SUPREME COURT RULES FOR THE GOVERNMENT OF THE JUDICIARY OF OHIO

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RULE I. Professional Responsibility and Judicial Ethics.

Section 1. Applicability.

The Ohio Rules of Professional Conduct, effective February 1, 2007, as amended, shall be binding upon all persons admitted to practice law in Ohio. The willful breach of the Rules by a Justice, judge, or candidate for judicial office shall be punished by reprimand, suspension, disbarment, or probation as provided in Gov. Jud. R. II and Gov. Bar R. V. The Code of Judicial Conduct, as adopted by the Supreme Court, effective December 20, 1973, and set forth in 36 Ohio State 2d Reports, as amended, shall be binding upon all judicial officers of this state and candidates for judicial office. The willful breach of the Code shall be punished by reprimand, suspension, disbarment, or probation as provided in Gov. Jud. R. II and Gov. Bar R. V, or by retirement, removal, or suspension from office, as provided in Gov. Jud. R. III.

Section 2. Duty of Lawyers.

It is the duty of the lawyer to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Justices and judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of lawyers against unjust criticism and clamor. Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit a grievance to the proper authorities. These charges should be encouraged and the person making them should be protected.

[Effective: July 1, 1983; amended effective October 1, 1986; January 1, 1988; January 1, 1993, February 1, 2007.]

RULE II. Disciplinary Procedure.

Section 1. Board of Commissioners on Grievances and Discipline of the Supreme Court.

There is created under Rule V of the Supreme Court Rules for the Government of the Bar of Ohio a Board of Commissioners on Grievances and Discipline of the Supreme Court. The Board shall receive evidence, preserve the record, make findings, and submit recommendations to the Supreme Court as follows:

(A) Concerning complaints of misconduct that are alleged to have been committed by a justice, judge, or candidate for judicial office;

(B) Concerning allegations that a justice or judge is unable to discharge the duties of judicial office by virtue of a mental or physical disability;

(C) Upon reference by the Supreme Court of conduct by a justice, judge, or candidate for judicial office affecting any proceeding under these rules or the Supreme Court Rules for the Government of the Bar of Ohio, where the acts allegedly constitute a contempt of the Supreme Court or a breach of these rules but did not take place in the presence of the Supreme Court or a member of the Supreme Court, whether by willful disobedience of any order or judgment of the Supreme Court or an order or subpoena issued by the Board of Commissioners, by interference with any officer of the Supreme Court in the prosecution of any duty, or otherwise. Nothing in this section shall be construed as limiting or affecting the plenary power of the Supreme Court to impose punishment with reference either to contempts or breaches of these rules committed in its presence or the plenary power of any other court with reference to contempts committed in its presence.

Section 2. Authority and Duty of Disciplinary Counsel and Certified Grievance Committees.

(A) Except as provided in Section 5 of this rule, a grievance alleging misconduct of a judge or candidate for judicial office, or alleging that a judge is unable to discharge the duties of judicial office by virtue of a mental or physical disability, shall be filed with Disciplinary Counsel or with a Grievance Committee certified pursuant to Gov. Bar R. V. Disciplinary Counsel and Certified Grievance Committees shall have authority to investigate grievances, file formal complaints with the Board, and prosecute formal complaints filed with the Board.

(B) Except as provided in Section 5 and 6 of this rule, a grievance alleging misconduct of the Chief Justice or a justice of the Supreme Court, or alleging that the Chief Justice or a justice of the Supreme Court is unable to discharge the duties of judicial office by virtue of a mental or physical disability, shall be filed with Disciplinary Counsel. Disciplinary Counsel shall review the grievance to determine whether an ethical violation is alleged. If the grievance alleges an ethical violation, Disciplinary Counsel promptly shall forward the grievance to the Chief Justice of the Courts of Appeals, elected pursuant to section 2501.03 of the Revised

Code, for further proceedings in accordance with Section 4 of this rule. A grievance alleging misconduct by a former Chief Justice or justice of the Supreme Court shall proceed pursuant to Gov. Bar R. V or division (A) of this section.

Section 3. Application of Rule.

A grievance or complaint involving alleged misconduct by a justice, judge, or judicial candidate; all proceedings for the discipline of a justice, judge, or judicial candidate; and all proceedings with regard to the alleged inability of a justice or judge to discharge the duties of judicial office by virtue of a mental or physical disability shall be brought, conducted, and disposed of in accordance with the provisions of this rule and Gov. Bar R. V. Sections 4 and 6 of this rule contain provisions for adjudicating grievances and complaints against a justice of or candidate for the Supreme Court. Section 5 of this rule contains provisions for adjudicating campaign grievances and complaints against a candidate for a trial court or court of appeals.

Section 4. Grievances Against Supreme Court Justices.

(A) *Initial review*.

(1) Upon receipt of a grievance from Disciplinary Counsel, the Chief Justice of the Courts of Appeals shall select, by lot, a three-member review panel from among the judges designated pursuant to division (A)(3) of this section. The review panel shall contact the justice named in the grievance for a written response within fourteen days to the allegations contained in the grievance. Upon request, the review panel may grant a reasonable extension of time for the justice to provide a response.

