.10 is inapplicable to a representation governed by this Rule.

71. Rules of the Supreme Court (SCR) Rule 3.130(7.01) is renumbered as Rule 3.06(7.01) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.01)
SCR 3.06(7.01) Definitions

For the purposes of Rule of Professional Conduct 7, the following definitions shall apply:

(1) “Advertise” or “advertisement” means to furnish any information or communication containing a lawyer's name or other identifying information, and an “advertisement” is any information containing a lawyer's name or other identifying information; except the following:

(a) a professional card of a lawyer;

(b) a public service announcement identifying the sponsor as a lawyer or law firm, by name, address(es), telephone number(s), but no other information; or

(c) a sign on or near the law office and in the building directory identifying the law office.

(2) “Legal Services” means the practice of law as defined in SCR 3.01.020.

(3) “Commission” when used in SCR 3.04.010(2) means Attorneys' Advertising Commission.

72. Rules of the Supreme Court (SCR) Rule 3.130(7.02) is renumbered as Rule 3.06(7.02) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.02)
SCR 3.06(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 Executive 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 Executive 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 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.

73. Rules of the Supreme Court (SCR) Rule 3.130(7.03) is renumbered as Rule 3.06(7.03) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.03)
SCR 3.06(7.03) Advisory opinions

(1) A lawyer may request an advisory opinion by the Commission. Such request shall be in writing and shall be accompanied by a filing fee of $75.00. Within 30 days after such request is received, the Commission shall issue its advisory opinion as to the compliance of the advertisement with the Advertising Rules and Advertising Regulations. If the Commission finds that the advertisement does not comply with the requirements of the Advertising Rules or the Advertising Regulations, the Commission, or its designee, shall issue an advisory letter setting forth the factual and legal basis for the opinion. The

lawyer may submit a corrected advertisement that conforms to the advice in the advisory letter with no additional fee required.

(2) For any advertisement submitted pursuant to SCR 3.06(7.03)(1), the lawyer shall mail or deliver to the Commission, c/o the Executive Director of the Kentucky Bar Association, 3 copies of the advertisement. If the advertisement is to be published by broadcast media, including radio or television, a fair and accurate representation of the advertisement plus 3 copies of a typed transcript of the words spoken shall be submitted. Websites must be submitted in electronic format on a data disc in PDF (Portable Document Format), or other such data storage media as the Commission may designate by regulation. Three (3) copies of the data disc should be mailed or delivered to the Commission, c/o the Executive Director of the Kentucky Bar Association. A filing fee of $75.00 for each advertisement filed under this subsection shall accompany each submission. Additionally, advertisements of more than 100 pages, or longer than 10 minutes of video or audio, will require a supplemental fee of $100.00. The fair and accurate representation of a broadcast media advertisement shall include 3 copies of a digital video disc (DVD), flash drive, or compact disc (CD), plus 3 copies of a typed transcript of the advertisement.

(3) If a lawyer has received an advisory opinion that an advertisement complies with the Advertising Rules and Advertising Regulations, that lawyer shall not be disciplined for any use of that advertisement, unless an advertisement is false, misleading or deceptive, or information provided to the Commission in connection with the submission is false, misleading or deceptive after the Commission has issued its advisory opinion.

74. Rules of the Supreme Court (SCR) Rule 3.130(7.04) is renumbered as Rule 3.06(7.04) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.04)
SCR 3.06(7.04) Records of the Commission

All advertisements and the records of all actions taken by the Commission on submitted advertisements shall be available for inspection and copying at the offices of the Kentucky Bar Association at reasonable times and upon reasonable notice. Any expense incurred shall be borne by the requesting party.

75. Rules of the Supreme Court (SCR) Rule 3.130(7.10) is renumbered as Rule 3.06(7.10) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.10)
SCR 3.06(7.10) Communications concerning a lawyer's service

A lawyer shall not make a false, deceptive or misleading communication about the lawyer or the lawyer's service. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

76. Rules of the Supreme Court (SCR) Rule 3.130(7.15) is renumbered as Rule 3.06(7.15) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.15)
SCR 3.06(7.15) Advertising of fees

A lawyer who advertises a fee for routine services and accepts the employment must perform such services for the amount advertised. Upon request, a detailed description of what services are included in the "routine services" must be supplied to the Commission and to each prospective client.

77. Rules of the Supreme Court (SCR) Rule 3.130(7.20) is renumbered as Rule 3.06(7.20) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.20)
SCR 3.06(7.20) Advertising

(1) Subject to the requirements of Rules of Professional Conduct 4.5 and 7.10, a lawyer may advertise legal services through written, recorded or electronic communications, including public media.

(2) A lawyer shall not give anything of value to a non-lawyer for recommending the lawyer's services except that a lawyer may:

(a) Pay the reasonable cost of advertising or communication permitted by this Rule;

(b) Pay the usual charges of a legal service plan or a not-for-profit lawyer referral service;

(c) Pay for a law practice in accordance with Rule of Professional Conduct 1.17; and

(d) Refer clients to another lawyer or a non-lawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) The reciprocal referral agreement is not exclusive, and

(ii) The client is informed of the existence and nature of the agreement.

(3) Any communication made pursuant to these Rules shall include: the name and office address of at least 1 lawyer or the name of a law firm. The lawyer or lawyers in Kentucky shall be responsible for the content of the advertisement.

(4) Communication by a lawyer with a person or entity with whom that lawyer has an immediate family or current attorney-client relationship, or a communication in response to an inquiry from any person or entity seeking information, shall be exempt from the provisions of the Advertising Rules and the Advertising Regulations, with the exception of SCR 3.06(7.10).

(5) If a lawyer or a law firm advertises legal services and a lawyer's name or image is used to present the advertisement, the lawyer must be the lawyer who will actually perform the service advertised unless the advertisement prominently discloses that the service may be performed by other lawyers. If the lawyer whose name or image is used is not licensed to perform the services in Kentucky, such fact shall be disclosed in the advertisement. If the advertising lawyer or firm is advertising for clients for the purpose of referring the client to another lawyer or firm, that fact must be disclosed prominently in the advertisement.

(6) The lawyer shall retain a copy or recording of all advertisements utilized by the lawyer, as well as a record of when and where it was used, for 2 years after its last dissemination. Electronic retention is permitted if in PDF format, or such other formats as the Commission may designate by regulation. In the event of the pendency of any disciplinary action before the Inquiry Commission, Board of Governors or Court, the lawyer shall continue to retain a copy until the termination of that proceeding.

78. Rules of the Supreme Court (SCR) Rule 3.130(7.40) is renumbered as Rule 3.06(7.40) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct Rule (7.40)

SCR 3.06(7.40) Communication of fields of practice

(1) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

(2) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation “Patent Lawyer” or a substantially similar designation.

(3) A lawyer engaged in admiralty practice may use the designation “Admiralty”, “Proctor in Admiralty”, or substantially similar designation.

(4) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:

(a) the lawyer has been certified as a specialist by an organization which has been approved by an appropriate state authority or that has been accredited by the American Bar Association;

(b) the name of the certifying organization is clearly identified in the communication; and

(c) the communication occurs only for as long as the lawyer remains so certified and in good standing.

79. Rules of the Supreme Court (SCR) Rule 3.130(7.50) is renumbered as Rule 3.06(7.50) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.50)
SCR 3.06(7.50) Firm names and letterheads

(1) A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule of Professional Conduct 7.10.

(2) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(3) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any period in which the lawyer is not actively and regularly practicing with the firm.

(4) Lawyers may state or imply that they practice in a legal entity only if that is the fact.

(5) The name of a lawyer who is suspended by the Supreme Court from the practice of law may not be used by the law firm in any manner until the lawyer is reinstated. A lawyer who has been permanently disbarred shall not be included in a firm name, letterhead, or any other professional designation, or advertisement.

80. Rules of the Supreme Court (SCR) Rule 3.130(7.60) is renumbered as Rule 3.06(7.60) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (7.60)
SCR 3.06(7.60) Kentucky Bar Association Disaster Response Plan

(1) It is the purpose of the Kentucky Disaster Response Plan to:

(a) address the problems that occur when lawyers and non-lawyers, who are not subject to the disciplinary jurisdiction of the Kentucky Bar Association and the Kentucky Supreme Court, engage in the provision of legal services, legal advice, and outright solicitation of persons and their families affected by a Disaster;

(b) provide information to the public regarding the availability of legal services, as well as information regarding the legal rights available to persons affected by disasters;

(c) monitor the conduct of all attorneys, both members and non-members of the Kentucky Bar Association, and thereby deter violations of the rules of ethical conduct and the rules of the Kentucky Bar Association; and

(d) inform the public of the levels of conduct required of members of the Kentucky Bar Association and notify the public that it is improper for attorneys to solicit employment either in person or through runners, agents, solicitors, or others in such a manner as to create direct contact between the attorney seeking such employment and the potential claimant.

(2) It is the policy of the Kentucky Bar Association to encourage and promote the highest ethical standards among attorneys practicing within its borders. Realizing the emotional distress and grief that are inevitable immediately following a Disaster, the Kentucky Bar Association Disaster Response Plan (hereafter Plan) is established to facilitate the handling of these situations in a manner that best protects the interests of the persons involved as well as the legal community.

(3) For purposes of the Plan, a “Disaster” shall mean the type of emergency or disaster that draws persons to solicit clients. This includes, but is not limited

to, air crash, major fire, explosion, sea disaster, hazardous material contamination, flood, landslide, major rail or traffic accident, earthquake, or other circumstances resulting in substantial loss of life, substantial personal injury, or substantial property damage.

(4) It shall be the responsibility of the Immediate Past President of the Kentucky Bar Association (hereafter Past President) or if the Past President is absent from the state or physically or mentally unable to act, the Executive Director of the Kentucky Bar Association, or their designee, to identify a Disaster.

(5) The Kentucky Mass Disaster Task Force, (hereafter "Task Force") is hereby created from the Kentucky Bar Association membership in a sufficient number of "units" at the discretion of the Board to provide Disaster services. A unit of the Task Force shall consist of at least 1 member of the Board; 1 member of the Court of Justice; and 1 or more additional designees to each unit as appointed by the Past President.

(6) The Task Force shall meet promptly upon learning of an identified Disaster and shall establish a "legal service information center."

(7) The Task Force shall be provided with printed literature identifying the purpose of the Task Force, a press release identifying the unit of the Task Force, and any additional materials and equipment that the Past President, the Executive Director, or the unit members themselves believe necessary to accomplish their purpose.

(8) The units of the Task Force shall be prepared to inform affected persons that:

(a) decisions regarding most legal matters and legal claims (other than those requiring immediate attention for the preservation of life or health of a person) are generally decisions that are better made after reasonable and thoughtful consideration and after consultation with the appropriate professionals, including attorneys;

(b) legal services are available to persons affected by Disasters;

(c) persons and entities who sustain damage by reason of the wrongful conduct of another may be entitled to recover damages;

(d) "Statutes of Limitations" exist which apply to various causes of action within the Commonwealth of Kentucky and, in certain circumstances, to Federal causes of action;

(e) any person or entity believing he or she has been damaged by the wrongful acts of another should seek legal advice to determine the applicable statute of limitations;

(f) only those persons who have been admitted to practice law in the Commonwealth of Kentucky and those persons who are lawfully associated with them in practice may appear and present claims within the Courts of the Commonwealth of Kentucky;

(g) no person affected by a Disaster is obligated by law to furnish information regarding the occurrence to any representative of the media, or to investigators, insurance agents and adjusters (other than as required by the persons own insurers), attorneys, or other members of the public, except that a person who has observed conduct that may be identified as “criminal activity” is obligated to furnish information pertaining to criminal activity to lawfully constituted legal authorities;

(h) the affected persons should make a diligent effort to observe all conditions pertaining to the Disaster, and to make such appropriate records or notations as necessary in the circumstances to memorialize their recollections of the Disaster;

(i) if there are witnesses to the Disaster, it may be important to obtain the names, addresses, and telephone numbers of those witnesses, and to retain them for future reference;

(j) that Kentucky law does not certify specialties and that the members of the unit and their partners, associates, members of their firms, and other lawyers associated with them are not permitted to accept employment for the provision of legal services regarding the Disaster;

(k) the services provided by the unit are for informational purposes only; and

(l) each person or entity interested in legal services should seek the advice of private counsel selected by that person or entity.

(9) The Task Force shall investigate to determine if runners, attorneys, or others have been soliciting or attempting to solicit victims, relatives of victims, or others as clients for matters related to the Disaster. The Task Force shall designate from its members a person to receive any complaints or inquiries concerning suspected improper solicitation. As soon as is reasonably practicable, such designee shall furnish such information to the Executive Director of the Kentucky Bar Association or the Executive Director's designee.

(10) The Task Force shall be subject to the following restrictions:

(a) no member of the Task Force shall offer specific legal advice to anyone regarding the Disaster or refer a person to a particular lawyer or law firm. Upon inquiry and to the extent necessary to respond, a member of the Task Force may refer a person to other agencies or groups for information or assistance.

(b) no member of the unit assigned to a particular Disaster, nor any of the partners, members of the firm, associates, or other lawyers associated with the member shall be permitted to accept any employment relating to any matter arising out of that Disaster.

(c) the Task Force shall not issue any news releases or make any public statements on behalf of the Kentucky Bar Association without the specific prior approval of the Executive Director.

(11) The reasonable expenses incurred by each unit member of the Task Force in training and providing services as contemplated herein, as well as the cost of the equipment and supplies necessary to provide the service shall be paid from the General Fund of the Kentucky Bar Association unless the same expenses shall be provided from IOLTA funds of the Kentucky Bar Association, funds obtained from private sources, grants or donations; or from funds otherwise appropriated by the Kentucky General Assembly, including discretionary funds of the Governor of Kentucky or other elected officials. Each unit of the Task Force shall be authorized to obtain when necessary such secretarial and clerical assistance as appropriate in the circumstances of the particular Disaster.

81. Rules of the Supreme Court (SCR) Rule 3.130(8.1) is renumbered as Rule 3.06(8.1) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (8.1)
SCR 3.06(8.1) Bar admission and disciplinary matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact; or

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule of Professional Conduct 1.6.

82. Rules of the Supreme Court (SCR) Rule 3.130(8.2) is renumbered as Rule 3.06(8.2) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (8.2)
SCR 3.06(8.2) Judicial and legal officials

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

83. Rules of the Supreme Court (SCR) Rule 3.130(8.3) is renumbered as Rule 3.06(8.3) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (8.3)
SCR 3.06(8.3) Reporting professional misconduct

(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 Kentucky Supreme Court Office of Disciplinary Counsel.

(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.

(3) A lawyer is not required to report information that is protected by Rule of Professional Conduct 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.

(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 of Professional Conduct 3.4(f).

(5) As provided in SCR 3.08.280, 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 Disciplinary Counsel.

(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 Disciplinary Counsel of such event.

(7) As provided in SCR 3.08.070(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 Disciplinary Counsel of such event.

84. Rules of the Supreme Court (SCR) Rule 3.130(8.4) is renumbered as Rule 3.06(8.4) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (8.4)
SCR 3.06(8.4) Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or

(e) knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law.

85. Rules of the Supreme Court (SCR) Rule 3.130(8.5) is renumbered as Rule 3.06(8.5) and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.06, Rules of Professional Conduct
Rule (8.5)
SCR 3.06(8.5) Disciplinary authority; choice of law

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the Rules of Professional Conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

86. Rules of the Supreme Court (SCR) Rule 3.140 is renumbered as Rule 3.07.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.07.010
SCR 3.07.010 Appointment of Inquiry 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 3.07.010(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 . 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 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.

87. Rules of the Supreme Court (SCR) Rule 3.150 is renumbered as Rule 3.08.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.010
SCR 3.08.010 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 3.08.050.

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

(i) The Respondent has waived confidentiality;

(ii) The proceeding involves public reciprocal discipline;

(iii) The disclosure of any information is made for the purpose of conducting a supervisory investigation by the Attorney Discipline Oversight Commission or Disciplinary Counsel; or

(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) 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 3.08.050, the pendency, subject matter and status may also be disclosed

by Disciplinary Counsel at the discretion of the Chair of the Attorney Discipline Oversight Commission if:

(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) 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 has taken action on a Complaint including the issuance of a Charge, the issuance of a private admonition, or a dismissal, including those pursuant to SCR 3.08.100

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

(i) The Character and Fitness Committee;

(ii) A Lawyer Disciplinary Enforcement Agency;

(iii) A Judicial Disciplinary Enforcement Agency; or

(iv) The Chief Justice of the Kentucky Supreme Court.

(b) A request for non-public information to 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 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 Disciplinary Counsel.

(d) In the event of a request under (4)(a) or (c) notice to the Respondent is not required, although the 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 3.08.050, or upon the filing of a petition for reinstatement, an application for restoration, or an affidavit of compliance pursuant to 3.09.010, 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 , or the Court; or

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

(6) Protective Orders. The Inquiry Commission, the 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 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 matters for 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 Complainant, Respondent, Disciplinary Clerk, and the Court.

88. Rules of the Supreme Court (SCR) Rule 3.07.020 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.07.020
SCR 3.07.020 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, all 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; and

(b) Four attorney members appointed by the Supreme Court. Each of the four members shall reside in a different Supreme Court district.

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

(3) The four attorney members shall serve terms of three (3) years. The initial terms shall be staggered, with one member serving for one year, one member serving for two years, and two members serving for three years. No appointed member shall serve more than two (2) consecutive 3 year terms, not including the shorter initial terms.

(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 Kentucky Supreme Court and its 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, advisory letters, trials and other matters relevant to the attorney discipline process;

(e) Develop an annual budget for the operation of the 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;

(g) Exercise administrative oversight of Disciplinary Hearing Officers, including the authority to issue, sua sponte or upon application by Disciplinary Counsel or the Respondent, orders to correct unreasonable delays in a Disciplinary Hearing Officer's rulings or actions.

(h) 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;

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; and

vi. Provide a uniform process for compiling, certifying, and transmitting records to the Court,

(i) Conduct the annual training required by SCR 3.08.210.

(8) Administrative regulations, guidelines and internal standards established by the Attorney Discipline Oversight Commission shall be published to the Bar membership and available to the public.

(9) Information received by the Commission that is related to a complaint, investigation, or disciplinary matter, any proceedings of the Commission related to those matters, and any discussion that may lead to the appointment, discipline or dismissal of an employee subject to the Commission's oversight shall be confidential. Discussions of the Commission regarding general policy and regulatory matters shall not be confidential.

89. Rules of the Supreme Court (SCR) Rule 3.155 is renumbered as Rule 3.07.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.07.030
SCR 3.07.030 Appointment and duties of Disciplinary Counsel

(1) 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) The Chief Disciplinary Counsel shall be appointed by and shall serve at the pleasure of the Court. The Attorney Discipline Oversight Commission shall present recommendations to the Court for approval of the hiring and termination of the Chief Disciplinary Counsel and staff of the Kentucky Supreme Court Office of Disciplinary Counsel. The Chief Disciplinary Counsel, Disciplinary Counsel, and staff of the Kentucky Supreme Court Office of Disciplinary Counsel shall be employees of the Association and subject to its personnel policies. The Chief Disciplinary Counsel shall have general authority to manage the performance of Disciplinary Counsel and staff of the Kentucky Supreme Office of Disciplinary Counsel.

(3) Disciplinary Counsel shall be attorneys licensed to practice law in the Commonwealth.

(4) 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 or to the public, 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) Whenever Disciplinary Counsel becomes aware, through means other than a complaint filed under SCR 3.08.020, 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 3.08.020. 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.

(6) Annually, on or before November 1, the Attorney Discipline Oversight Commission shall submit to the Association's budget and finance committee a recommended budget for the succeeding fiscal year along with any

recommended changes in annual membership licensing fees to cover costs of administering the duties of the Attorney Discipline Oversight Commission and Disciplinary Counsel.

90. Rules of the Supreme Court (SCR) Rule 3.157 is renumbered as Rule 3.07.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.07.040
SCR 3.07.040 Appointment and duties of Disciplinary Clerk

The Disciplinary Clerk and Deputy Clerks shall be appointed by and shall serve at the pleasure of the 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 Court deems appropriate, and shall be responsible for accepting the filing of 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 Disciplinary Counsel, and other duties as are assigned by the Attorney Discipline Oversight Commission. The Disciplinary Clerk shall have general authority to manage the performance of his or her Deputies. The Disciplinary Clerk shall be assigned to the Office of Disciplinary Counsel for administrative purposes only.

91. Rules of the Supreme Court (SCR) Rule 3.160 is renumbered as Rule 3.08.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.020
SCR 3.08.020 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; or

(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)Any complaint against an attorney for unprofessional conduct which states an ethical violation on its face and is not suitable for alternative disposition under SCR 3.08.100 shall be assigned a case number by Disciplinary Counsel, who shall promptly send a copy of the complaint to the attorney by certified mail, sent to the address maintained by the Executive Director pursuant to SCR 3.04.020, and by email, sent to the official email address maintained by the Executive Director pursuant to SCR 3.04.020, along with notice that he/she has twenty (20) days to respond to the complaint.

(9) Upon the expiration of forty-five (45) days after sending the complaint and notice to Respondent, or upon receipt of a response to a complaint, whichever occurs later, 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 3.08.030(1); issue an advisory letter, with or without conditions, as set forth in SCR 3.08.030(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.

92. Rules of the Supreme Court (SCR) Rule 3.161 is deleted entirely.

93. Rules of the Supreme Court (SCR) Rule 3.162 is renumbered as Rule 3.08.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.030
SCR 3.08.030 Private admonitions and advisory and conditional dismissal letters

(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 twenty (20) days from the date of receipt of the filing by the attorney, reject such admonition and request that a Charge be issued and filed as is provided by Rule 3.08.040. Upon good cause shown, the Inquiry Commission may extend this deadline by an additional ten (10) days.

(2) The Inquiry Commission may also issue an advisory letter 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 Disciplinary Counsel, or referral to fee arbitration under SCR 3.12.020. The attorney who receives the advisory letter or conditional dismissal letter may, within twenty (20) days from the date of receipt of the letter by the attorney, respond to the letter and request that it be reconsidered by the Inquiry Commission. Upon good cause shown, the Inquiry Commission may extend this deadline by an additional ten (10) days.

94. Rules of the Supreme Court (SCR) Rule 3.163 is renumbered as Rule 3.08.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.040
SCR 3.08.040 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 Charge to be filed, it shall cause to be prepared such Charge stating the name and bar roster address of the attorney, facts alleged to constitute unprofessional conduct and the Supreme Court

Rule(s) alleged to be violated. The Charge shall be signed by a member of the panel which considers the case. It shall then be filed with the Disciplinary Clerk immediately thereafter.

(2) Upon notice to the Respondent, the Inquiry Commission may amend or dismiss the Charge upon its own motion, or that of Disciplinary Counsel, or the Respondent, at any time before assignment of a Disciplinary Hearing Officer pursuant to SCR 3.08.170. 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. Separate Charges may, by order of the Chief Disciplinary Hearing Officer, be consolidated and tried as a single disciplinary case.

(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 file the report required by SCR 3.08.200 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.

95. Rules of the Supreme Court (SCR) Rule 3.164 is renumbered as Rule 3.08.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.050
SCR 3.08.050 Notice of filing Charges; time to answer; filings with Disciplinary Clerk

(1) Upon the filing of a Charge, the Disciplinary Clerk shall furnish the Respondent with a copy, by certified mail return receipt requested to the

Respondent's bar roster address and by email, sent to the Respondent's official email address maintained by the Executive Director pursuant to SCR 3.04.020, or by service on the Executive Director as set forth in SCR 3.04.020, and notify the Respondent that within twenty (20) days after receipt of the notice, he/she must file a verified answer with the Disciplinary Clerk , with service on Disciplinary Counsel as set forth in CR 5. The 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 filings, including electronic, shall be deemed by the Disciplinary Clerk to be timely filed if filed in accordance with RAP 5(E).

96. Rules of the Supreme Court (SCR) Rule 3.165 is renumbered as Rule 3.08.060 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.060
SCR 3.08.060 Emergency suspension by the Supreme Court

(1) On petition of Disciplinary Counsel, and supported by an affidavit, an attorney may be suspended on an emergency basis 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 3.08.070(5) 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 Disciplinary Counsel. The Court may order the attorney to produce to the Court and 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 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 emergency 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 Disciplinary Counsel.

(3) The petition of emergency suspension authorized by this Rule shall be filed with the Clerk of the Court. 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 emergency suspension order by petition filed with the Court, a copy of which will be served on the Disciplinary Counsel, who shall respond . The Court may refer such petition for dissolution to a person who possesses the qualifications of a Disciplinary Hearing Officer under Rule 3.08.160 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 ten (10) days from the date of the entry of the order of emergency 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 Executive Director.

(6) Upon the issuance of an order of emergency 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.

(8) Disciplinary Counsel shall not rely on pending or active criminal charges against a Respondent or civil litigation in which a Respondent is a party as a basis for delaying disciplinary action against the Respondent, except that Disciplinary Counsel may place a disciplinary matter in abeyance by seeking an order of emergency suspension under this Rule. A Respondent with pending or active criminal charges or who is a party in civil litigation may agree to emergency suspension pursuant to the provisions of SCR 3.08.060 or may file a motion with the Disciplinary Clerk to be certified to the Court seeking temporary abeyance of a disciplinary matter or other relief as the Court may order.

97. Rules of the Supreme Court (SCR) Rule 3.166 is renumbered as Rule 3.08.070 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.070
SCR 3.08.070 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 suspended attorney shall serve a copy of any motion filed under paragraph (1) above on Disciplinary Counsel by mailing a copy to 514 West Main Street, Frankfort, Kentucky 40601. Disciplinary Counsel shall file a response to the suspended attorney's motion within twenty (20) days of receipt of the motion.

(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 Executive 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 Executive Director of such arrangements within the same ten (10) day period.

(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 or docket sheet with Disciplinary Counsel and the Clerk of the Supreme Court. An attorney prosecuting the case who is admitted to the practice of law in Kentucky shall also file a copy of said judgment with Disciplinary Counsel and with the Bar of any state to which he or she knows the convicted Member has previously been admitted.

98. Rules of the Supreme Court (SCR) Rule 3.167 is renumbered as Rule 3.08.080 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.080
SCR 3.08.080 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 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 3.08.050, or having answered, has thereafter failed to participate in the disciplinary process.

(2) Motions filed by 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 and the Respondent's participation therein; (ii) any communication between the Respondent and 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. 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 3.08.020, et seq.

(5) If a Respondent fails to seek reinstatement within five (5) years after entry of an Order of Indefinite Suspension, Disciplinary Counsel may move the Court for permanent disbarment.

99. Rules of the Supreme Court (SCR) Rule 3.08.090 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.090

SCR 3.08.090 Discipline by consent

(1) Approval. At any time before final disposition, the Respondent may agree with Disciplinary Counsel that the Respondent shall admit that the conduct as charged would violate the Rules of Professional Conduct as set forth in the formal charges, in exchange for a stated sanction.

(a) A Respondent and Disciplinary Counsel may initiate discipline by consent by filing a joint motion. If the motion is submitted before the beginning of a trial before the Disciplinary Hearing Officer, the motion shall be submitted to the Disciplinary Clerk for certification to the Court.

(b) If the motion 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.

(c) In either case, Disciplinary Counsel shall file a response to the Respondent's motion with the applicable body within thirty 30 days.

(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, and the disciplinary matter shall be reassigned to a different Disciplinary Hearing Officer.

(3) Affidavit of Consent. A motion for discipline by consent shall be accompanied by a signed affidavit from the Respondent 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.

100. Rules of the Supreme Court (SCR) Rule 3.08.100 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.100
SCR 3.08.100 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 3.12.020;

(c) Legal negligence arbitration under SCR 3.12.010;

(d) Legal or management education programs;

(e) Remedial ethics education programs;

(f) Referral to KYLAP under SCR 3.15.070(1)(c); or

(g) Issuance of an advisory letter with or without conditions, pursuant to SCR 3.08.030.

(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 an advisory 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 advisory 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 3.08.020(3).

101. Rules of the Supreme Court (SCR) Rule 3.180 is renumbered as Rule 3.08.110 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.110
SCR 3.08.110 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 Chief Disciplinary Hearing Officer if there is pending civil 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 Attorney Discipline Oversight Commission.

(3) Upon application of Disciplinary Counsel to the Chief Disciplinary Hearing Officer, for good cause shown the Chief Disciplinary Hearing Officer may authorize the Disciplinary Clerk to issue a subpoena to a Respondent, or any other person or legal entity, to produce to Disciplinary Counsel any evidence material to the investigation of a complaint or investigative file opened pursuant to SCR 3.08.020, 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 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; or (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 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.

102. Rules of the Supreme Court (SCR) Rule 3.181 is renumbered as Rule 3.08.120 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.120
SCR 3.08.120 Assistance to other lawyer disciplinary jurisdictions

(1) Upon receipt by the Executive 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 Chief Disciplinary Hearing Officer may authorize the 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 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 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.

103. Rules of the Supreme Court (SCR) Rule 3.08.130 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.130
SCR 3.08.130 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 Respondent or Disciplinary Counsel 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. A decision by the Disciplinary Hearing Officer granting or denying a request for disqualification is interlocutory and may not be appealed prior to the entry of the final order.

104. Rules of the Supreme Court (SCR) Rule 3.210 is renumbered as Rule 3.08.140 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.140
SCR 3.08.140 Processing cases of default

(1) If no answer is filed after a Respondent is notified, the 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 Chief Disciplinary Hearing Officer may at the request of Disciplinary Counsel order the files be consolidated.

(2) After entry of the order of submission, the 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 Disciplinary Counsel shall have an opportunity to file a response. 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.

105. Rules of the Supreme Court (SCR) Rule 3.08.150 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.150
3.08.150 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 3.08.160 to conduct an evidentiary hearing.

106. Rules of the Supreme Court (SCR) Rule 3.225 is renumbered as Rule 3.07.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.07.050
SCR 3.07.050 Appointment of 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 Board of Disciplinary Hearing Officers and shall designate a Chief Disciplinary Hearing Officer from the Board of Disciplinary Hearing Officers. The Board of Disciplinary Hearing Officers shall consist of no more than 15 members. Members of the 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 Disciplinary Hearing Officers from each Supreme Court District. Such 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.

(3) While Disciplinary Hearing Officers are not considered judges for purposes of the Code of Judicial Conduct, Disciplinary Hearing Officers shall abide by SCR 4.300, Canon 2, Rule 2.9 regarding *ex parte* communications.

107. Rules of the Supreme Court (SCR) Rule 3.230 is renumbered as Rule 3.08.160 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.160
SCR 3.08.160 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 a member of the Board of Disciplinary Hearing Officers to serve as a Disciplinary Hearing Officer . The Disciplinary Hearing Officer shall reside in a different Supreme Court District from that of the Respondent. The Disciplinary Clerk shall immediately notify the Disciplinary Hearing Officer of his/her appointment and provide the Disciplinary Hearing Officer a copy of the pleadings.

108. Rules of the Supreme Court (SCR) Rule 3.240 is renumbered as Rule 3.08.170 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.170
SCR 3.08.170 Notice of assignment of Disciplinary Hearing Officer and hearing

Upon the assignment of a Disciplinary Hearing Officer, the Disciplinary Clerk shall notify the parties of his/her name and address. The 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 ninety (90) days, after the date of the notice, but for good cause shown, said time may be extended by the Disciplinary Hearing Officer for a period not to exceed an additional ninety (90) days.

109. Rules of the Supreme Court (SCR) Rule 3.260 is deleted entirely.

110. Rules of the Supreme Court (SCR) Rule 3.285 is deleted entirely.

111. Rules of the Supreme Court (SCR) Rule 3.290 is deleted entirely.

112. Rules of the Supreme Court (SCR) Rule 3.300 is renumbered as Rule 3.08.180 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.180
SCR 3.08.180 Rights of Respondent against whom a Charge has been filed; discovery

(1) The Respondent against whom a Charge has been filed shall have the right to be represented by counsel, at the Respondent's expense. 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 Disciplinary Counsel, to the hearing or to such depositions as are permitted under SCR 3.08.190. The Respondent shall have the right to an oral argument or to file a brief before the 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.

(2) Within thirty (30) days of receipt of a verified answer, Disciplinary Counsel shall provide to the Respondent all nonprivileged information and evidence relevant to the charges or the Respondent. Concurrent with the provision of discovery, Disciplinary Counsel shall also provide a log of all information and evidence withheld for privilege containing sufficient information to allow Respondent and the Disciplinary Hearing Officer to assess the claim of privilege. Disciplinary Counsel shall have a continuing duty to promptly disclose newly discovered relevant, privileged and nonprivileged information and evidence throughout the proceeding.

(3) Disputes concerning discovery shall be determined by the Disciplinary Hearing Officer. All discovery orders by the Disciplinary Hearing Officer are interlocutory and may not be appealed prior to the entry of the final order.

113. Rules of the Supreme Court (SCR) Rule 3.320 is deleted entirely.

114. Rules of the Supreme Court (SCR) Rule 3.330 is renumbered as Rule 3.08.190 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.190
SCR 3.08.190 Procedure before the Disciplinary Hearing Officer

(1) The 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 Disciplinary Hearing Officer, the Disciplinary Clerk shall issue subpoenas for the attendance of witnesses or the production of evidence.

(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.

(2) Prehearing discovery shall proceed as directed by the Disciplinary Hearing Officer rather than by the Kentucky Rules of Civil Procedure. If reasonably necessary to prepare the case for hearing, the 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. Live testimony may include remote video testimony.

(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 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 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 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.

115. Rules of the Supreme Court (SCR) Rule 3.340 is deleted entirely.

116. Rules of the Supreme Court (SCR) Rule 3.350 is deleted entirely.

117. Rules of the Supreme Court (SCR) Rule 3.360 is renumbered as Rule 3.08.200 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.200
SCR 3.08.200 Disciplinary Hearing Officer to file report with Disciplinary Clerk

(1) When a disciplinary proceeding has been closed and the record finally submitted , the 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 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 Disciplinary Hearing Officer deems proved by a preponderance of the evidence, and;

(d) the sanction, if any, recommended.

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

The 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 Chief Disciplinary Hearing Officer upon verified motion by the Disciplinary Hearing Officer. If an extension is sought by the 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 Chief Disciplinary Hearing Officer may grant up to a 60-day extension of time for the Disciplinary Hearing Officer to file the report. If the 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 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 pursuant to SCR 3.08.380, either party may move to amend the findings or for additional findings of fact or conclusions of law by the 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 3.08.200(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 pursuant to SCR 3.08.380. 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 3.08.210(9).

(5) Upon finality of the report, the Disciplinary Hearing Officer shall return to the Disciplinary Clerk the entire record and such original papers in the possession of the Disciplinary Hearing Officer.

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

118. Rules of the Supreme Court (SCR) Rule 3.365 is deleted entirely.

119. Rules of the Supreme Court (SCR) Rule 3.370 is renumbered as Rule 3.08.210 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.210
SCR 3.08.210 Procedure before the Board and the 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.

(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 recorded either by video recording or by a stenographer and be considered a part of the record.

(4) Deliberations of the Board in disciplinary, restoration, and reinstatement cases shall take place in confidential closed session. The Vice President shall participate in accordance with Rule 3.03.020. 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 3.08.220 shall be eligible to 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 Discipline Oversight Commission shall be ineligible to participate and vote in deliberations under section (4).

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

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

(i) To accept the Disciplinary Hearing Officer's Report as to the guilt, innocence, and the discipline imposed, by concluding that the 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 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 (9), the difference between its findings and recommendations and the report of the Disciplinary Hearing Officer.

(b) In the event of a case submitted under SCR 3.08.140, 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 (7)(a) or (b) shall be agreed upon by eleven (11) members or 3/4 of the members 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 Disciplinary Hearing Officer for clarification of the 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.

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

(9) The Board shall issue a written decision within 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 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 (7)(d), in which case the matter will proceed in accordance with the Board's direction.

(10) Within thirty (30) days after the Board's decision is filed with the Disciplinary Clerk, 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).

(11) If no notice of review is filed by either party, the Court may notify Disciplinary Counsel and Respondent that it will review the decision. If the Court so acts, Disciplinary Counsel and Respondent may each file a single brief, 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.

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

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

120. Rules of the Supreme Court (SCR) Rule 3.375 is renumbered as Rule 3.08.220 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.220
SCR 3.08.220 Appointment of non-lawyer members to Board

The Chief Justice, with the approval of the Court, shall appoint four (4) adult citizens of the Commonwealth who are not lawyers to serve as members of the Board in disciplinary cases. Persons so appointed shall be entitled to participate and vote in any disciplinary case. The terms of such non-lawyer members shall be appointed in such a manner that the terms shall be staggered. No such member shall serve more than three (3) consecutive terms of two (2) years.

121. Rules of the Supreme Court (SCR) Rule 3.380 is renumbered as Rule 3.08.230 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.230
SCR 3.08.230 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.

122. Rules of the Supreme Court (SCR) Rule 3.08.240 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.240
SCR 3.08.240 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.

123. Rules of the Supreme Court (SCR) Rule 3.390 is renumbered as Rule 3.08.250 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.250
SCR 3.08.250 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 3.08.060 or 3.08.070, 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 3.06(7.50(5)).

(2) Within twenty (20) days after the issuance of an order of disbarment, or suspension under SCR 3.08.080, 3.08.090, SCR 3.04.040, SCR 3.05.100(4), or SCR 3.08.350, 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 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.

124. Rules of the Supreme Court (SCR) Rule 3.395 is renumbered as Rule 3.08.260 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.260
SCR 3.08.260 Appointment of special commissioner to protect clients' interests

(1) When it comes to the attention of the Executive Director that: (a) an attorney has been temporarily suspended pursuant to SCR 3.08.060 and has failed to notify his/her clients of the suspension as required by Court order; or (b) an attorney has been suspended or disbarred pursuant to SCR 3.08.210 and has failed to notify his/her clients of his/her suspension or disbarment pursuant to SCR 3.08.250; or (c) an attorney has resigned pursuant to SCR 3.08.350 and has failed to notify his/her clients of his/her resignation as required by Court order; or (d) an attorney dies; or (e) an attorney has been declared to be incompetent; or (f) an attorney abandons his/her law practice or his/her whereabouts are unknown, and no law partner, personal representative of the deceased attorney's estate, or other responsible person capable of conducting the attorney's business affairs is known to exist, the Executive Director may petition the Court, and the Court for good cause may authorize the Chief Justice to order the appointment of 1 or more members of the Association to serve as Special Commissioners of the Court.

The Executive Director shall give notice to the attorney by mailing a copy of the petition to the attorney's last known address, except where the attorney is deceased. If the attorney is deceased, the notice shall be sent to the attorney's personal representative, if known. Within 20 days after the date on which the

Executive Director files the petition with the Court, the attorney may file a response to the petition with the Court. The Clerk of the Court shall mail a copy of the Court's order ruling on the petition to the attorney's last known address, to the Executive Director and to the Chief Circuit Judge.

(2) A Special Commissioner appointed under this Rule may be authorized by the Court to take possession of the files and records of an attorney described in subsection (1) above, to make an inventory of the files, to give notice to the attorney's clients of the unavailability or inability of the attorney to continue to represent the clients, to deliver to the clients all papers and other property to which the clients are entitled, to take any other action which the clients are entitled and to take any other action which the Court deems necessary to protect the interests of the clients.

(3) The Special Commissioner shall not disclose any information contained in any files which are the subject of an inventory without the consent of the client to whom such files relate, except as reasonably necessary to carry out the orders of the Court.

(4) The Special Commissioner shall file a written report within 6 months, with the Court containing a summary and explanation of the actions taken by the Special Commissioner to fulfill the duties assigned to the Special Commissioner by the Court. This time frame may be extended for good cause shown. The Special Commissioner shall mail a copy of the report to the Executive Director and to the attorney’s last known address.

(5) If the Special Commissioner takes possession of files of an attorney and the Special Commissioner is unable after a diligent effort to deliver the files to the clients or to new attorneys representing the clients, the Special Commissioner may request the Court to enter an order providing for the storage and safekeeping or destruction, as appropriate, of such files.

(6) The Special Commissioner shall be entitled to reasonable compensation with the amount to be determined by the Court and to also be reimbursed for necessary expenses actually incurred. In order to receive such compensation or reimbursement of expenses, the Special Commissioner shall file with the Court a motion containing an itemized list of the time spent on the case, the work performed, and receipts for the expenses incurred. The Special Commissioner’s compensation and expenses which are approved by the Court shall be paid by the Association, but any amounts disbursed by the Association to the Special Commissioner shall be assessed as costs against the attorney pursuant to SCR 3.08.290 if the appointment of the Special Commissioner arose out of, (a) disciplinary proceeding, resignation or an abandonment of the practice or, (b) if the appointment arose out of a mental illness or disease and a guardian has been appointed for the attorney, the cost shall be presented to the attorney’s

guardian or, (c) if the appointment arose from the death of the attorney, from the estate of the decedent by presenting the fiduciary of the estate the costs and, when possible, to file a proof of claim with the appropriate district court clerk.

125. Rules of the Supreme Court (SCR) Rule 3.400 is renumbered as Rule 3.08.270 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.270
SCR 3.08.270 Rehearing

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 Disciplinary Hearing Officer has made his/her report to the Board, no rehearing shall be permitted by the 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 3.08.210, the Court may remand the case to the Board for such action as the Court may direct.

126. Rules of the Supreme Court (SCR) Rule 3.435 is renumbered as Rule 3.08.280 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.280
SCR 3.08.280 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 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, 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 Commonwealth 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 Commonwealth 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 Commonwealth 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 Commonwealth.

(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 Commonwealth.

127. Rules of the Supreme Court (SCR) Rule 3.440 is deleted entirely.

128. Rules of the Supreme Court (SCR) Rule 3.450 is renumbered as Rule 3.08.290 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.290
SCR 3.08.290 Recovery of costs

(1) In any case to be submitted to the Court, the Disciplinary Clerk shall file with the Court the entire record of the proceedings together with a certified bill of the costs incurred in connection with the investigation and prosecution of the matter.

(2) Every final order of the Court which adjudges the Respondent guilty of unprofessional conduct shall provide for the recovery of costs, which shall include the costs and expenses that a prevailing party in a civil action may recover pursuant to CR 54.04, and such other costs, including postage, certified mailing fees, service of process fees, and videographer charges, as may be ordered by the Supreme Court. Immediately upon the effective date of the order, the Clerk shall furnish a bill for said costs to the Respondent. If the bill is not satisfied within 10 days thereafter, upon which date the order is final, the Clerk shall notify the Executive Director of the Association. The award set

forth in the order and any costs shall bear interest at the judgment rate set forth in KRS 360.040.

(3) An order of the Court assessing costs as referenced above shall be enforceable in the same manner and by the same means as any civil judgment.

129. Rules of the Supreme Court (SCR) Rule 3.455 is renumbered as Rule 3.08.300 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.300
SCR 3.08.300 Subpoena power- Client Security Fund

Upon application by Disciplinary Counsel or a claimant, or upon the initiation of the Trustees of the Client's Security Fund, the Executive 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 Executive Director shall mail a copy of the application to the person or legal entity to be subpoenaed, to the claimant, 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 Executive 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 Disciplinary Counsel, which shall provide copies to the claimant and the attorney against whom the claim is made.

130. Rules of the Supreme Court (SCR) Rule 3.460 is renumbered as Rule 3.08.310 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.310
SCR 3.08.310 Unauthorized practices proceeding

(1) When it comes to the attention of the Executive Director that any person or entity not having the right to practice law is directly or indirectly practicing law, the Executive Director shall have the authority to cause such investigation to be made concerning the matter as he deems appropriate. Disciplinary Counsel may participate in such investigation. The Executive 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 Executive Director determines that any person or entity has been engaged in the unauthorized practice of law, the Executive 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 a response denying the offense, the Court shall within twenty (20) days refer the case to a Disciplinary Hearing Officer appointed under Rule 3.08.160, 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 Disciplinary Hearing Officer, 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 Disciplinary Hearing Officer’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 Executive 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.

131. Rules of the Supreme Court (SCR) Rule 3.470 is renumbered as Rule 3.08.320 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.320
SCR 3.08.320 Attorney aiding unauthorized practice

Any attorney who knowingly aids, assists or abets in any way, form, or manner any person or entity in the unauthorized practice of law shall be guilty of unprofessional conduct.

132. Rules of the Supreme Court (SCR) Rule 3.475 is renumbered as Rule 3.08.330 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.330
SCR 3.08.330 Furnishing legal services pursuant to a pre-paid legal services plan

As used in this Rule, a pre-paid legal services plan means a plan, program, or insurance policy under which a Member of the Association is paid (in whole or in part) legal fees or a member of the plan is reimbursed for legal fees for services rendered to a member of the plan.

A Member of the Association may furnish legal services to a member of a pre-paid legal services plan, as heretofore defined, provided that the plan provides that no agent, servant or employee of the plan or the plan itself shall interfere with or control the performance of the duties of the attorney.

133. Rules of the Supreme Court (SCR) Rule 3.477 is renumbered as Rule 3.08.340 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.340
SCR 3.08.340 Member's financial interest in plan or group

Any Member of the Association who is actively engaged in the practice of law as defined in Rule 3.01.020 shall not have any financial interest whatsoever in any group or plan contemplated within Rule 3.08.330.

134. Rules of the Supreme Court (SCR) Rule 3.480 is renumbered as Rule 3.08.350 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.350
SCR 3.08.350 Withdrawal from the Association

(1) Any Member who desires to withdraw from membership and is not under investigation pursuant to Rule 3.08.020(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 . The motion shall be docketed by the Clerk. The Registrar shall, after consultation with the 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 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) 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.

09.010 and SCR 3.09.020 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 Disciplinary Counsel and docketed by the Clerk. 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 Disciplinary Counsel, the Member 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 relating to movant. The Court 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.

135. Rules of the Supreme Court (SCR) Rule 3.08.360 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.360
SCR 3.08.360 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 Executive 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 3.08.290, and

(c) Comply with the provisions of Rule 3.08.250 regarding notice to clients of suspension or disbarment.

136. Rules of the Supreme Court (SCR) Rule 3.501 is renumbered as Rule 3.09.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.09.010
SCR 3.09.010 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 Attorney Discipline Oversight Commission. An Applicant shall certify that a copy of the affidavit was mailed to 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 Attorney Discipline Oversight Commission and payable to the 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) 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

Association's Accounting Department that all costs of the disciplinary proceedings have been paid;

(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 Disciplinary Counsel that:

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

(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 3.05.120;

(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) 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) 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.

(6) 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 Disciplinary Counsel. An Applicant shall not resume practice until the notice of reinstatement is filed with the Disciplinary Clerk.

137. Rules of the Supreme Court (SCR) Rule 3.502 is renumbered as Rule 3.09.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.09.020
SCR 3.09.020 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 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 licensing fees have been paid;

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

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

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

(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 3.05.120; and

(d) A filing fee as established by the Attorney Discipline Oversight Commission 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 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 Attorney Discipline Oversight Commission shall review the application. 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 Attorney Discipline Oversight Commission determines an application is complete, a scheduling order shall be entered setting out the time for the Office of 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 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 Disciplinary Counsel, and a majority of the Committee all agree within thirty (30) days of receipt of the matter from the 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 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 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 3.08.210(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 3.08.210. 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.

138. Rules of the Supreme Court (SCR) Rule 3.503 is renumbered as Rule 3.09.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.09.030
SCR 3.09.030 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 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 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 3.08.010(6) upon proper motion by the Applicant or 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 Association and certified as costs of the proceedings.

(5) Costs of reinstatement proceedings pursuant to SCR 3.09.010 and SCR 3.09.020 beyond the amount of any filing fees shall be certified as in SCR 3.08.290(1) and paid by the Applicant.

(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.

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

(8) In the event of failure to comply with any conditions imposed by the Court upon reinstatement, 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 3.09.010.

139. Rules of the Supreme Court (SCR) Rule 3.504 is renumbered as Rule 3.09.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.09.040
SCR 3.09.040 Restoration to membership

(1) A former Member who has withdrawn from membership pursuant to SCR 3.08.350(1), or who was suspended for failure to pay licensing fees as provided by SCR 3.04.040, or for failure to comply with the Continuing Legal Education requirements of SCR 3.05.040 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 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 to Disciplinary Counsel using the forms provided by the Attorney Discipline Oversight Commission, with a fee as established by the Attorney Discipline Oversight Commission and all applicable unpaid Association licensing fees; and

(b) Submitting with the application a certificate from 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 3.05.120.

(d) Upon the filing of the foregoing items, 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 Attorney Discipline Oversight Commission for proceedings pursuant to SCR 3.09.020, et seq. If the matter is referred to the Attorney Discipline Oversight Commission, the Applicant shall pay a fee as established by the Attorney Discipline Oversight Commission to the 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 to Disciplinary Counsel for restoration using the forms provided by the Attorney Discipline Oversight Commission, with a fee as established by the Attorney Discipline Oversight Commission and all applicable unpaid Association licensing fees; and

(b) Submitting with the application a certificate from 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 3.05.120.

(d) Upon the filing of the foregoing items, Disciplinary Counsel shall refer the application to the Attorney Discipline Oversight Commission for proceedings pursuant to SCR 3.09.020, et seq. An additional fee as established by the Attorney Discipline Oversight Commission shall be paid to the Association.

(e) If, after review of the application pursuant to SCR 3.09.020, the Character and Fitness Committee recommends approval of the application after proceedings pursuant to SCR 3.09.020(6) and no appeal is taken to the Board , 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.

(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 Attorney Discipline Oversight Commission or the Board 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, 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.

140. Rules of the Supreme Court (SCR) Rule 3.09.050 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.09.050
SCR 3.09.050 Restoration from Regular Inactive Status or Senior Retired Inactive Status

(1) A Regular Inactive Member or a Senior Retired Inactive Member may apply for restoration to regular membership by submitting the following:

(a) An application for restoration 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 Regular Inactive Member or Senior Retired Inactive 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 or Senior Retired Inactive Member is currently licensed, whether in active or inactive status in those jurisdictions; and

(e) A certificate:

(i) From the Director of Legal Education that the Regular Inactive Member or Senior Retired Inactive Member has obtained twelve (12) CLE credits, including

two (2) ethics credits, for each year or portion of a year in Regular Inactive or Senior Retired 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 or Senior Retired Inactive Member maintains an active license demonstrating the Regular Inactive Member or Senior Retired Inactive Member has obtained the equivalent continuing education credits.

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

141. Rules of the Supreme Court (SCR) Rule 3.08.370 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.370
SCR 3.08.370 Immunity

Neither the Association, the Board, the Executive 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 Association 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.

142. Rules of the Supreme Court (SCR) Rule 3.530 is renumbered as Rule 3.10.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.10.010
SCR Rule 3.10.010 Ethics Committee and Unauthorized Practice Committee--advisory opinions--informal and formal

(1) The Ethics Committee and the Unauthorized Practice Committee are authorized to issue informal opinions, and to submit to the Board for its action formal opinions, on questions of ethics or unauthorized practice, as applicable.

(2) Any attorney licensed in Kentucky or admitted under SCR 3.04.010(2), who is in doubt as to the ethical propriety of any professional act contemplated by that attorney may request an informal opinion. The President shall designate members of the Ethics Committee to respond to such requests. Ordinarily, the request shall be directed to a member of the requestor's Supreme Court district. Such request shall be in writing or by telephone followed by a request in writing. The committee member to whom the request is directed shall attempt to furnish the requesting attorney with a prompt telephonic answer and written informal letter opinion as to the ethical propriety of the act or course of conduct in question. A copy of any such informal opinion shall be provided to the Executive Director for safekeeping and statistical purposes, and to the Chair of the Ethics Committee, to determine whether the informal opinion has broader application.

(3) Communications between the requesting attorney and the Ethics Committee member shall be confidential, but confidentiality may be waived by the requesting attorney. However, the requesting and giving of advice under this Rule does not create an attorney-client relationship. In order to promote uniformity of advice, redacted copies of informal opinions may be circulated among members of the Ethics Committee, as applicable, provided that such confidentiality is preserved.

(4) If the Ethics Committee determines an ethical issue to be of sufficient importance, the Committee may issue and furnish to the Board of Governors a proposed opinion authorized by such Committee for approval as a formal opinion. Such approval shall require a vote of three-fourths of the voting members present at the meeting of the Board. If the Board is unable to approve of the opinion as written, then the Board may return the matter to the Committee for further review and consideration, or may modify the opinion and approve the opinion as modified by the three-fourths vote, or may direct the Committee to furnish the requesting attorney, if any, with an informal opinion in the form of a Chair's letter opinion, with a copy to the Executive Director.

(5) Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act performed by that attorney in compliance with an informal opinion furnished by the Ethics Committee member pursuant to such attorney's written request, provided that the written request clearly, fairly, accurately and completely states such attorney's contemplated professional act.

(6) Any attorney licensed in Kentucky or admitted to practice law in another state who is in doubt as to the propriety of any course of conduct or act of any person or entity which may constitute the unauthorized practice of law in Kentucky may make a request in writing, or in emergencies, by telephone, to

the Chair of the Unauthorized Practice Committee, or such other members of the Unauthorized Practice Committee as are designated by the Chair, for an advisory opinion thereon. Local bar associations may also request advisory opinions. The Committee member to whom the request is directed shall bring this matter to the attention of the Committee at its next meeting. The Committee may attempt to furnish the requesting attorney with a prompt telephonic answer and written informal letter opinion as to whether the conduct constitutes the unauthorized practice of law. A copy of such informal opinion shall be provided to the Executive Director and the Chair of the Unauthorized Practice Committee.

(7) Any attorney licensed in Kentucky or admitted under SCR 3.04.010(2) who is in doubt as to the ethical propriety of any professional act contemplated by that attorney with respect to the unauthorized practice of law shall be referred to the Ethics Committee district member for an informal opinion as set forth in (2) and (3). Communications about such an inquiry between the requesting attorney and the unauthorized practice committee member, and between the committee members of the two committees, shall be confidential, but confidentiality may be waived by the requesting attorney.

(8) The requesting and giving of advice by the Unauthorized Practice Committee under this Rule does not create an attorney/client relationship.

(9) If the Unauthorized Practice Committee determines an issue regarding the unauthorized practice of law to be of sufficient importance, the Committee may issue and furnish to the Board of Governors a proposed opinion authorized by such Committee for approval as a formal opinion. Such approval shall require a vote of three-fourths of the voting members present at the meeting of the Board. If the Board is unable to approve the opinion as written, then the Board may return the matter to the Committee for further review and consideration, or may modify the opinion and approve the opinion as modified by the three-fourths vote, or may direct the Committee to furnish the requesting attorney, if any, with an informal opinion in the form of a Chair's letter opinion, with a copy to the Executive Director.

(10) Ethics Committee and Unauthorized Practice Committee members shall be immune from suit for advice given in the performance of duties under this Rule. Ethics Committee and Unauthorized Practice Committee members shall be immune from process and shall not otherwise be compelled to testify or give an opinion in connection with any advice given in the performance of duties under this Rule.

(11) All formal opinions of the Board arising from either Committee shall be published in full or in synopsis form, as determined by the Executive Director,

in the edition of the *Bench & Bar magazine* next issued after the adoption of the opinion.

(12) Any person or entity aggrieved or affected by a formal opinion of the Board may file with the clerk within thirty (30) days after the end of the month of publication of the *Bench & Bar magazine* in which the full opinion or a synopsis thereof is published, a copy of the opinion, and, upon motion and reasonable notice in writing to the Executive Director, obtain a review of the Board's opinion by the Court. The Court's action thereon shall be final and the Clerk shall furnish copies of the formal order to the original petitioner, if any, the movant and the Executive Director. The movant shall file a brief in support of the review, and the Executive Director may file a response brief thirty days thereafter.

(13) The filing fee for docketing a motion under paragraph (7) of this Rule 3.10.010 shall be as provided by Civil Rule 76.42(1) for original actions in the Supreme Court.

143. Rules of the Supreme Court (SCR) Rule 3.000 is renumbered as Rule 3.01.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.01.040
SCR 3.01.040 Continuing Legal Education ("CLE") definitions

As used in SCR 3.05 et seq, the following definitions shall apply unless the context clearly requires a different meaning:

(1) "Approved activity" is a Continuing Legal Education activity that meets the requirements set forth in these Rules and has been approved for credit by the CLE Commission.

(2) "Member Identification Number" is the 5 digit number assigned to each Member of the Association upon admission.

(3) "Award" is the Continuing Legal Education Award.

(4) "Commission" is the Continuing Legal Education Commission.

(5) "Continuing Legal Education," or "CLE," is any legal educational activity which is designed to maintain or improve the professional competency of practicing attorneys and is accredited by the Commission.

(6) "Credit" is a unit for measuring Continuing Legal Education.

(7) “Educational year” is the reporting period for mandatory Continuing Legal Education and runs from July 1st each year through June 30th of the successive year.

(8) “Ethics, professional responsibility and professionalism” is the category by which “ethics credits” shall be earned and includes programs, or designated portions thereof, with instruction focusing on the Rules of Professional Conduct independently or as they relate to the practice of law and/or law firm management.

(9) “In-house activity” is an activity sponsored by a single law firm, single corporate law department, or single governmental office for lawyers who are members or employees of the firm, department or office.

(10) “Legal writing” is a publication which contributes to the legal competency of the applicant, other attorneys or judges and is approved by the Commission. Writing for which the author is paid shall not be approved.

(11) “Non-compliance” means not meeting Continuing Legal Education requirements set forth in SCR 3.05.030 and SCR 3.05.040 and includes both lack of completion and lack of certification of activities prior to established time requirements.

(12) “Technological transmission” is a CLE activity delivery method other than live seminars and includes video tape, DVD, audio tape, CD-ROM, computer on-line services, or other appropriate technology as approved by the Commission.

144. Rules of the Supreme Court (SCR) Rule 3.605 is renumbered as Rule 3.05.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.010
SCR 3.05.010. The Continuing Legal Education Commission

(1) The Continuing Legal Education Commission shall consist of 7 attorneys, 1 of whom shall be from each Supreme Court 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 Supreme Court 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 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.

145. Rules of the Supreme Court (SCR) Rule 3.635 is renumbered as Rule 3.05.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.020
SCR 3.05.020 Kentucky Law Update seminars in each Supreme Court District

(1) Each educational year, the Commission shall conduct a Continuing Legal Education seminar of at least 12 credits in each Supreme Court District. Subjects taught at each seminar shall include the latest Kentucky Supreme Court and Court of Appeals decisions, procedural rule changes, Federal Court decisions, legal ethics, professional responsibility and professionalism, Kentucky statutory changes and other subjects relating to improvements in basic legal skills. Each program shall include a minimum of 2 credits for subjects specifically addressing legal ethics, professional responsibility and professionalism.

(2) Registration for the Kentucky Law Update seminars shall be free to all members in good standing with the Association.

(3) Members may attend Kentucky Law Update seminars in any location. Duplicate credits shall not be earned by attending the same program at different locations. However, if different tracks of programs are attended at different locations, additional credit may be approved by the Commission.

146. Rules of the Supreme Court (SCR) Rule 3.640 is renumbered as Rule 3.05.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.030
SCR 3.05.030 New Lawyer Program requirement

(1) Within 12 months following the date of admission as set forth on the certificate of admission, each person admitted to membership in the Association shall complete the New Lawyer Program requirement.

(2) At least twice each educational year, the Commission shall provide or cause to be provided a New Lawyer Program of at least 12 credits. The Commission may in its discretion, accredit a New Lawyer Program proposed by other CLE providers.

(3) The New Lawyer Program shall include at least 2 hours of ethics, a course on law practice management and other subjects deemed appropriate by the Commission.

(4) The Commission or other provider accredited under SCR 3.05.030 (2) may charge a reasonable registration fee approved by the Court for the New Lawyer Program.

(5) Each individual attending the New Lawyer Program shall certify to the Director for CLE the completion of the Program on the attendance certificate provided for that purpose. Such certification shall be submitted to the Director for CLE upon completion of the program. Continuing Legal Education credits awarded for the program shall be applied to the educational year in which the program is attended, and if applied to a year in which the individual so attending is otherwise exempt from CLE requirements under SCR 3.05.080(1)(c), then said credits shall carry forward in accordance with SCR 3.05.040(3).

(6) A Member required to complete the New Lawyer Program pursuant to paragraph (1) of this Rule may, upon application to and approval by the Commission, be exempted from the requirement under the following circumstances:

(a) The Member is admitted to practice in another jurisdiction for a minimum of 5 years, and will certify such prior admission to the Commission;

(b) The Member has attended a mandatory new lawyer training program of at least 12 credits, including 2 ethics credits, offered by the state bar association of another jurisdiction and approved by the Director for CLE; or

(c) The Member is an active member of the United States armed forces--who has completed a mandatory new lawyer training of at least 12 credits, including 2 ethics credits, offered by the United States armed forces branch in which he/she is an active member, and approved by the Director for CLE.

(7) The time for completion of the New Lawyer Program requirement may be extended upon written application to and approval by the Commission. The written application must be received within 30 days of the original deadline for the requirement. All applications must be signed by the Member. The Commission may approve extensions for completing the Program under the following circumstances:

(a) Where the Member demonstrates hardship or other good cause clearly warranting relief. Requests for relief under this subsection must set forth all circumstances upon which the request is based, including supporting documentation. In these circumstances, the Member shall complete the New Lawyer Program requirement as soon as reasonably practicable as determined by the Commission; or

(b) Where the Member fails to demonstrate hardship or other good cause clearly warranting relief. When requesting relief under this subsection, the Member must pay a fee of $250.00 and complete the New Lawyer Program requirement at the next regularly scheduled offering of the program.

(8) Non-compliance with the New Lawyer Program requirement: Failure to complete and certify attendance for the New Lawyer Program pursuant to this Rule shall be grounds for suspension from the practice of law in the Commonwealth or other sanctions as deemed appropriate by the Board.

(a) Ninety days prior to the end of the 12-month period all individuals not certifying completion of the New Lawyer Program pursuant to this Rule shall be notified in writing that the program must be completed before the end of the 12 month period, and the notice shall state the date by which the New Lawyer Program must be completed.

(b) Names of all individuals not submitting certification of completion of the New Lawyer Program within the 12-month period or not being granted an extension of time, pursuant to paragraph (7) of this Rule, shall be submitted to

the Board by the Director for CLE, certifying failure to comply with the New Lawyer Program requirement.

(c) 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 attorney to show cause within 30 days from the date of the mailing why the attorney's license should not be suspended for failure to meet the New Lawyer Program requirement set forth in this Rule. Such response shall be in writing, sent to the attention of the Director for CLE, and shall be accompanied by costs in the amount of $50.00 payable to the Kentucky Bar Association.

(d) Unless good cause is shown by the return date of the notice, or within such additional time as may be allowed by the Board, the lawyer will be stricken from the membership roster as an active Member of the Association and will be suspended from the practice of law or otherwise sanctioned as deemed appropriate by the Board. A copy of the suspension notice shall be delivered to the Member, the Clerk of the Supreme Court of Kentucky, and in the case of suspension, to the Circuit Clerk of the district wherein the Member resides for recording and indexing as required by SCR 3.08.350.

(e) A Member suspended under this Rule may apply for restoration to membership under the provisions of SCR 3.09.040.

(f) A Member may appeal to the Supreme Court of Kentucky from such suspension order within 30 days of the effective date of the suspension. Such appeal shall include an affidavit showing good cause why the suspension should be set aside.

147. Rules of the Supreme Court (SCR) Rule 3.645 is renumbered as Rule 3.05.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.040
SCR 3.05.040 Continuing Legal Education requirements: compliance and certification

(1) Each educational year, as defined by SCR 3.01.040(7), every person licensed to practice law in this Commonwealth, not specifically exempted pursuant to the provisions of SCR 3.05.080, shall complete and certify a minimum of 12 credit hours in Continuing Legal Education activities approved by the Commission, including a minimum of 2 credit hours devoted to "ethics, professional responsibility and professionalism" as defined by SCR 3.01.040(8).

All Continuing Legal Education activities must be completed by June 30 of each educational year.

(a) Integration of legal ethics, professional responsibility and professionalism issues into substantive law topics is encouraged, but will not count toward the 2 credit minimum annual requirement.

(b) It is the obligation of the attorney seeking credit to ensure the activity has been approved. Completion of a non-accredited activity shall be at the risk of the attorney.

(2) Certification of completion of approved CLE activities must be received by the Director for CLE no later than August 10th immediately following the educational year in which the activity is completed.

(a) Certification shall be submitted to the Director for CLE by the sponsor of the accredited activity or by individual attorneys on approved KBA forms, uniform certificates, or other format adopted by the Commission.

(b) Any certification submitted after the August 10th deadline shall be deemed past due. All past due reports shall be accompanied by a late filing fee of $50.00 per certificate to cover the administrative costs of recording credits to the prior year. All past due reports must be received by the Commission with the late fee no later than the close of the educational year (June 30th) immediately following the year during which the activity was completed. This deadline will not apply in instances where the Member or former Member is in the process of removing an exemption per SCR 3.05.080 (2) or attempting certification per SCR 3.05.120.

(c) Sponsors submitting certifications to the Director for CLE shall comply with all requirements set forth in SCR 3.05.070(5).

(3) A Member who accumulates an excess over the 12 credit requirement may carry forward the excess credits into the 2 successive educational years for the purpose of satisfying the minimum requirement for those years. Carry-forward credits are limited to a total of 24 credits, including 4 ethics credits. All excess credits above a total of 24 credits will remain on the Member's record but may not be carried forward.

(4) Failure to acquire a minimum of 12 credits, including 2 ethics credits, to meet the minimum, annual Continuing Legal Education requirement and/or the associated certification requirements set forth herein, shall be grounds for suspension by the Board from the practice of law.

(5) Compliance and certification requirements concerning the New Lawyer Program requirement are set forth at SCR 3.05.030(1) and (6).

148. Rules of the Supreme Court (SCR) Rule 3.650 is renumbered as Rule 3.05.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.050

SCR 3.05.050 Qualifying Continuing Legal Education activity and standards

(1) Credit for completing qualifying Continuing Legal Education activities, as set forth below in paragraphs 2 and 3 of this Rule, shall be calculated, reported and subject to the limitations set forth in SCR 3.05.060.

(2) A Continuing Legal Education activity qualifies for accreditation if the Commission determines that the activity conforms to the following standards:

(a) The activity is an organized program of learning which contributes directly to the legal competence of an attorney.

(b) The activity deals primarily with substantive legal issues directly related to the practice of law, or law practice management.

(c) The activity has significant intellectual or practical content which is timely.

(d) The activity has as its primary objective to increase the participant's professional competence as an attorney. Activities designed primarily for non-lawyers do not qualify for accreditation.

(e) The activity itself must be taught and conducted by an individual or group qualified by practical or academic experience.

(f) The activity, including the named advertised participants, must be conducted substantially as planned, subject to emergency alterations.

(g) Thorough, high-quality, readable, timely, useful and carefully prepared written materials must be made available to all participants at or before the time the activity is presented. A brief outline without citations or explanatory notations is not sufficient.

(h) At the conclusion of the activity, each participating attorney must be given the opportunity to complete an evaluation questionnaire addressing the quality of the particular activity.

(i) The activity may be presented live or by technological transmission as defined in SCR 3.01.040(12). Activities including audio components must have high-quality audio reproductions so that listeners may easily hear the content of the activity. Activities including video components must have high-quality video reproductions so that observers may easily view the content of the activity.

(j) In-house activities, as defined in SCR 3.01.040(9), may be approved if all standards set forth herein for accreditation are met, and at least one half of the instruction hours are provided by qualified persons having no continuing relationship or employment with the sponsoring firm, department or agency.

(k) The activity may be presented live or by technological transmission as defined in SCR 3.01.040 (12). Activities including audio components must have high quality audio reproductions so that listeners may easily hear the content of the activity. Activities including video components must have high quality video reproductions so that observers may easily view the content of the activity.

(l) In cases of an in-house activity, as defined in SCR 3.01.040(9), such activities may be approved if all standards set forth herein for accreditation are met. In addition, at least half the instruction hours must be provided by qualified persons having no continuing relationship or employment with the sponsoring firm, department or agency.

(3) Continuing Legal Education credit may be earned for the following additional activities subject to the limitations set forth in SCR 3.05.060:

(a) Teaching or participating as a panel member or seminar leader in an approved activity;

(b) Researching, writing or editing material to be presented at an approved activity;

(c) Publication of a legal writing as defined by SCR 3.01.040(10);

(d) Public speaking. Upon application, CLE credit may be earned by teaching or participating as a panel member, mock trial coach or seminar leader for law-related public service speeches to civic organizations or school groups. A maximum of 2 credits earned under this Rule per educational year may be applied to meet the annual minimum requirement. Speaking for which the Member is paid shall not be approved. Written copies of presentations must accompany such applications; provided, however, that, where appropriate, a narrative summary of the material presented may be sufficient; or

(e) Law school classes attended by a Member, provided that the Member registers for the class with the law school and completes the course as required by the terms of registration, for credit or by audit.

(4) The following categories of activities shall not qualify as a Continuing Legal Education:

(a) Seminars or meetings sponsored by law firms or other organizations which are determined by the Commission to be in the nature of client development and do not meet the requirements set forth in SCR 3.05.050(2);

(b) Passing a bar exam for licensure to practice law in a state or jurisdiction;

(c) Bar review courses taken in preparation for bar examinations;

(d) Correspondence classes;

(e) Any activity completed prior to admission to practice in Kentucky except the New Lawyer Program;

(f) Undergraduate law or law-related classes;

(g) Programs taken in preparation for licensure exams for non-lawyer professionals; or

(h) Business meetings or committee meetings of legal and law-related associations.

(5) Seminars designed for non-lawyer professionals which in, case-by-case situations, will benefit the lawyer by allowing clients improved services in unique areas of practice. Credits earned for this category of seminar or activity shall not count toward the 12 credit annual minimum requirement but may count toward Continuing Legal Education award credits as determined by the Commission.

(6) Accreditation of activities may be withdrawn by the Commission in cases where there is evidence that any of the above standards and criteria have not been met or that circumstances surrounding the actual content or transmission of the activity are not as originally represented to the Commission during the application process such that withdrawal of accreditation is warranted.

149. Rules of the Supreme Court (SCR) Rule 3.655 is renumbered as Rule 3.05.060 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.060
SCR 3.05.060 Calculation and reporting of Continuing Legal Education credits: formulas and limits

(1) All certifications and applications for credits shall be claimed on KBA forms, uniform certificates approved by the Commission, or other mechanism adopted by the Commission and shall be forwarded to the Director for CLE.

(2) Credits granted for Continuing Legal Education activities vary depending on the nature of the activity. Credit will be granted, or is calculated, and in some instances limited, as set forth below:

(a) Members completing or participating in an approved activity will be granted 1 credit for each 60 minutes of actual instructional time. Instructional time shall not include introductory remarks, breaks, or business meetings held in conjunction with a Continuing Legal Education activity.

(b) Members teaching or participating as panel members or seminar leaders in an approved activity will be granted 1 credit for each 60 minutes of actual instructional time.

(c) Members may be granted one credit for each 2 hours spent in preparation for teaching or participating as a panel member or seminar leader, researching, writing, and/or editing materials presented by someone else, in an approved activity, up to a maximum of 12 credits per educational year. No credit will be awarded for administrative functions.

(d) Credit for attending a law school class as set forth in SCR 3.05.050 shall equal twice the number of semester or credit hours awarded by the law school for successful completion of the course for credit or by audit. Actual instruction time shall not be used to determine Continuing Legal Education credit for attending law school classes.

(e) Members may earn credits for publication of qualified legal writing pursuant to SCR 3.05.050(3)(c), up to a maximum of 6 credits per year. One credit is granted for each 2 hours of actual preparation time including research, writing, and editing. Any excess credits, up to 20 hours, will be applied toward the award established in SCR 3.05.130. Applications for Continuing Legal Education credit for a published legal writing shall be accompanied by a copy of the published legal writing for which credit is sought.

(f) The Commission shall grant a maximum of 2 credits to meet the annual minimum requirement for public speaking pursuant to SCR 3.05.050(3)(d).

150. Rules of the Supreme Court (SCR) Rule 3.660 is renumbered as Rule 3.05.070 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.070
SCR 3.05.070 Procedure for accreditation of Continuing Legal Education activities and obligations of sponsors

(1) Application for accreditation of Continuing Legal Education activities shall be made by members, former members, or activity sponsors using forms provided by the Commission or using uniform applications adopted by the Commission. Applications must provide all information required by the form in order to be reviewed. All applications shall be accompanied by an application fee, as determined by the Commission.

(2) Activity sponsors that apply for accreditation and receive approval prior to the activity may announce in advertising materials: "This activity has been approved by the Kentucky Bar Association Continuing Legal Education Commission for a maximum of XX.XX credits, including XX.XX ethics credits." Sponsors who have made application for accreditation of activities that have not yet been approved may announce in advertising materials: "Application for approval of this activity for a maximum of XX.XX credits, including XX.XX ethics credits, is PENDING before the Kentucky Bar Association Continuing Legal Education Commission." Sponsors may not advertise accreditation if accreditation has not been granted by the Commission and notice of such accreditation has not been received by the sponsor.

(3) Technologically transmitted activities produced from live programs or studio productions must be accredited separately from the live or studio activity from which they were produced.

(4) Sponsors of accredited activities shall comply with the obligations and requirements set forth below:

(a) Ensure that all education activities comply with SCR 3.05.050;

(b) Permit Commission members and staff or their designees to monitor without payment of registration or other fees, any approved activity;

(c) When possible, utilize the activity code provided by the Kentucky Bar Association in its notification of accreditation in identifying the activity in all correspondence regarding the activity and provide the activity code to members for use in reporting credits; and

(d) Advise attorneys that it is their duty to report and certify attendance directly to the CLE Commission.

151. Rules of the Supreme Court (SCR) Rule 3.665 is renumbered as Rule 3.05.080 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.080
SCR 3.05.080 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 3.05.030.

(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 3.04.010.

(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 3.01.020, 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 3.01.020, within the Commonwealth, for all time periods covered by such exemption.

(ii) Practice of law as defined in SCR 3.01.020, 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 3.05.140 and shall be provided along with the Member's Continuing Legal Education transcript by the Director for CLE to the Office of Disciplinary Counsel and the Inquiry Commission in writing.

(iii) Any Member who has been classified as Senior Retired Inactive status pursuant to SCR 3.04.010(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) 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.

(c) 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.

152. Rules of the Supreme Court (SCR) Rule 3.670 is renumbered as Rule 3.05.090 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.090
SCR 3.05.090 Extension of time requirements

(1) The time requirements associated with completion of Continuing Legal Education and certification thereof may be extended by the Commission in case of hardship or other good cause clearly warranting relief. Requests for time extensions shall be made to the Commission in writing. All requests for hardship time extensions must be received by the Commission no later than the September 15 following the end of the educational year for which the time extension is sought. Requests must set forth all circumstances upon which the request is based, including supporting documentation.

(2) A Member who fails to complete the mandatory CLE requirements for any educational year, and who cannot show hardship or other good cause clearly warranting relief, may submit an application for a non-hardship extension of time. The application, which shall be made on KBA forms or by such other appropriate method approved by the Commission, must meet the following requirements:

(a) Applications will not be deemed complete but will be accepted prior to earning and reporting the credits required to cure the deficiency if the application contains a detailed plan for completing the annual requirement. The detailed plan must contain specific information regarding the accredited program(s) that will be taken, including the date, delivery format, location, and sponsor of the program.

(b) In any event, all required credits must be completed and reported, and the application must be received by the Director for CLE pursuant to the fee and filing schedule set forth in section (c) below.

(c) Fee and filing schedule:

(i) For complete applications received by August 15 following the end of the educational year for which the extension is sought, the application fee is $250.00.

(ii) For complete applications received by September 15 following the end of the educational year for which the extension is sought, the application fee is $350.00.

(iii) For complete applications received by October 15 following the end of the educational year for which the extension is sought, the application fee is $500.

(iv) No applications for non-hardship time extensions will be accepted after October 15 following the end of the educational year for which the extension is sought.

(3) Failure to comply with extended time requirements granted by the Commission pursuant to SCR 3.05.040 (1) or (2), including both completion of Continuing Legal Education activities and certification thereof, shall subject the Member to the sanctions of SCR 3.05.100: Suspension for Non-Compliance.

153. Rules of the Supreme Court (SCR) Rule 3.675 is renumbered as Rule 3.05.100 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.100
SCR 3.05.100 Non-compliance: procedure and sanctions

(1) As soon as practicable after August 20th of each year, the Commission shall notify a Member in writing of existing delinquencies of record. The writing may consist of a computer generated form setting forth said delinquency. If any statement incorrectly reflects the Continuing Legal Education status of the Member it shall be the duty of the Member to promptly notify the Commission of any claimed discrepancy in the education statement.

(2) If, by the first day of November immediately following, a Member has neither certified completion by the June 30th immediately prior, of the minimum Continuing Legal Education requirements nor applied for and satisfied the conditions of an extension under SCR 3.05.090 or exemption under SCR 3.05.080, the Commission shall certify the name of that Member to the Board.

(3) 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 attorney to show cause within 30 days from the date of the mailing why the attorney's license should not be suspended for

failure to meet the mandatory minimum CLE requirements. Such response shall be in writing, sent to the attention of the Director for CLE, and shall be accompanied by costs in the amount of $50.00 payable to the Kentucky Bar Association.

(4) Unless good cause is shown by the return date of the notice, or within such additional time as may be allowed by the Board, the lawyer will be stricken from the membership roster as an active Member of the Association and will be suspended from the practice of law or will be otherwise sanctioned as deemed appropriate by the Board. A copy of the suspension notice shall be delivered to the member, the Clerk of the Kentucky Supreme Court, the Director of Membership, and to the Circuit Clerk of the district wherein the Member resides for recording and indexing.

(5) A Member suspended under this Rule may apply for restoration to membership under the provisions of SCR 3.09.040.

(6) A Member may appeal to the Supreme Court of Kentucky from such suspension within 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.

154. Rules of the Supreme Court (SCR) Rule 3.680 is renumbered as Rule 3.05.110 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.110
SCR 3.05.110 Appeal of Commission actions

(1) The Commission shall state the reason or reasons for any adverse Commission decision and shall notify the person or organization affected.

(2) Any person or organization may request in writing reconsideration of an adverse decision within 15 days of the notice of the decision. The Commission shall consider any pertinent material submitted and shall permit the aggrieved party the opportunity to appear at a meeting of the Commission for oral presentation of information to be considered.

(3) Any person or organization may appeal to the Board from an adverse decision of the Commission by filing a written notice in the Office of the Executive Director within 30 days of the notice of the decision or of a refusal to reconsider a decision. The review of the Board shall be limited to the record considered by the Commission. The entire record, including a transcript of Commission proceedings, shall be submitted to the Board, with costs born by the unsuccessful party.

(4) Any person or organization may appeal to the Supreme Court of Kentucky from an adverse decision of the Board by filing a written petition, together with 10 copies, in the office of the Clerk of the Court, accompanied by a certificate of service on the Executive Director and a filing fee of $100.00, within 30 days of the notice of the decision. The review of the Court shall be limited to the record considered by the Commission and the Board.

(5) Commission certification of non-compliance filed with the Board pursuant to SCR 3.05.030(9) or SCR 3.05.100 may not be appealed under Sections (3) and (4) of this Rule.

155. Rules of the Supreme Court (SCR) Rule 3.685 is renumbered as Rule 3.05.120 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.120
SCR 3.05.120 Continuing Legal Education requirements for restoration or reinstatement to membership: procedures

(1) Except for those who voluntarily withdrew pursuant to SCR 3.08.350(1), every former Member or Member transferred to disability inactive status pursuant to SCR 3.04.010, seeking restoration or reinstatement to membership pursuant to Rules 3.09.010, 3.09.020, or 3.09.040, shall be required to have completed the minimum annual Continuing Legal Education requirement for each year during which he or she was not a Member in good standing, including any year prior to disbarment, suspension or withdrawal under threat of disbarment or suspension, during which the minimum annual Continuing Legal Education requirement was not fulfilled, including the educational year during which the application is filed. Completion of such credits shall be certified to the Commission as a condition precedent to reinstatement or restoration. In no case shall a Member be required to complete more than 60 Continuing Legal Education credits, including 10 ethics credits, as a condition precedent of restoration or reinstatement to membership.

(a) Former members who voluntarily withdrew from membership pursuant to SCR 3.08.350(1) shall be required to show either:

(i) compliance with the mandatory Continuing Legal Education requirement of another jurisdiction for each year he or she was not a Member in good standing, including the current educational year; or

(ii) that he or she has completed the minimum annual Continuing Legal Education requirement for each year he or she was not a Member in good standing, including the current educational year. In no case shall a former

Member who voluntarily withdrew be required to complete more than 24 credits, including 4 ethics credits, as a condition precedent to restoration to membership.

(2) The application or affidavit of compliance submitted for restoration or reinstatement shall include certification from the Director for CLE of completion of Continuing Legal Education activities as required by these Rules, or otherwise specified by the Commission or Court. Applicants or affiants shall request said certification from the Director for CLE in writing and shall submit with said written request a fee of $50.00 to cover the expense of the record search and certification. Applications or affidavits of compliance submitted for restoration or reinstatement which do not include the required certification of Continuing Legal Education compliance, including verification of fee payment for the certification, shall be considered incomplete and shall not be processed.

(3) The requirements for completion of Continuing Legal Education as a condition to restoration or reinstatement as set forth above may only be satisfied with credits earned in the educational year during which the application is submitted and the preceding 5 educational years.

(4) Approval of the application or provision of a certification for an affidavit of compliance shall satisfy the requirement of the applicant under SCR 3.05.040 for the educational year during which the application is filed.

(5) If a new educational year begins after approval of the application or certification, but prior to Supreme Court entry of an Order of Reinstatement or Restoration, or Registrar's certification of the Member's name to the active roster of membership, the new year minimum Continuing Legal Education requirement must be completed and the application updated before the reinstatement or restoration can proceed to the Board of Governors or to the Court, unless the maximum credits set forth above in this Rule were completed at the time of the initial application or certification.

156. Rules of the Supreme Court (SCR) Rule 3.690 is renumbered as Rule 3.05.130 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.130
SCR 3.05.130 Continuing Legal Education Award

(1) Any Member who completes a minimum of 20 credit hours approved by the Commission within one (1) educational year, is eligible for a Continuing Legal Education Award.

(2) The Commission shall notify the Member and issue the award.

(3) Approved awards are valid for one (1) year, beginning on the first day of July of the year of award notification.

(4) Each Member who holds a valid, unexpired award shall receive a 25% discount from the normal registration fee for the Kentucky Bar Association Annual Convention.

(5) The Association may publish annually an announcement of the members who during the preceding educational year have earned the Continuing Legal Education Award. The announcement shall describe the basis of the award and shall set forth in alphabetical order the name of each recipient.

157. Rules of the Supreme Court (SCR) Rule 3.695 is renumbered as Rule 3.05.140 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.05.140
SCR 3.05.140 Commission records confidential

The files and records of the Commission shall be deemed confidential and shall not be disclosed except in furtherance of the duties of the Commission, of the Board, upon request of the Member affected, or as directed by the Supreme Court of Kentucky. This Rule specifically excludes from confidentiality information provided by a Member to the Commission as a part of a Member's application for relief from the requirements of these rules.

158. Rules of the Supreme Court (SCR) Rule 3.700 is renumbered as Rule 3.11.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.11.010
SCR Rule 3.11.010 Provisions relating to paralegals

PRELIMINARY STATEMENT: The availability of legal services to the public at a price it can afford is a goal to which the Bar is committed, and one which finds support in Canons 2 and 8 of the Code of Professional Responsibility. The employment of paralegals furnishes a means by which lawyers may expand the public's opportunity for utilization of their services at a reduced cost.

For purposes of this Rule, a paralegal is a person under the supervision and direction of a licensed lawyer, who may apply knowledge of law and legal procedures in rendering direct assistance to lawyers engaged in legal research; design, develop or plan modifications or new procedures, techniques, services, processes or applications; prepare or interpret legal documents and write detailed procedures for practicing in certain fields of law; select, compile and

use technical information from such references as digests, encyclopedias or practice manuals; and analyze and follow procedural problems that involve independent decisions.

PURPOSE: Rapid growth in the employment of paralegals increases the desirability and necessity of establishing guidelines for the utilization of paralegals by the legal community. This Rule is not intended to stifle the proper development and expansion of paralegal services, but to provide guidance and ensure growth in accordance with the Code of Professional Responsibility, statutes, court rules and decisions, rules and regulations of administrative agencies, and opinions rendered by committees on professional ethics and unauthorized practice of law.

While the responsibility for compliance with standards of professional conduct rests with members of the Bar, a paralegal should understand those standards. It is, therefore, incumbent upon the lawyer employing a paralegal to inform him of the restraints and responsibilities incident to the job and supervise the manner in which the work is completed. However, the paralegal does have an independent obligation to refrain from illegal conduct. Additionally, and notwithstanding the fact that the Code of Professional Responsibility is not binding upon lay persons, the very nature of a paralegal's employment imposes an obligation to refrain from conduct which would involve the lawyer in a violation of the Code.

SUB-RULE 1

A lawyer shall ensure that a paralegal in his employment does not engage in the unauthorized practice of law.

SUB-RULE 2

For purposes of this Rule, the unauthorized practice of law shall not include any service rendered involving legal knowledge or legal advice, whether representation, counsel or advocacy, in or out of court, rendered in respect to the acts, duties, obligations, liabilities or business relations of the one requiring services where:

A. The client understands that the paralegal is not a lawyer;

B. The lawyer supervises the paralegal in the performance of his duties; and

C. The lawyer remains fully responsible for such representation, including all actions taken or not taken in connection therewith by the paralegal to the same extent as if such representation had been furnished entirely by the lawyer and all such actions had been taken or not taken directly by the lawyer.

D. The services rendered under this Rule shall not include appearing formally in any court or administrative tribunal except under Sub-Rule 3 below, nor shall it include questioning of witnesses, parties or other persons appearing in any legal or administrative action including but not limited to depositions, trials, and hearings.

SUB-RULE 3

For purposes of this Rule 3.11.010, the unauthorized practice of law shall not include representation before any administrative tribunal or court where such service or representation is rendered pursuant to a court rule or decision which authorizes such practice by nonlawyers.

SUB-RULE 4

A lawyer shall instruct a paralegal employee to preserve the confidences and secrets of a client and shall exercise care that the paralegal does so.

SUB-RULE 5

A lawyer shall not form a partnership with a paralegal if any part of the partnership's activities consists of the practice of law, nor shall a lawyer share on a proportionate basis, legal fees with a paralegal.

SUB-RULE 6

The letterhead of a lawyer may include the name of a paralegal where the paralegal's status is clearly indicated: A lawyer may permit his name to be included in a paralegal's business card, provided that the paralegal's status is clearly indicated.

SUB-RULE 7

A lawyer shall require a paralegal, when dealing with a client, to disclose at the outset that he is not a lawyer. A lawyer shall also require such a disclosure when the paralegal is dealing with a court, administrative agency, attorney or the public, if there is any reason for their believing that the paralegal is a lawyer or is associated with a lawyer.

159. Rules of the Supreme Court (SCR) Rule 3.800 is renumbered as Rule 3.12.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.12.010
SCR 3.12.010 Legal negligence arbitration

(1) Purpose.

The purpose of this Rule 3.12.010 is to establish a procedure whereby claims of legal negligence in the amount of fifty thousand dollars ($50,000.00) or less arising from attorney and client relationships may be resolved by submission to binding arbitration.

(2) Definitions.

(A) "Attorney" means an attorney-at-law who is a Member in good standing of the Association, or an attorney admitted to practice pursuant to SCR 3.04.010 when the dispute arises from that representation.

(B) "Association" means the Kentucky Bar Association.

(C) "Executive Director" means the Executive Director of the Kentucky Bar Association.

(D) "Dispute" shall mean any claim of legal negligence in the amount of fifty thousand dollars ($50,000.00) or less. This includes a matter that is the subject of a diversion pursuant to SCR 3.08.020(3), or a matter referred for negligence arbitration by the Court.

(E) "Amount in Controversy" means the amount of direct loss claimed as a result of the claimed negligence of an attorney.

(F) "Panel" means the arbitrator or arbitrators appointed to arbitrate a claim of legal negligence.

(3) Scope of Authority.

(A) The Rules and Procedures herein shall be available to resolve any dispute as herein defined only when the amount in controversy exceeds the jurisdictional maximum specified in KRS 24A.230 and all parties to the dispute agree in writing to submit the claim of negligence to the arbitration procedures herein, and further, agree in writing that they shall be fully bound by the decision and award of the Panel.

(B) These Rules shall not be used unless the parties to the dispute certify in writing that a good faith effort has been made by them to resolve the dispute.

(C) These Rules shall not be used if the dispute is the subject matter of a pending lawsuit, unless the parties follow the procedures of KRS 417.060(4).

(D) Except as otherwise provided herein, the substantive law of the Commonwealth of Kentucky will apply to any dispute arbitrated under this plan.

(4) Institution of Proceedings.

(A) Proceedings hereunder shall be begun by the filing of a petition with the Association. The signed petition shall state the origin and details of the dispute, the acts or omissions deemed to be negligent, and the amount claimed due as a result of the negligence alleged. The petitioner shall also sign an arbitration agreement. The petition and arbitration agreement shall be on forms provided by the Association.

(B) Upon the filing of the petition, the Executive Director shall determine whether it presents a dispute under these Rules. The decision of the Executive Director on that matter shall be final. The Executive Director shall have full power to require additional information from the petitioner as is deemed necessary.

(C) If the Executive Director determines that the Association shall not accept jurisdiction, the petition shall be returned to the petitioner indicating why the Association has not accepted jurisdiction and will not arbitrate the matter.

(D) If the Executive Director determines that the Association shall accept jurisdiction, a copy of the petition and the arbitration agreement signed by the petitioner shall be forwarded to the other party to the dispute to sign and return to the Executive Director with the answer to the petition. Twenty (20) days shall be allowed in which to answer unless additional time is requested. Upon receipt of the answer, the Executive Director shall forward to the petitioner a signed copy of the arbitration agreement and the answer submitted by the other party to the dispute.

(E) If the other party to the dispute refuses to submit to arbitration, or fails to sign and return the arbitration agreement and answer within the time allowed, the Executive Director shall so notify the petitioner, and the file of the Association shall be closed.

(F) If the dispute is referred to arbitration as referenced in 2(D) above, then sections 4(B) and (C) of this Rule are not applicable. The attorney involved in the dispute shall be deemed the petitioner and shall file a petition with the Executive Director.

(G) Upon the filing of a petition with the Association, any applicable statute of limitations is tolled until dismissal or final award is entered.

(5) Arbitration Panel.

(A) *Composition.*

(i) Where the amount in controversy is ten thousand dollars ($10,000.00) or less, the Panel shall consist of one (1) practicing attorney.

(ii) Where the amount in controversy exceeds ten thousand dollars ($10,000.00), but is not in excess of fifty thousand dollars ($50,000.00), the Panel shall consist of three (3) practicing attorneys.

(iii) The practicing attorneys referred to in paragraph (5)(A)(i) and (5)(A)(ii) above shall each:

(a) be a Member in good standing of the Association;

(b) be appointed for a particular dispute by the Executive Director; and

(c) if engaged in the private practice of law, maintain an office and carry on such practice within a reasonable proximity to the county in which the petitioner resides.

(iv) Any attorney appointed by the Executive Director may refuse to serve. Such refusal shall be by written notice to the Executive Director within ten (10) days of the appointment.

(v) The Executive Director, in cases of a three-member Panel, shall designate one member of the Panel as Chair of the Panel.

(B) *Objections*.

Either party to the dispute may object for cause to any of the Panel members. Such objection shall be in writing and shall be made within twenty (20) days of written notification of the composition of the Panel. Failure to object within twenty (20) days shall constitute a waiver of any objection to the composition of the Panel.

Objections to Panel members shall be made to the Executive Director and shall be determined in accordance with KRS 26A.015 et seq. The decision of the Executive Director shall be final.

(C) *Compensation*.

The Panel shall not be compensated for its services. Reasonable transportation costs may be reimbursed.

(D) *Vacancies*.

If any arbitrator should be unable to act, the Executive Director shall declare the office vacant and, if the matter has already been heard by the Panel, it shall not be reheard if the remaining members concur in the Award. If the sole member of the Panel is unable to act or the remaining members of the Panel do not concur in the Award, a new member shall be selected and the matter will be reheard. If the Panel has not yet heard the matter a new arbitration Panel member shall be selected in accordance with these Rules.

(E) *Communication Between the Parties and Panel Members*.

There shall be no ex parte communication between the parties and the Panel upon the subject matter of the arbitration other than at arbitration proceedings, or in documents filed with the Association as part of the proceedings. This limitation does not apply to administrative communications between the Panel and the parties regarding the scheduling of the hearing.

(6) Hearings.

(A) *Location*.

Hearings shall be held in a county that reasonably limits the travel required by the parties to attend the hearing.

(B) *Notice*.

The Chair of the Panel shall fix the time and cause written notice of time and place to be served upon all parties to the dispute by Certified Mail not fewer than ten (10) days prior to the time set for the hearing. Such notice of hearing shall also inform the parties of their right to be represented by an attorney and their right to present evidence in support of their respective positions.

(C) *Stenographic Record*.

(i) Any party may have a hearing before a Panel reported by a Certified Shorthand Reporter at the expense of the requesting party by written notice presented to the Panel Chair at least seven (7) days prior to the date of the hearing. Any other party to the arbitration shall be entitled to acquire, at their own expense, a copy of the reporter's transcript of the testimony by arrangements made directly with the reporter.

(ii) In the event the Panel determines it appropriate or necessary to record the hearing, it may be recorded by digital or video means with costs being assessed as the Panel deems just. A party to the dispute, at its own expense, may request a copy of the record so recorded.

(D) *Production of Records and Subpoenas*.

(i) The parties to a dispute have the obligation to provide all documents needed for the Panel to resolve the questions presented for resolution. The discovery provisions of the Kentucky Rules of Civil Procedure are not strictly applicable. When a party fails to provide documents determined necessary by the Panel, the Panel may accept the negative factual inferences created by the failure to provide the requested documents.

(ii) When the Panel determines the provisions of KRS 417.110 should be utilized, it may request permission in writing from the Executive Director for the authority to issue a subpoena for the documents specified in its request.

(E) *Oath of Panel Members*.

The Panel shall take a written oath to be filed with the Executive Director to decide the dispute submitted to them according to the law and evidence and the equity of the case to the best of their judgment without favor, affection or prejudice.

(F) *Conduct of Hearings*.

(i) The testimony of all witnesses shall be given under oath. The Panel Chair shall administer oaths to witnesses.

(ii) The Panel Chair shall preside at the hearing and shall be the judge of the relevancy and materiality of the evidence offered, shall rule on questions of procedure, and shall exercise all powers relating to the conduct of the hearing. Strict compliance with the rules of evidence shall not be required.

(iii) In cases involving a three (3) member Panel, if at the time set for any hearing all three members of the Panel are not available to participate, the hearing shall be postponed, or, with consent of the parties shall proceed with the hearing with one (1) member of the Panel chosen by the parties as the sole arbitrator.

(iv) If any party to an arbitration who has been duly notified fails to appear at a scheduled hearing, the Panel may proceed with the hearing and determine the dispute upon the evidence produced.

(v) The Panel Chair may adjourn the hearing from time to time as necessary. Upon request of a party to the arbitration for good cause, the Panel Chair may postpone the hearing from time to time.

(vi) No briefs or legal memorandum shall be submitted by the parties unless specifically requested by the Panel or a majority thereof.

(7) The Award.

(A) *Rendition and Form*.

(i) The Panel shall render its award within thirty (30) days after the close of the hearing. The Award shall be made by a majority of the Panel.

(ii) The original Award shall be in writing and shall be signed by the member(s) of the Panel concurring therein. The Award shall include a determination of all questions submitted to the Panel, the decision of which shall be necessary to

resolve the dispute. Copies of the Award shall have the same legal force and effect as the original.

(iii) While it is not required that the Award be in any particular form, it should, in general, consist of a preliminary statement reciting the jurisdictional facts, i.e., that a hearing was held upon notice pursuant to a written agreement to arbitrate, the parties were given an opportunity to testify and cross-examine, etc., a brief statement of the dispute, findings, conclusions, and the amount, if any, to be paid or reimbursed. The Panel shall avoid reciting information in the text of the Award that is privileged unless the parties specifically waive any privilege.

(iv) An Award may also be entered by consent of all parties to the dispute.

(v) The Award signed by the member(s) of the Panel shall be provided to the Executive Director, who shall cause it to be mailed to the parties by Certified Mail.

(B) *Correction of Errors*.

If, upon receiving the Award, a party determines it contains significant factual or accounting errors or omissions, the party may bring this information to the attention of the Executive Director within fifteen (15) days from the receipt of the Award. The Executive Director will present the information to the other party and to the Panel for consideration along with the comments from the other party to the dispute. If the Panel determines that modification of the Award is appropriate, the Panel will issue a modified Award reflecting any changes made and will provide the modified Award to the Executive Director for service on the parties as indicated above. This procedure is not intended to provide a party the opportunity to submit new evidence or to reargue the merits of the dispute.

(C) *Effect and Enforcement*.

The provisions of KRS 417.180 and of the arbitration agreement of the parties shall govern and determine the effect and enforcement of the Award. The law of the Commonwealth of Kentucky will govern the award of interest of any judgment.

(8) Records.

With the exception of the Award itself all records, documents, files, proceedings and hearings pertaining to arbitration of any dispute under these Rules shall not be open to the public or to any person not involved in the dispute with the exception of disputes referred to arbitration as stated in section 2(D) above. In

that circumstance, a copy of the Award may be provided to the referring activity or agency.

(9) Death or Incompetence of a Party.

In the event of the death or incompetence of a party to the arbitration proceedings before the hearing has been concluded, the proceedings shall be abated without prejudice to either party to seek such relief as may be proper. In the event of death or incompetence of a party after the close of the hearing, but prior to issuance of the Award, the decision rendered shall be binding upon the heirs, administrators, or executors of the deceased and on the estate or guardian of the incompetent.

(10) No Charge for Arbitration Services.

No charge or fee shall be required of any party requesting or making use of the arbitration services provided by these Rules.

(11) Indemnity Provision.

By agreeing to the procedures authorized herein, the parties further agree to indemnify and hold harmless the Association, its employees and the Panel concerning any action arising out of the procedures set forth by this Rule and for any and all conduct of the Panel in the exercise of the procedures herein.

160. Rules of the Supreme Court (SCR) Rule 3.810 is renumbered as Rule 3.12.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.12.020
SCR 3.12.020 Legal fee arbitration

(1) Purpose.

The purpose of this Rule 3.12.020 is to establish a procedure whereby fee disputes arising from attorney and client relationships may be resolved by submission to binding arbitration.

(2) Definitions.

(A) “Attorney” means an attorney-at-law who is a Member in good standing of the Kentucky Bar Association, or an attorney admitted to practice pursuant to SCR 3.04.010 when the dispute arises from that representation.

(B) “Association” means the Kentucky Bar Association.

(C) “Executive Director” means the Executive Director of the Kentucky Bar Association.

(D) “Dispute” means a disagreement between an attorney and a client relative to the fee due the attorney for particular legal services rendered, or a disagreement between attorneys concerning the amount of the fees due each attorney for particular legal services rendered. This includes a matter that is the subject of a diversion pursuant to SCR 3.08.020 (3), or a matter referred for fee arbitration by the Inquiry Commission or Court.

(E) “Amount in controversy” means the difference between the sum of money an attorney proposes to charge for legal services and the sum of money the client offers to pay for such services, or the total amount of the fee to be divided between attorneys.

(F) “Panel” means the arbitrator or arbitrators appointed to arbitrate the dispute.

(3) Scope of Authority.

(A) The Rules and Procedures herein set forth shall be available to resolve any dispute when the amount in controversy exceeds the jurisdictional maximum specified in KRS 24A.230 and all parties to the dispute agree in writing to submit the dispute to these Rules and further agree in writing that they shall be fully bound by the decision and Award of the Panel.

(B) These Rules shall not be used unless the parties to the dispute certify in writing that a good faith effort has been made by them to resolve the dispute.

(C) These Rules shall not be used if the dispute is the subject matter of a pending lawsuit, unless the parties follow the procedures of KRS 417.060(4).

(4) Institution of Proceedings.

(A) Proceedings hereunder shall be begun by the filing of a petition with the Association. The signed petition shall state the origin and details of the dispute, the nature and degree of legal services rendered, and the amount claimed due as a result of the dispute alleged. The petitioner shall also sign an arbitration agreement. The petition and arbitration agreement shall be on forms provided by the Association.

(B) Upon the filing of the petition, the Executive Director shall determine whether it presents a dispute under these Rules. The decision of the Executive Director on that matter shall be final. The Executive Director shall have full power to require additional information from the petitioner as is deemed necessary to determine whether the Association shall accept jurisdiction of the dispute under these Rules.

(C) If the Executive Director determines that the Association shall not accept jurisdiction of a fee dispute, the petition shall be returned to the petitioner indicating why the Association has not accepted jurisdiction of the matter.

(D) If the Executive Director determines that the Association shall accept jurisdiction, a copy of the petition and the arbitration agreement signed by the petitioner shall be forwarded to the other party to the dispute to sign and return to the Executive Director with the answer to the petition. Twenty (20) days shall be allowed in which to answer, unless additional time is requested. Upon receipt of the answer, the Executive Director shall forward to the petitioner a signed copy of the arbitration agreement and of the answer submitted by the other party to the dispute.

(E) If the other party to the dispute refuses to submit the fee dispute to arbitration, or fails to sign and return the arbitration agreement and answer within the time allowed, the Executive Director shall so notify the petitioner and the file of the Association shall be closed.

(F) If the dispute is referred to arbitration as referenced in 2(D) above, then sections 4(B) and (C) of this Rule are not applicable. The attorney involved in the dispute shall be deemed the petitioner and shall file a petition with the Executive Director.

(G) Upon the filing of a petition with the Association, any applicable statute of limitations is tolled until dismissal or a final award is entered.

(5) Arbitration Panel.

(A) *Composition.*

(i) Where the amount in controversy is ten thousand dollars ($10,000.00) or less, the Panel shall consist of one (1) person who shall be a practicing Attorney.

(ii) Where the amount in controversy exceeds ten thousand dollars ($10,000.00), the Panel shall consist of three (3) persons, two (2) of whom shall be practicing Attorneys and the third (3rd) member shall be a non-lawyer.

(iii) The practicing Attorney(s) referred to in paragraph (5)(A)(i) and (5)(A)(ii) above, shall each:

(a) be a Member in good standing of the Association;

(b) be appointed for a particular dispute by the Executive Director; and

(c) if engaged in the private practice of law shall maintain an office and carry on such practice within a reasonable proximity to the county in which the petitioner in the dispute resides.

(iv) Any attorney appointed by the Executive Director may refuse to serve. Such refusal shall be by written notice to the Executive Director within ten (10) days of the appointment.

(v) The non-lawyer referred to in paragraph (5)(A)(ii) shall be selected by the senior presiding judge or Chief Circuit Judge of the county where the attorney involved in the fee dispute maintains a principal office for the practice of law. If the dispute is between two attorneys, the selection of the non-lawyer member of the Panel shall be made by the senior presiding judge or Chief Circuit Judge of the county where the attorney petitioning for arbitration maintains a principal office for the practice of law.

(vi) In cases of a three-member Panel, the Executive Director shall designate one member of the Panel as Chair of the Panel.

(B) *Objections*.

Either party to a fee dispute may object for cause to any of the Panel members. Such objection shall be in writing and shall be made within twenty (20) days of written notification of the composition of the Panel. Failure to object within twenty (20) days shall constitute a waiver of any objection to the composition of the Panel.

Objections to Panel members shall be made to the Executive Director and shall be determined in accordance with KRS 26A.015 et seq. The decision of the Executive Director shall be final.

(C) *Compensation*.

The Panel shall not be compensated for its services. Reasonable transportation expenses may be reimbursed.

(D) *Vacancies*.

If any arbitrator should be unable to act, the Executive Director shall declare the office vacant and, if the matter has already been heard by the Panel, it shall not be reheard if the remaining members concur in the Award. If the sole member of the Panel is unable to act or the remaining members of the Panel do not concur in the Award, a new member shall be selected and the matter will be reheard. If the Panel has not yet heard the matter a new arbitration Panel member shall be selected in accordance with these Rules.

(E) *Communication Between the Parties and Panel Members*.

There shall be no ex parte communication between the parties and the Panel upon the subject matter of the arbitration other than at arbitration proceedings, or in documents filed with the Association as part of the

proceedings. This limitation does not apply to administrative communications between the Panel and the parties regarding the scheduling of the hearing.

(6) Hearings.

(A) *Location*.

Hearings shall be held in a county that reasonably limits the travel required by the parties to attend the hearing.

(B) *Notice*.

The Chair of the Panel shall fix the time and place for the hearing and shall cause written notice of time and place to be served upon all parties to the dispute by Certified Mail not fewer than ten (10) days prior to the time set for the hearing. Such notice of hearing shall also inform the parties of their right to be represented by an attorney and their right to present evidence in support of their respective positions.

(C) *Stenographic Record*.

(i) Any party may have a hearing before a Panel reported by a Certified Shorthand Reporter at the expense of the requesting party by written notice presented to the Panel Chair at least seven (7) days prior to the date of the hearing. Any other party to the arbitration shall be entitled to acquire at their own expense, a copy of the reporter's transcript of the testimony by arrangements made directly with the reporter.

(ii) In the event the Panel determines it appropriate or necessary to record the hearing, it may be recorded by digital or video means with costs being assessed as the Panel deems just. A party to the dispute, at its own expense, may request a copy of the record so recorded.

(D) *Production of Records and Subpoenas*.

(i) The parties to a dispute have the obligation to provide all documents needed for the Panel to resolve the questions presented for resolution. The discovery provisions of the Kentucky Rules of Civil Procedure are not strictly applicable. When a party fails to provide documents determined necessary by the Panel, the Panel may accept the negative factual inferences created by the failure to provide the requested documents.

(ii) When the Panel determines the provisions of KRS 417.110 should be utilized, it may request permission in writing from the Executive Director for the authority to issue a subpoena for the documents specified in its request.

(E) *Oath of Panel Members*.

The Panel shall take a written oath to be filed with the Executive Director to decide the dispute submitted to them according to the law and evidence and the equity of the case to the best of their judgment without favor, affection or prejudice.

(F) *Conduct of Hearings.*

(i) The testimony of all witnesses shall be given under oath. The Panel Chair shall administer oaths to witnesses.

(ii) The Panel Chair shall preside at the hearing and shall be the judge of the relevancy and materiality of the evidence offered, shall rule on questions of procedure, and shall exercise all powers relating to the conduct of the hearing. Strict compliance with the rules of evidence shall not be required.

(iii) In cases involving a three (3) member Panel, if at the time set for any hearing all three members of the panel are not available to participate, the hearing shall be postponed, or, with consent of the parties shall proceed with the hearing with one (1) member of the panel chosen by the parties as the sole arbitrator.

(iv) If any party to an arbitration who has been duly notified fails to appear at a scheduled hearing, the Panel may proceed with the hearing and determine the dispute upon the evidence produced.

(v) The Panel Chair may adjourn the hearing from time to time as necessary. Upon request of a party to the arbitration for good cause, the Panel Chair may postpone the hearing from time to time.

(vi) No briefs or legal memorandum shall be submitted by the parties unless specifically requested by the Panel or a majority thereof.

(7) The Award.

(A) *Rendition and Form.*

(i) The Panel shall render its Award within thirty (30) days after the close of the hearing. The Award of the Panel shall be made by a majority of the Panel.

(ii) The original Award shall be in writing and shall be signed by the member(s) of the Panel concurring therein. The Award shall include a determination of all questions submitted to the Panel, the decision of which shall be necessary to resolve the controversy. Copies of the Award shall have the same legal force and effect as the original.

(iii) While it is not required that the Award be in any particular form, it should, in general, consist of a preliminary statement reciting the jurisdictional facts, i.e., that a hearing was held upon notice pursuant to a written agreement to

arbitrate, the parties were given an opportunity to testify and cross-examine, etc., a brief statement of the dispute, findings, conclusions, and the amount to be paid or reimbursed. The Panel shall avoid reciting information in the text of the Award that is privileged unless the parties specifically waive any privilege.

(iv) An Award may also be entered by consent of all parties to the dispute.

(v) The award signed by the member(s) of the Panel shall be provided to the Executive Director, who shall cause it to be mailed to the parties by Certified Mail.

(B) *Correction of Errors*.

If, upon receiving the Award, a party determines it contains significant factual or accounting errors or omissions, the party may bring this information to the attention of the Executive Director within fifteen (15) days from the receipt of the Award. The Executive Director will present the information to the other party and to the Panel for consideration along with any comments by the other party to the dispute. If the Panel determines that modification of the Award is appropriate, the Panel will issue a modified Award reflecting any changes made and will provide the modified Award to the Executive Director for service on the parties as indicated above. This procedure is not intended to provide a party the opportunity to submit new evidence or to reargue the merits of the dispute.

(C) *Effect and Enforcement*.

The provisions of KRS 417.180 and of the arbitration agreement of the parties shall govern and determine the effect and enforcement of the Award. The law of the Commonwealth of Kentucky will govern the Award of interest on any judgment.

(8) Records.

With the exception of the Award itself all records, documents, files, proceedings and hearings pertaining to arbitration of any fee dispute under these Rules shall not be open to the public or to any person not involved in the dispute with the exception of disputes referred to arbitration as stated in section 2(D) above. In that circumstance, a copy of the Award may be provided to the referring activity or agency.

(9) Death or Incompetence of a Party.

In the event of the death or incompetence of a party to the arbitration proceedings before the hearing has been concluded, the proceedings shall be abated without prejudice to either party to seek such relief as may be proper. In the event of death or incompetence of a party after the close of the hearing but prior to issuance of the Award, the decision rendered shall be

binding upon the heirs, administrators, or executors of the deceased and on the estate or guardian of the incompetent.

(10) Arbitration of Fee Disputes Between and Among Attorneys.

(A) The Association may accept jurisdiction of any fee dispute between or among attorneys when such a dispute has been submitted to the Association in accordance with these Rules.

(B) These Rules shall be applied by the Association in the resolution of fee disputes between and among attorneys except that in rendering its Award the Panel shall determine whether the fee in dispute should be divided and if so, in what proportions it should be divided between or among the parties to the arbitration.

(C) Service of a copy of such Award on the attorneys shall conclusively limit all claim and interest of the participating attorneys in the disputed fee in accordance with the division of the fee, if any, set forth in the Award.

(11) No Charge for Arbitration Service.

No charge or fee shall be required of any party requesting or making use of the fee arbitration services provided by these Rules.

(12) Indemnity Provision.

By agreeing to the procedures authorized herein, the parties further agree to indemnify and hold harmless the Association, its employees and the Panel concerning any action arising out of the procedures set forth by this Rule and for any and all conduct of the Panel in the exercise of the procedures herein.

161. Rules of the Supreme Court (SCR) Rule 3.820 is renumbered as Rule 3.13.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.13.010
SCR 3.13.010 Clients' Security Fund

There shall be maintained a special fund for the purpose of providing indemnification to clients who may suffer pecuniary loss by reason of fraudulent or dishonest acts on the part of a Member of the Kentucky Bar Association. The fund shall be named, held, administered and disbursed in accordance with the provisions hereinafter set forth.

(1) Purpose and Scope.

(a) The purpose of the Clients' Security Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers admitted and licensed to practice law in the courts of this State occurring in the course or arising out of a lawyer-client relationship between the lawyer and the claimant.

(b) Every lawyer has an obligation to the public to participate in the collective effort of the bar to reimburse persons who have lost money or property as a result of the dishonest conduct of another lawyer. Contribution to the Clients' Security Fund is an acceptable method of meeting this obligation.

(2) Establishment.

(a) There is established the Clients' Security Fund to reimburse claimants for losses caused by dishonest conduct committed in this state by lawyers admitted to practice in this State.

(b) There is established, under the supervision of the Supreme Court of Kentucky, the Clients' Security Fund Board of Trustees, which shall receive, hold, manage and disburse from the Fund such monies as may from time to time be allocated to the Fund.

(c) These rules shall be effective for claims filed with the Trustees after October 20, 1971 and the Trustees shall not pay claims for losses incurred as a result of dishonest conduct committed prior thereto.

(3) Funding.

(a) The Court shall provide for funding by the lawyers of the State in amounts adequate for the proper payment of claims and the costs of administering the Fund.

(b) A lawyer's failure to pay any fee assessed shall be a cause for suspension from practice until payment has been made.

(c) A lawyer whose dishonest conduct has resulted in reimbursement to a claimant shall make restitution to the Fund including interest and the expense incurred by the Fund in processing the claim. A lawyer's failure to make satisfactory arrangements for restitution shall be cause for suspension, disbarment, or denial of an application for reinstatement.

(4) Funds.

All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, subject to the direction of the Trustees.

(5) Composition and Officers of the Board.

(a) The Trustees shall consist of three lawyers and two nonlawyers appointed by the Board of Governors for initial terms as follows:

(1) One lawyer for one year;

(2) One nonlawyer for two years;

(3) One lawyer for two years;

(4) One nonlawyer for three years; and

(5) One lawyer for three years.

Subsequent appointments shall be for a term of three years. The Board of Governors may limit the number of successive terms that Trustees may serve.

(b) Trustees shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the discharge of their duties.

(c) Vacancies shall be filled by appointment by the Board for any unexpired terms.

(d) The Board shall select a chairperson and such other officers as they deem appropriate.

(6) Board Meetings.

(a) The Trustees shall meet as frequently as necessary to conduct the business of the Fund and to timely process claims.

(b) The Chairperson shall call a meeting at any reasonable time or upon the request of at least two Trustees.

(c) A quorum for any meeting of the Board shall be three Trustees.

(d) A record of meetings shall be taken and maintained.

(7) Duties and Responsibilities of the Trustees.

The Trustees shall have the following duties and responsibilities:

(a) to receive, evaluate, determine and pay claims;

(b) to promulgate rules of procedure not inconsistent with these Rules, subject to approval by the Board of Governors;

(c) to prudently invest such portions of the funds as may not be needed currently to pay losses;

(d) to provide a full report at least annually to the Court and to make other reports as necessary;

(e) to publicize its activities to the public and the bar;

(f) to retain and compensate consultants, auditors, actuaries, agents, legal counsel, special commissioners appointed under SCR 3.08.260, and other persons as necessary;

(g) to prosecute for restitution to which the Fund is entitled;

(h) to engage in studies and programs for client protection and prevention of dishonest conduct by lawyers; and

(i) to perform all other acts necessary or proper for the fulfillment of the purposes and effective administration of the Fund.

(8) Conflict of Interest.

(a) A Trustee who has or has had a lawyer-client relationship or a financial relationship with a claimant or lawyer who is the subject of a claim shall not participate in the investigation or adjudication of a claim involving that claimant or lawyer.

(b) A Trustee with a past or present relationship, other than as provided in section (a), with a claimant or the lawyer whose alleged conduct is the subject of the claim, shall disclose such relationship to the panel and, if the panel deems appropriate, that Trustee shall not participate in any proceeding relating to such claim.

(9) Immunity.

The Trustees, employees and agents of the panel shall be absolutely immune from civil liability for all acts in the course of their official duties. Absolute immunity shall also extend to claimants and lawyers who assist claimants for all communications to the Fund.

(10) Eligible Claims.

(a) The loss must be caused by the dishonest conduct of the lawyer and shall have arisen out of or in the course of a lawyer-client relationship between the lawyer and the claimant.

(b) The claim shall have been filed no later than two years after the claimant knew or should have known of the dishonest conduct of the lawyer.

(c) As used in these Rules, “dishonest conduct” means:

(1) Wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value, or

(2) Refusal to refund unearned fees received in advance where the lawyer performed no services or such an insignificant portion of the services that the refusal to refund the unearned fees constitutes a wrongful taking or conversion of money.

(d) Except as provided by section (e) of this Rule, the following losses shall not be reimbursable:

(1) Losses incurred as a result of any negligent act of malpractice,

(2) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyer(s) causing the losses;

(3) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest;

(4) Losses incurred by any financial institution which are recoverable under a “banker's blanket bond” or similar commonly available insurance or surety contract;

(5) Losses incurred by any business entity controlled by the lawyer, any person or entity described in section (d)(1), (2), or (3) hereof;

(6) Losses incurred by any governmental entity or agency.

(e) In cases of extreme hardship or special and unusual circumstances, the panel of Trustees may, in its discretion, recognize a claim which would otherwise be excluded under these Rules.

(f) In cases where it appears that there would be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the panel of Trustees may in its discretion, deny the claim.

(11) Procedures and Responsibilities for Claimants.

(a) The Trustees shall prepare and approve a form for claiming reimbursement.

(b) The form shall include at least the following information provided by the claimant under penalty of perjury:

(1) the name and address of claimant, home and business telephone, occupation and employer;

(2) the name, address and telephone number of the lawyer alleged to have dishonestly taken the claimant's money or property, and any family or business relationship of the claimant to the lawyer;

(3) the legal or other fiduciary services the lawyer was to perform for the claimant;

(4) the amount paid to the lawyer;

(5) the copy of any written agreement pertaining to the claim;

(6) the form of the claimant's loss involved (e.g. money, securities or other property);

(7) the amount of loss and the date when the loss occurred;

(8) the date when the claimant discovered the loss, and how the claimant discovered the loss;

(9) the lawyer's dishonest conduct and the names and addresses of any persons who have knowledge of the loss;

(10) the name of the person, if any, to whom the loss has been reported (e.g. prosecuting attorney, police, disciplinary agency, or other person or entity) and a copy of any complaint and description of any action that was taken;

(11) the source, if any, from which the loss can be reimbursed including any insurance, fidelity or surety agreement;

(12) the description of any steps taken to recover the loss directly from the lawyer, or any other source;

(13) the circumstances under which the claimant has been or will be, reimbursed for any part of the claim (including the amount received, or to be received, and the source); along with a statement that the claimant agrees to notify the Board of any reimbursements the claimant receives during the pendency of the claim;

(14) the existence of facts believed to be important to the Fund's consideration of the claim;

(15) the manner in which the claimant learned about the Fund;

(16) the name, address and telephone number of the claimant's present lawyer;

(17) the claimant's agreement to cooperate with the Board in reference to the claim or as required by SCR 3.13.010(16), in reference to civil actions which may be brought in the name of the Board pursuant to a subrogation and assignment clause which shall also be contained within the claim;

(18) the name and address of any other State Fund to which the claimant has applied or intends to apply for reimbursement, together with a copy of the application; and

(19) a statement that the client agrees to the publication of appropriate information about the nature of the claim and the amount of reimbursement if reimbursement is made.

(c) The claimant shall have the responsibility to complete the claim form and provide satisfactory evidence of a reimbursable loss.

(d) The claim shall be filed with the Trustees in the manner and place designated in the rules governing claims with the Fund.

(12) Processing Claims.

(a) Whenever it appears that a claim is not eligible for reimbursement pursuant to SCR 3.13.010(10), the claimant shall be advised of the reasons why the claim may not be eligible for reimbursement, and that unless additional facts to support eligibility are submitted to the Fund, the claim file shall be closed.

(b) A copy of an order disciplining a lawyer for the same dishonest act or conduct alleged in a claim, or a final judgment imposing civil or criminal liability therefor, may be considered by the Trustees as evidence that the lawyer committed such dishonest act or conduct.

(c) The lawyer disciplinary agency shall be promptly notified of the claim and requested to furnish a report of its investigation on the matter to the Trustees. The lawyer disciplinary agency shall allow the Fund's representative access to its records during an investigation of a claim. The Trustees shall evaluate whether the investigation is complete and determine whether the Trustees should conduct additional investigation or await the pendency of any disciplinary investigation or proceeding involving the same act or conduct that is alleged in the claim.

(d) The Trustees may conduct their own investigation when deemed appropriate.

(e) A copy of the claim shall be served upon the lawyer, or the lawyer's representative. The lawyer or representative shall have 20 days in which to respond.

(f) The Trustees may request that testimony be presented to complete the record. Upon request, the claimant or lawyer, or their representative, will be given an opportunity to be heard.

(g) A determination by the Trustees of dishonest conduct for purposes of adjudicating a claim shall not constitute a finding of dishonest conduct for purposes of professional discipline.

(h) When the record is complete, the claim shall be determined on the basis of all available evidence, and notice shall be given to the claimant and the lawyer of the Board's determination and the reasons therefor. The approval or denial of a claim shall require the affirmative votes of at least three trustees.

(i) Any proceeding upon a claim need not be conducted according to technical rules relating to evidence, procedure and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in court proceedings. The claimant shall have the duty to supply relevant evidence to support the claim.

(j) The Trustees shall determine the order and manner of payment and pay all approved claims, but unless the Trustees direct otherwise, no claim should be approved during the pendency of a disciplinary proceeding involving the same act or conduct that is alleged in the claim.

(k) Both the claimant and the lawyer shall be advised of the status of the Trustees' consideration of the claim and shall be informed of the final determination.

(l) The claimant or respondent lawyer may request reconsideration within 30 days of the denial or determination of the amount of a claim. The request shall plainly state the reasons for such reconsideration. The Trustees shall grant or deny this request within 30 days after the request is filed with the KBA administrator. If the claimant fails to make a request or the request is denied, the decision of the Board is final.

(13) Payment of Reimbursement.

(a) The Board of Governors, with the approval of the Supreme Court, may from time to time fix a maximum amount on reimbursement that is payable by the Fund.

(b) Claimants shall be reimbursed for losses in amounts to be determined by the Trustees. No claim shall be paid for consequential damages flowing from the wrongful act of a practicing attorney. Claims shall be limited to actual pecuniary amounts retained, embezzled, stolen, or otherwise taken from or withheld from the claimant by the practicing attorney.

(c) Payment of reimbursement shall be made in such amounts and at such times as the Trustees deem appropriate and may be paid in lump sum or installment amounts.

(d) If a claimant is a minor or an incompetent, the reimbursement may be paid to any person or entity for the benefit of the claimant.

(14) Reimbursement from Fund is a Matter of Grace.

No person shall have the legal right to reimbursement from the Fund whether as claimant, third-party beneficiary, or otherwise.

(15) Restitution and Subrogation.

(a) A lawyer whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution; and the Trustees may bring such action as it deems advisable to enforce such obligation.

(b) As a condition of reimbursement, a claimant shall be required to provide the Fund with a *pro tanto* transfer of the claimant's rights against the lawyer, the lawyer's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the claimant's loss.

(c) Upon commencement of an action by the Clients' Security Fund as subrogee or assignee of a claim, it shall advise the claimant, who may then join in such action to recover the claimant's unreimbursed losses.

(d) In the event that the claimant commences an action to recover unreimbursed losses against the lawyer or another entity who may be liable for the claimant's loss, the claimant shall be required to notify the Trustees of such action.

(e) The claimant shall be required to agree to cooperate in all efforts that the Trustees undertake to achieve restitution for the Fund.

(16) Judicial Relief.

(a) The Trustees may make application to the appropriate court for relief to protect the interests of claimants or the Fund where:

(1) the assets of client appear to be in danger of misappropriation or loss, or to secure the claimant's or Fund's rights to restitution or subrogation; or

(2) the disciplinary agency has failed to exercise jurisdiction.

(b) A court's jurisdiction in such proceedings shall include the authority to appoint and compensate custodial receivers to conserve the assets and practices of missing, incapacitated and deceased lawyers.

(17) Confidentiality.

(a) Claims, proceedings and reports involving claims for reimbursement are confidential until the Trustees authorize reimbursement to the claimant, except

as provided below. After payment of the reimbursement, the Trustees may publicize the nature of the claim, the amount of reimbursement, and the name of the lawyer. The name and the address of the claimant shall not be publicized by the Trustees unless specific permission has been granted by the claimant.

(b) This Rule shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Trustees shall authorize, or the release of statistical information which does not disclose the identity of the lawyer or the parties.

(18) Compensation for Representing Claimants.

No lawyer shall accept any payment for prosecuting a claim on behalf of a claimant.

162. Rules of the Supreme Court (SCR) Rule 3.830 is renumbered as Rule 3.14.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.14.010
SCR 3.14.010 Kentucky IOLTA fund

The Kentucky Bar Foundation, Inc., a nonprofit corporation, shall maintain a special fund for the purpose of depositing interest from Kentucky Bar Association members' trust accounts, as hereinafter provided, and the name of the fund shall be the Kentucky IOLTA Fund (“IOLTA”).

Except as set forth in paragraph (14) of this Rule, a lawyer or law firm shall create and maintain in a participating financial institution, as defined in paragraph (4) below, an interest-bearing trust account for clients' funds which are nominal in amount or to be held for a short period of time so that they could not earn interest income for the client in excess of the costs incurred to secure such income (hereinafter sometimes referred to as an “IOLTA account”) in compliance with the following provisions:

(1) No funds may be deposited in any IOLTA account when either the amount or the period of time that the funds are held would earn for the client interest above the costs that would otherwise be incurred to generate such interest.

(2) No earnings from an IOLTA account shall be made available to a lawyer or law firm.

(3) An IOLTA account shall be established with a participating financial institution (i) authorized by federal or state law to do business in Kentucky, and (ii) insured by the Federal Deposit Insurance Corporation or its equivalent.

Funds in each IOLTA account shall be subject to withdrawal upon request and without delay and without risk to principal by reason of said withdrawal.

(4) Participating financial institutions that maintain IOLTA accounts shall pay on the accounts the highest interest rate or dividend generally available from the institution to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other account eligibility qualifications. In determining the highest interest rate or dividend generally available from the institution, participating financial institutions may consider factors, in addition to the IOLTA account balance, that are customarily considered by the institution when setting interest rates or dividends for its non-IOLTA customers. Such factors should not discriminate between IOLTA accounts and accounts of non-IOLTA customers. All interest earned net of fees or charges shall be remitted to IOLTA, which is designated in paragraph (16) of this Rule to organize and administer the IOLTA program, and the depository participating institution shall submit reports thereon as set forth below.

(5) A participating financial institution may satisfy the comparability requirements set forth in paragraph (4) above by electing one of the following options: (i) Pay an amount on funds that would otherwise qualify for the investment options equal to 70% of the federal funds targeted rate as of the first business day of the month or other IOLTA remitting period, which is deemed to be already net of allowable reasonable service charges or fees. The foregoing option of paying 70% of the federal funds targeted rate shall only apply when such rate is established in the range of 1.0% to 4.0% unless otherwise agreed to by IOLTA and the participating financial institution. (ii) Pay a yield rate specified by IOLTA, if IOLTA so chooses, which is agreed to by the participating financial institution. The rate would be deemed to be already net of allowable reasonable fees and would be in effect for and remain unchanged during a period of no more than twelve months from the inception of the agreement between the financial institution and IOLTA.

(6) IOLTA accounts may be established as: (i) An interest-bearing checking account such as a negotiable order of withdrawal account; (ii) a checking account with an automated investment feature, such as an overnight and investment in repurchase agreements or money market funds invested solely in or fully collateralized by U.S. Government Securities, including U. S. Treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrument thereof; (iii) a checking account paying preferred interest rates, such as money market or indexed rates; (iv) any other suitable interest-bearing deposit account offered by the institution to its non-IOLTA customers.

(7) A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities and may be established only with an eligible institution that is “well capitalized” or “adequately capitalized” as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities, shall hold itself out as a “money market fund” as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 and, at the time of the investment, the money market fund shall have total assets of at least two hundred fifty million dollars ($250,000,000).

(A) Nothing in this Rule shall preclude a participating financial institution from paying a higher interest or dividend than described above or electing to waive any service charges or fees on IOLTA accounts.

(B) Interest and dividends shall be calculated in accordance with the participating financial institution's standard practice for non-IOLTA customers.

(C) Allowable reasonable service charges or fees may be deducted from interest or dividends on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No fees or service charges other than allowable reasonable fees may be assessed against the accrued interest or dividends on an IOLTA account.

(D) Any IOLTA account which has or may have the net effect of costing IOLTA more in fees than earned in interest over a period of any time, may, at the discretion of IOLTA, be exempted from and removed from the IOLTA program. Exemption of an IOLTA account from the IOLTA program revokes the permission to use IOLTA's tax identification number for that account. Exemption of such account from the IOLTA program shall not relieve the lawyer and/or law firm from the obligation to maintain the property of client funds separately, as required above, in a trust account and also will not relieve the lawyer of the annual IOLTA certification.

(8) Lawyers or law firms depositing client funds in an IOLTA account established pursuant to this Rule shall, on forms approved by IOLTA, direct the depository institution:

(A) to remit all interest or dividends, net of reasonable service charges or fees, if any, on the average monthly balance in the account, or as otherwise computed in accordance with the institution's standard accounting practice, at least quarterly, solely to IOLTA. The depository institution may remit the interest or dividends on all of its IOLTA accounts in a lump sum; however, the depository institution must provide, for each individual IOLTA account, the information to

the lawyer or law firm and to IOLTA required by subparagraphs (8)(B) and (8)(C) of this Rule;

(B) to transmit with each remittance to IOLTA a statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, average daily balance, service charges, if any, and such other information as is reasonably required by IOLTA;

(C) to transmit to the depositing lawyer or law firm a periodic account statement for the IOLTA account reflecting the amount of interest paid to IOLTA, the rate of interest applied, the average account balance for the period for which the interest was earned, and such other information as is reasonably required by IOLTA; and

(D) to waive any reasonable service charge that exceeds the interest earned on any IOLTA account during a reporting period ("excess charge").

(9) The IOLTA program will issue refunds when interest has been remitted in error, whether the error is the bank's or the lawyer's. Requests for refunds must be submitted in writing by the bank, the lawyer, or the law firm on a timely basis, accompanied by documentation that confirms the amount of interest paid to the IOLTA program. As needed for auditing purposes, the IOLTA program may request additional documentation to support the request. The refund will be remitted to the appropriate financial institution for transmittal at the lawyer's direction after appropriate accounting and reporting. In no event will the refund exceed the amount of interest actually received by the IOLTA program.

(10) All interest transmitted to IOLTA shall be held, invested and distributed periodically in accordance with a plan of distribution which shall be prepared by IOLTA and approved at least annually by the Supreme Court of Kentucky, for the following purposes:

(A) to pay or provide for all costs, expenses and fees associated with the administration of the IOLTA program;

(B) to establish appropriate reserves;

(C) to assist or help establish approved legal services and pro bono programs; and/or

(D) for such other law-related programs for the benefit of the public as are specifically approved by the Supreme Court from time to time.

(11) The information contained in the statements forwarded to IOLTA under paragraph (8)(B) of this Rule shall remain confidential, and the provisions of any other Supreme Court Rules providing for confidentiality are not hereby

abrogated; therefore, IOLTA shall not release any information contained in any such statement other than as a compilation of data from such statements, except as directed in writing by the Supreme Court.

(12) IOLTA shall have full authority to and shall, from time to time, prepare and submit to the Supreme Court for approval, forms, procedures, instructions and guidelines necessary and appropriate to implement the provisions set forth in this Rule and, after approval thereof by the Court, shall promulgate same.

(13) On or before September 1 of each year, every lawyer admitted to practice in Kentucky shall certify to IOLTA, in such form as IOLTA shall provide ("IOLTA Certification Form"), that the Member is in compliance with, or is exempt from, the provisions of this Rule. The IOLTA Certification Form shall include the participating financial institution, account numbers, name of law firm or lawyer accounts and such other information as IOLTA shall require. If the lawyer is exempt from the IOLTA program, the lawyer must still submit an IOLTA Certification Form annually to certify to IOLTA that the lawyer is exempt from the provisions in this Rule. Each lawyer shall keep and maintain records supporting the information submitted in the IOLTA Certification Form. The lawyer shall maintain these records for a period of three years from the end of the period for which the IOLTA Certification Form is filed, and these records shall be submitted to IOLTA upon written request.

(14) The lawyer is exempt from this Rule if:

(A) not engaged in the private practice of law;

(B) does not have a trust account in a financial institution within the Commonwealth of Kentucky;

(C) serving full time as a judge, attorney general, public defender, U.S. attorney, commonwealth attorney, county attorney, on duty with the armed services or employed by a local, state or federal government, and is not otherwise engaged in the private practice of law;

(D) is a corporate counsel or teacher of law and is not otherwise engaged in the private practice of law;

(E) has been exempted by an order of general or special application of this Court which is cited in the certification;

(F) compliance with Rule 3.14.010 would work an undue hardship on the lawyer or would be extremely impractical, based on the geographic distance between the lawyer's principal office and the closest participating financial institution, or on other compelling and necessary factors; or

(G) does not manage or handle client trust funds.

(15) The determination of whether a client's funds are nominal or short-term so that they could not earn income in excess of costs shall rest in the sound judgment of the lawyer or law firm. No lawyer shall be charged with an ethical impropriety or other breach of professional conduct based on the good faith exercise of such judgment.

(16) IOLTA is hereby designated as the entity to organize and administer the program established by this Rule in accordance with the following provisions:

(A) The determination of whether or not a financial institution is a participating institution as defined in paragraph (4) above, and whether it is meeting the requirements of this Rule shall be made by IOLTA. IOLTA shall maintain a list of participating financial institutions, and shall provide a copy of the list to any Kentucky lawyer upon request.

(B) Lawyers may only maintain IOLTA accounts in participating financial institutions. Participating financial institutions are those that voluntarily offer IOLTA accounts and comply with the requirements of this Rule. If a financial institution becomes non-participatory, the lawyer or law firm must move its IOLTA account to a participating financial institution as described in paragraph (4) above, upon ninety (90) days written notice by IOLTA, and recertify to IOLTA the transfer.

(17) If the IOLTA Certification Form is timely filed, indicating compliance, there will be no acknowledgment. Should an IOLTA Certification Form not be filed by a lawyer or if filed, fail to evidence compliance, IOLTA shall contact the lawyer and attempt to resolve the non-compliance administratively.

(18) Lawyers licensed in Kentucky must notify IOLTA in writing within thirty (30) days of any change in IOLTA status, including the opening or closing of any IOLTA accounts, except as provided in paragraph (16)(B) above.

(19) For the purpose of administering the funds deposited in the Kentucky IOLTA Fund, the Kentucky Bar Foundation is authorized to create a separate Board of Trustees to administer this fund, which shall consist of ten (10) members of the Association. One (1) member will be from each of the seven (7) Supreme Court Districts of the Commonwealth. The remaining three (3) members will be the Chief Justice of the Supreme Court of Kentucky, the President of the Kentucky Bar Association and the Chair of the Kentucky Bar Foundation, or a Member of the Association appointed by each of such persons. These three (3) persons will serve year to year at the pleasure of the appointing person.

(A) Members of the Board of Trustees from the Supreme Court Districts shall be appointed by the Board of Governors of the Kentucky Bar Association and approved by the Supreme Court. Appointments shall be made for a three-year

term. Members may be reappointed, but no member shall serve more than two (2) successive three-year terms. Each member shall serve until a successor is appointed and qualified. Vacancies occurring through death, disability, inability, or disqualification to serve, or by resignation, shall be filled for the remainder of the vacant term in the same manner as the initial appointments are made by the Court. The members of the Board of Trustees of the Kentucky IOLTA Fund shall serve without compensation, but shall be paid their reasonable and necessary expenses incurred in the performance of their duties. The staff support for the Board of Trustees shall be paid by IOLTA.

(B) The IOLTA Board of Trustees (the "Trustees") shall have general supervisory authority over the administration of the IOLTA program, subject to the continuing jurisdiction of the Supreme Court.

(C) The Trustees shall receive the net earnings from IOLTA accounts established in accordance with this Rule and shall make appropriate temporary investments of IOLTA program funds pending disbursement of such funds.

(D) The Trustees shall, by grants, appropriations and other appropriate measures, make disbursements from the IOLTA program funds, including current and accumulated net earnings, in accordance with the plan of distribution approved by the Supreme Court on at least an annual basis.

(E) The Trustees shall maintain proper records of all IOLTA program receipts and disbursements, which records shall be audited or reviewed annually by a certified public accountant approved by the Supreme Court.

(F) The Trustees shall be indemnified by IOLTA against any liability or expense arising directly or indirectly out of the good faith performance of their duties.

(G) The Trustees shall present an annual administrative budget request to the Board of Governors for their approval, after which the budget shall be forwarded to the Supreme Court for approval. Staff for the operation of IOLTA shall be under the supervision and responsible to the Executive Director of the Bar Association.

(H) The Trustees shall monitor attorney compliance with the provisions of this Rule and will report to the Supreme Court those attorneys not in compliance.

(I) In the event the IOLTA program or its administration by IOLTA is terminated, all assets of the IOLTA program, including any program funds then on hand, shall be transferred in accordance with the Order of the Supreme Court terminating the IOLTA program or its administration by IOLTA; provided, such transfer shall be to an entity which will not violate the requirements IOLTA must observe regarding transfer of its assets in order to retain its tax-

exempt status under the Internal Revenue Code of 1986, as amended, or similar future provisions of law.

(20) If the Kentucky IOLTA Fund receives residual funds as provided in Civil Rule 23.05(6), it shall deposit those funds into the Civil Rule 23 Account, an interest-bearing account maintained in a banking institution within the Commonwealth of Kentucky. Those funds are to be timely disbursed, in their totality, to the four Kentucky Civil Legal Aid Organizations in accordance with the current poverty formula established by the Legal Services Corporation in Washington, D.C. The Kentucky IOLTA Fund shall report to the Kentucky Supreme Court annually, on the first business day of September, regarding the status of the Civil Rule 23 Account, including all receipts and disbursements during the preceding year.

(21)(A) If a lawyer does not know the identity or the location of the owner of funds held in the lawyer's IOLTA account, or the lawyer discovers that the owner of the funds is deceased, the lawyer must make reasonable efforts to identify and locate the owner or the owner's heirs or personal representative. If, after making such efforts, the lawyer cannot determine the identity or the location of the owner, or the owner's heirs or personal representative, the lawyer shall either continue to hold the unclaimed funds in an IOLTA account, or remit the unclaimed funds to the Kentucky IOLTA Fund in accordance with written procedures published by the Kentucky IOLTA Fund and available through its website or upon request.

(B) A lawyer remitting unclaimed funds to the Kentucky IOLTA Fund shall keep a record of the remittance that includes the name and last known address of the owner of the funds, if the owner of the funds is known; the date of death of the deceased owner; the efforts made to identify and locate the owner of the funds or deceased owner's heirs, or personal representatives; the amount of funds remitted; the period of time during which the funds were held in the lawyer's or law firm's IOLTA account; and the date the funds were remitted.

(C) If, after remitting unclaimed funds to the Kentucky IOLTA Funds, the lawyer determines the identity and the location of the owner or the owner's heirs or personal representative, the lawyer shall request a refund for the benefit of the owner or the owner's estate in accordance with written procedures that the Kentucky IOLTA Fund shall publish and make available through its website or upon request.

(D) What constitutes reasonable efforts, as set out in paragraph (A), would depend on whether the lawyer knows the identity of the owner of certain funds held in the IOLTA account, or the lawyer knows the identity of the owner of the funds, but not the owner's location or the location of the deceased owner's heirs or personal representative. When the lawyer does not know the identity of

the owner of the funds or the deceased owner's heirs or personal representative, reasonable efforts shall include an audit of the IOLTA account to determine how and when the funds lost their association to a particular owner or owners, and whether they constitute attorney's fees earned by the lawyer or expenses to be reimbursed to the lawyer or third person. When the lawyer knows the identity, but not the location of the owner of the funds, or the location of the owner's heirs or personal representative, reasonable efforts shall include attempted contact using last known contact information, reviewing the file to identify and contact third parties who may know the location of the owner or the owner's heirs or personal representative, or conducting internet searches. After making reasonable, but unsuccessful efforts in identifying and locating the owner of the funds or the owner's heirs or personal representative, a lawyer's decision to continue to hold the funds in the IOLTA account, as opposed to remitting the funds to the Kentucky IOLTA fund, does not relieve the lawyer of the obligation to maintain records pursuant to paragraph (B), or to determine whether it is appropriate to maintain the funds in an IOLTA account.

163. Rules of the Supreme Court (SCR) Rule 3.900 is renumbered as Rule 3.01.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.01.050
SCR 3.01.050 Definitions for the Kentucky Lawyer Assistance Program (KYLAP)

As used in SCR 3.15 et seq.:

(1) “Impairment” means and includes any mental, psychological or emotional condition that impairs or may foreseeably impair a person's ability to practice law or serve on the bench. Impairment may result from addiction to intoxicants or drugs, chemical dependency, substance abuse, mental disease, mental disorder or defect, or psychological or emotional illness.

(2) “The Kentucky legal community” means and includes (a) all members of the Kentucky Bar Association, including judges; (b) all applicants for admission to the practice of law in Kentucky; (c) all students enrolled at law schools in the Commonwealth; and (d) all members of the Association who have been suspended from the practice of law pursuant to the Rules of the Supreme Court.

164. Rules of the Supreme Court (SCR) Rule 3.910 is renumbered as Rule 3.15.010 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.010
SCR 3.15.010 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 3.03.010.

(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 3.15.090.

(7) KYLAP shall be funded from the annual 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.

165. Rules of the Supreme Court (SCR) Rule 3.920 is renumbered as Rule 3.15.020 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.020
SCR 3.15.020 Kentucky Lawyer Assistance Program Commission (KYLAP Commission)

(1) The Board of Governors shall appoint a Commission to be called the Kentucky Lawyer Assistance Program Commission or “KYLAP Commission”, which shall have general responsibility for the administration of KYLAP in accordance with these Rules.

(2) The Commission shall consist of fifteen (15) persons, as follows: (a) two members of the Board of Governors; (b) an active Member of the Association (either a lawyer or judge) from each of the seven Supreme Court Districts; (c) two other active members of the Association (either lawyers or judges); and (d) four (4) citizens of the Commonwealth who are not members of the Kentucky legal community. The Board shall appoint persons who have a demonstrated interest in issues of impairment and shall also endeavor to make appointments which create a diversity of knowledge and life experience within the Commission's membership.

(3) Each member of the Commission shall be appointed for a period of four (4) years. However, in order to achieve staggered terms, the initial members of the Commission shall be appointed as follows:

(a) Five of the Commission members who are lawyers or judges shall be appointed for two-year terms;

(b) Four of the Commission members who are lawyers or judges shall be appointed for three-year terms;

(c) Two of the Commission members who are lawyers or judges shall be appointed for four-year terms;

(d) Two of the Commission members who are not members of the Kentucky legal community shall be appointed for three-year terms; and

(e) Two of the Commission members who are not members of the Kentucky legal community shall be appointed for four-year terms.

Thereafter, when any vacancy occurs in the membership of the Commission, that vacancy shall be filled by appointment by the Board of Governors. When a vacancy occurs prior to the expiration of a member's term, the new member shall be appointed for the remainder of the unexpired term. When a vacancy occurs because of the expiration of a term, the new member shall be appointed for a four-year term.

(4) The Commission shall have a Chair and a Vice-Chair. The Chair shall be appointed annually by the Board of Governors with input from the Commission and the KYLAP Director. The Vice-Chair shall be elected annually by the members of the Commission.

(5) The Commission shall meet quarterly or upon call of the Chair or upon the request of five (5) or more members. A member's failure to attend three (3) consecutive meetings will automatically result in the vacancy of that member's position on the Commission.

(6) The Commission shall have general responsibility for the administration of KYLAP in accordance with these Rules. In discharging its responsibility KYLAP shall have the authority to:

(a) Adopt operating policies and procedures as necessary and appropriate to implement these Rules and administer KYLAP, provided that, before such policies and procedures are implemented, they shall receive approval of the Board; and

(b) Make reports to the Board and Court annually or as otherwise required, provided that such reports shall be of a statistical and summary nature and shall not compromise the confidentiality of any referral under SCR 3.15.050 or any assignment under SCR 3.15.060.

166. Rules of the Supreme Court (SCR) Rule 3.930 is renumbered as Rule 3.15.030 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.030
SCR 3.15.030 KYLAP Program Director and staff

The Board of Governors, through the Executive Director of the Association, shall appoint a KYLAP Program Director and sufficient staff to provide administrative support for the KYLAP Commission and the KYLAP program. The Program Director shall be responsible for the administration of KYLAP.

167. Rules of the Supreme Court (SCR) Rule 3.940 is renumbered as Rule 3.15.040 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.040
SCR 3.15.040 KYLAP volunteer counselors

KYLAP may enlist volunteer counselors to assist KYLAP in discharging KYLAP's duties under these Rules. Such volunteer counselors shall be subject to all provisions of these Rules including the provisions of SCR 3.15.010(2) limiting the types of assistance provided by KYLAP and the confidentiality requirements of SCR 3.15.090.

168. Rules of the Supreme Court (SCR) Rule 3.950 is renumbered as Rule 3.15.050 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.050
SCR 3.15.050 Self-referrals

Any member of the Kentucky legal community may contact KYLAP to obtain information about KYLAP's services or to request assistance from KYLAP regarding an actual or potential impairment. Any such communication with KYLAP shall be confidential in nature and shall be held in strict confidence by KYLAP's staff and by all other persons involved in the implementation and delivery of KYLAP's services. Upon receiving any such inquiry, KYLAP may offer assistance of the nature described in Rule 3.15.010(2) as appropriate to the person's situation and circumstances, and may proceed to provide such assistance as authorized by that person.

169. Rules of the Supreme Court (SCR) Rule 3.960 is renumbered as Rule 3.15.060 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.060
SCR 3.15.060 Third party referrals

(1) Any person may contact KYLAP and request or suggest that KYLAP offer assistance to a member of the Kentucky legal community who is suffering or may be suffering from an actual or potential impairment.

(2) When a person contacts KYLAP pursuant to this Rule, his or her communication with KYLAP shall be confidential in nature and shall be held in strict confidence by KYLAP's staff and by all other persons involved in the implementation and delivery of KYLAP's services. Further, if KYLAP proceeds to communicate with the member of the Kentucky legal community who is the subject matter of the contact, KYLAP shall not disclose any information about its communications with the person who made the third-party referral, except as authorized by that person.

(3) Any person who contacts KYLAP pursuant to this Rule shall be immune from any liability to the person who is the subject matter of the contact, or to any other person, by reason of contacting KYLAP.

170. Rules of the Supreme Court (SCR) Rule 3.970 is renumbered as Rule 3.15.070 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.070
SCR 3.15.070 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 or arm of the Supreme Court of Kentucky may authorize that agency or arm 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 Office of Bar Admissions' 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 Disciplinary Counsel may authorize the Office of Disciplinary Counsel 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 Office of Disciplinary Counsel’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 3.05.100 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 3.15.010. 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.

171. Rules of the Supreme Court (SCR) Rule 3.980 is renumbered as Rule 3.15.080 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.080
SCR 3.15.080 Supreme Court Assignments to KYLAP

(1) The Supreme Court may assign appropriate tasks and responsibilities to KYLAP relating to the evaluation of an impairment or the monitoring of a person's progress toward recovery from impairment as part of the Court's final disposition of any application for admission to the bar, petition for temporary suspension, charge of professional misconduct or application for restoration or reinstatement, where an issue of impairment has been raised in the proceeding, provided that in no event shall KYLAP become involved in any proceeding prior to the final disposition of that proceeding without the consent of the lawyer.

(2) The Board of Governors may recommend that the Court assign appropriate tasks and responsibilities to KYLAP as described in paragraph (1) of this Rule as part of the Board's recommendation to the Court in any disciplinary, restoration or reinstatement proceeding, where an issue of impairment has been raised in the proceeding.

(3) When KYLAP receives a matter by assignment from the Court pursuant to paragraph (1) of this Rule:

(a) KYLAP shall proceed to provide assistance of the nature described in Rule 3.15.010(2) in accordance with the terms of the Court's order, and may impose additional requirements on the person who is the subject of the assignment as necessary to perform the assignment;

(b) KYLAP may provide reports to the Court, and to one or more agencies of the Court, as authorized or required by the terms of the Court's order;

(c) Any information gathered or received by KYLAP after the date of the Court's order and in the course of discharging the tasks and responsibilities assigned by the Court as part of a final disposition under paragraph (1) of this Rule may be used as evidence in any admission, disciplinary, Continuing Legal Education, restoration or reinstatement proceeding regarding the person who is the subject of the assignment, subject to the rules of evidence and procedure in that proceeding; and

(d) One or more representatives of KYLAP may be called as witnesses in any admission, disciplinary, Continuing Legal Education, restoration or reinstatement proceeding for the purpose of testifying about information gathered or received by KYLAP after the date of the Court's order and in the course of discharging the tasks and responsibilities assigned by the Court as part of a final disposition under paragraph (1) of this Rule, subject to the rules of evidence and procedure in that proceeding.

172. Rules of the Supreme Court (SCR) Rule 3.990 is renumbered as Rule 3.15.090 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.090
SCR 3.15.090 Confidentiality

(1) All communications to KYLAP and all information gathered, records maintained and actions taken by KYLAP shall be confidential, shall be kept in strict confidence by KYLAP's staff and volunteers, shall not be disclosed by KYLAP to any person or entity, including any agency of the Court and any department of the Association, and shall be excluded as evidence in any

proceeding before the Board of Governors or the Office of Bar Admissions, except that:

(a) if the person who is the subject of KYLAP's assistance has provided a written release authorizing disclosure of communications to KYLAP or information gathered, records maintained or actions taken by KYLAP, KYLAP may disclose such information in strict accordance with the terms and conditions of that written release;

(b) if the matter was assigned to KYLAP by the Court pursuant to paragraph SCR 3.15.080, KYLAP may issue reports, disclose information and provide testimony as set forth in paragraph (3) of that Rule, and this Rule 3.15.090 shall not be construed as a basis for excluding otherwise admissible evidence from any admission, disciplinary, restoration or reinstatement proceeding; and

(c) if KYLAP provided assistance pursuant to an agency referral under SCR 3.15.070, KYLAP may issue reports, disclose information and provide testimony as set forth in paragraph (5) of that Rule, and this Rule 3.15.090 shall not be construed as a basis for excluding otherwise admissible evidence from any admission, disciplinary, restoration or reinstatement proceeding.

(2) The foregoing requirement of confidentiality shall apply to all members of the KYLAP Commission, all KYLAP staff members and volunteers, all employees of the Association, all volunteer counselors, all persons who provide information or other assistance to KYLAP in connection with any referral or assignment, and all other persons who participate in the performance or delivery of KYLAP's services.

173. Rules of the Supreme Court (SCR) Rule 3.995 is renumbered as Rule 3.15.100 and shall read as follows:

Rules of the Supreme Court (SCR), Rule 3.15.100
SCR 3.15.100 Immunity

The duties imposed by these Rules are duties owed to the Supreme Court, not to any other person or entity. Nothing in these Rules shall be construed as creating any cause of action or right of suit against any person or entity.

174. Rules of the Supreme Court (SCR) Rule 3.08.380 is created to read as follows:

Rules of the Supreme Court (SCR), Rule 3.08.380
SCR 3.08.380 Service; Election of electronic service

(1) Unless otherwise specified in these Rules, whenever a Rule requires service or delivery of a pleading, demand, offer, notice, charge, filing, petition, complaint, order, motion, subpoena, request, or any other document or paper, service shall be accomplished in accordance with CR 5 and this Rule 3.08.380.

(2) Service of a complaint shall be made as set forth in Rule 3.08.020.

(3) Service of a Charge shall be made as set forth in Rule 3.08.050.

(4) Unless the Respondent or the Respondent's counsel objects by filing a notice with the Disciplinary Clerk, the Respondent shall be deemed to have elected to effectuate and receive service via electronic means, as set forth in CR 5.02(2). Service to the Respondent shall be accomplished by email to the Respondent's counsel at the official email address on file with the Association, or, if the Respondent is not represented, to the Respondent's official email address on file with the Association. Service is complete upon transmittal.

(5) In the event Respondent or Respondent's counsel objects to service by email or service by email is otherwise not possible, service shall be by regular mail to the Respondent's counsel, or, if the Respondent is not represented, to the Respondent's bar roster address on file with the Association.

(6) An attorney who is representing a Respondent and who is not a Member of the Association shall enter an appearance with the Disciplinary Clerk, including the email and mailing addresses by which they will accept service on behalf of the Respondent.

(7) Disciplinary Counsel, the Disciplinary Clerk, and Disciplinary Hearing Officers shall accept service by email, either by providing an email address to the Respondent or Respondent's counsel or by conspicuously posting an email address by which they may be served on the Office of Disciplinary Counsel's webpage.

(8) Service to any other person shall be by regular mail.

III. Amendments to Rules of the Supreme Court, Title VII - Election of Bar Representatives to Judicial Nominating Commission

1. **Rules of the Supreme Court (SCR) Rule 7.000 shall read as follows:**

Rules of the Supreme Court (SCR), Rule 7.000
SCR 7.000 Definitions

Except for the definition of "Court," the definitions set forth in Rule 3.01.010 shall apply also to Part VII of these rules.

IV. Amendments to Rules of the Supreme Court, Title VIII - Mandatory Continuing Judicial Education for the Kentucky Judiciary

1. **Regulations of the Continuing Judicial Education Commission shall read as follows:**

Rules of the Supreme Court (SCR), CJE Regs
Regulations of the Continuing Judicial Education Commission

Regulation 101. Standards for Approval of Continuing Judicial Education Programs

Regulation 101.1

1. A continuing judicial education activity qualifies for accreditation if the commission determines that;

a. It is an organized program of learning (such as a judicial college, conference, webinar, workshop, symposium or lecture) which contributes directly to the professional competency of a judge;

b. It deals primarily with matters directly related to law or to the professional responsibility, administration or ethical obligations of a judge;

c. Each course is to be taught by a person qualified by practical or academic experience to teach in the topic or area of discipline covered by the course;

d. Thorough, high quality, readable, carefully prepared, written topic outlines and/or materials are to be distributed to all judges participating during the course;

e. The audience for the organized program of learning consists predominantly of lawyers or judges. This requirement shall not apply to continuing judicial

education credits used to fulfill the SCR 8.070 requirement for domestic violence training; and

f. Live technological broadcast transmission, when CJE activity delivery method includes colleges, conferences, webinars, webcast, satellite simulcast, video conference and teleconference or other appropriate live broadcast, shall count as a certification of attendance in accredited programs when a faculty is in attendance to answer questions and leading discussions.

g. Recorded technological transmission where CJE activity delivery method is other than a live program and includes the judges' eLibrary, computer on-line services, video tape, audio tape, satellite simulcast, teleconference, video conference, CD-ROM, DVD, data conference, self-study courses, pre-recorded webinars or other appropriate recorded transmission, shall count as a certification of completion for approved continuing judicial education program delivered by recorded technological means.

h. Continuing judicial education credit hours may be earned by attending a live or recorded accredited program pursuant to SCR 8.070(a).

Regulation 101.2. Credit will not be given for non-educational speeches given at luncheons or banquets unless previously approved by the Commission.

Regulation 101.3. Credit shall be given on the basis of one hour which is not less than 60 minutes in duration, excluding 30-minute legal or judicial education program given during lunch.

Regulation 101.4. Justices, appellate judges and trial judges, upon taking office, may transfer hours of credit from the Kentucky Bar Association that were earned during the current CJE biennium, in accordance with SCR 8.070. A detailed copy of the KBA/CLE transcript should be forwarded to the Executive Secretary. CLE carry forward credits are limited up to 24 credit hours pursuant to SCR 3.05.040(3). CLE carry forward credits shall be entered on the CJE transcript as the carry forward balance for hours earned during the immediately preceding biennium in accordance with SCR 8.070(d).

Regulation 101.5. Attendance at programs sponsored by the following national organizations of legal and judicial education shall be approved for continuing judicial education (CJE) credit:

Administrative Office of the Courts

American Judges Association

American Judicature Society

American Law Institute

American Academy of Matrimonial Lawyers

American Association for Justice (formally the Association of Trial Lawyers of America and American Trial Lawyers Association)

American Bar Association

American Board of Trial Advocates

American Constitution Society

American Institute for Judges

Appellate Judges Education Institute

Association of Family and Conciliations Courts

Bureau of Justice Assistance

Conference on Chief Justice and Conference of State Court Administrators--NCSC

Council on Criminal Justice

Federalist Society

Institute of Judicial Administration

Kentucky Bar Association

Kentucky Justice Association

Law Schools accredited by the ABA

National Association of Drug Court Professionals

National Association of Women Judges

National Association for Presiding Judges and Court Executive Officers

National Center for State Courts

National College of Probate Judges

National Computer Forensic Institute

National Conference on Addiction Disorders

National Council of Juvenile and Family Court Judges

National Drug Court Institute

National Foundation for Judicial Excellence

National Institute of Justice

National Judicial College

National Judicial Institute on Domestic Violence

Office of Juvenile Justice and Delinquency Prevention

Pound Civil Justice Institute

State Justice Institute

Thomson Reuters

Regulation 101.6. Justices, appellate judges and trial judges wishing to attend a program sponsored by an organization other than those listed in Regulation 101.6 shall file with the Executive Secretary an agenda of the program, which will be submitted to the Commission for possible accreditation in accordance with SCR 8.060. Program approval must meet the educational standards as outlined in Regulation 101.1.

Regulation 101.7. Justices and judges attending programs approved by the Kentucky Bar Association Continuing Legal Education Commission for accreditation qualify for continuing judicial education credit for hours attended. Justices and judges should certify hours with the Executive Secretary on CJE forms provided by the Administrative Office of the Courts, or other acceptable forms certifying attendance and hours.

Regulation 101.8. Additional credit may be earned through teaching or participating (panel discussion leader, moderator, facilitator, panelist, seminar or college, or conference or training chairperson, etc.) in an approved continuing legal or judicial education program. The Commission shall give one hour of credit for each two hours of preparation and actual presentation time of approved continuing legal or judicial education programs.

Regulation 101.9. Credit, not to exceed ten (10) hours for each biennium, may be earned through published legal writing upon submission of the final materials to the Commission. Final approval of any credit awarded for a published legal writing shall be at the sole discretion of the Commission.

Regulation 101.10. Justices and judges may receive continuing judicial education credit, not to exceed three (3) hours each educational year, for presiding at college or law school mock trial competitions or high school mock trial competitions. An educational year shall begin on July 1 and end one year later on June 30.

Regulation 101.11. Justice and judges are exempt from the requirements of SCR 3.05.040 while serving as justices or judges of the Kentucky Court of Justice during any portion of an education year, because such positions are prohibited from practicing law and have significant continuing education requirements by statute or rule of court as a result of the position they hold. Therefore, if a justice or judge leaves the bench during any portion of an educational year, the requirements of SCR 3.05.040 will not begin until the first full educational year that begins on July 1.

a. Justices and judges of the Commonwealth leaving the bench will be allowed to transfer continuing judicial education credit hours provided the justice, appellate judge or trial judge is in good standing with the Mandatory Continuing Judicial Education requirements. The KBA Continuing Legal Education Commission will transfer 24 credits, including 4 credit hours devoted to ethics credits from the current education biennium to the first full CLE education year beginning July 1 after leaving the bench. The Executive Secretary for the Continuing Judicial Education Commission shall notify the KBA Continuing Legal Education Director after a justice or judge leaves the bench. For justices and judges serving on the bench one year or less, the KBA Continuing Legal Education Commission will transfer 12 credits, including 2 ethics credits from the current education biennium to the first full CLE educational year beginning on July 1 after leaving the bench;

b. Justices, appellate judges and trial judges while serving on the bench may continue to report credit hours that are accredited by the Kentucky Bar Association CLE Accreditation Division towards CLE credit hours even though justices and judges are exempt from the requirements of SCR 3.05.040. Every justice, appellate judge and trial judge is mandated under SCR VIII to report CJE credit hours to the CJE Commission for compliance pursuant to SCR VIII: Mandatory Continuing Judicial Education for the Kentucky Judiciary.

Regulation 102. Appeals from Decisions of the Continuing Judicial Education Commission

Regulation 102.1. Any justice, appellate judge or trial judge or organization affected by an adverse decision of the Commission may appeal by filing a

written petition with supporting materials with the Supreme Court. The Commission, at its discretion, may be represented by one of its members.

Regulation 102.2. An appeal shall be filed within thirty (30) days of such adverse decision.

Entered this 23rd day of November 2026.

All sitting; all concur.

Debra Humbree Lambert

CHIEF JUSTICE