(2) Upon receipt of the response, or if no response is received, the review panel shall review the grievance and any response to determine whether good cause exists for further investigation of the grievance. The review panel shall report its determination in writing to the Chief Justice of the Courts of Appeals. If the review panel determines that good cause does not exist for further investigation, the Chief Justice of the Courts of Appeals shall notify the grievant of the determination and of the dismissal of the grievance.

(3) In January each year, the administrative judge of each appellate district shall designate one appellate judge from the district, other than the presiding judge, to be eligible for service on a review panel pursuant to division (A)(1) of this section. The administrative judge shall advise the Chief Justice of the Courts of Appeals, in writing, of the designation. Appointments shall be for a calendar year, and a judge may be reappointed to subsequent terms on the review panels.

(B) Appointment of special disciplinary counsel; time limits.

(1)(a) If the review panel determines that good cause exists for further investigation, the Chief Justice of the Courts of Appeals shall appoint a special disciplinary counsel to conduct further investigation of the allegations contained in the grievance and any other misconduct

discovered during the course of investigating the grievance. The special disciplinary counsel shall possess the qualifications set forth in division (B)(3)(a) of this section and may be appointed from the list maintained by the Office of Disciplinary Counsel pursuant to division (B)(3)(c) of this section.

(b) The investigation of a grievance by special disciplinary counsel shall be concluded within sixty days from the date the grievance is transmitted to special disciplinary counsel, and a decision on disposition of the grievance shall be made within thirty days after the conclusion of the investigation. Extensions of time for completion of the investigation may be granted by the Chief Justice of the Courts of Appeals upon written request and for good cause shown, provided that an investigation for which one or more extensions are granted shall be completed within one hundred fifty days from the date the grievance is transmitted to special disciplinary counsel. Extensions beyond one hundred fifty days may be granted by the Chief Justice of the Courts of Appeals in the event of pending litigation or appeals, an unusually complex investigation, including the investigation of multiple grievances, time delays in obtaining evidence or testimony of witnesses, or for other good cause shown. No investigation shall extend more than one year from the date the grievance is transmitted to special disciplinary counsel.

(c) The time limits set forth in this rule are not jurisdictional. No grievance filed shall be dismissed unless it appears that there has been an unreasonable delay and that the rights of the respondent to a fair hearing have been violated. An investigation that extends beyond one year from the date the grievance is transmitted to special disciplinary counsel is prima facie evidence of unreasonable delay.

(2)(a) Upon completion of the investigation, special disciplinary counsel shall either report to the Chief Justice of the Courts of Appeals that the grievance should be dismissed or prepare and file a formal complaint with the Chief Justice of the Courts of Appeals, in the name of special disciplinary counsel as relator, alleging that substantial, credible evidence exists to believe that the justice named in the grievance engaged in misconduct. The complaint shall be submitted with investigatory materials sufficient to demonstrate the existence of substantial, credible evidence to support the allegations of the complaint. The materials shall include any response filed by or on behalf of the respondent and may include other reports, summaries, depositions, statements, exhibits, or any other relevant material.

(b) If the special disciplinary counsel recommends the grievance be dismissed, the Chief Justice of the Courts of Appeals shall notify the grievant and the justice named in the grievance of such determination in writing.

(c) Unless the justice against whom the grievance has been filed agrees otherwise, the matter shall remain private unless and until a formal complaint is filed.

(3)(a) The special disciplinary counsel shall be an attorney admitted to the practice of law in Ohio, or an attorney licensed and in good standing in any other state and admitted *pro hac vice* by the Chief Justice of the Courts of Appeals. The special disciplinary counsel shall not be an employee or appointee of the Supreme Court or have any interest in a case pending before the

Supreme Court while serving as the special disciplinary counsel. The special disciplinary counsel shall have the power to issue subpoenas and cause testimony to be taken under oath.

(b) The special disciplinary counsel shall be paid expenses and reasonable compensation, upon approval of the Chief Justice of the Courts of Appeals, from the Attorney Services Fund. The Chief Justice of the Courts of Appeals may authorize the special disciplinary counsel to employ support staff as necessary to assist in the investigation and any subsequent proceedings and may authorize payment of fees, compensation, and expenses from the Fund.

(c) The Office of Disciplinary Counsel shall maintain and provide to the Chief Justice of the Courts of Appeals in January each year a list of attorneys who satisfy the qualifications for appointment as special disciplinary counsel and who are otherwise available to accept such appointment.

(C) Appointment of hearing panel; proceedings on the formal complaint.

(1) Upon receipt of a formal complaint filed by the special disciplinary counsel, the Chief Justice of the Courts of Appeals shall do both of the following:

(a) Appoint a hearing panel of three fulltime trial court judges selected, by lot, from the list of judges developed and maintained pursuant to division (C)(5) of this section. The judges chosen shall be from separate appellate districts and shall not be from the district in which the respondent resides. The Chief Justice of the Courts of Appeals shall designate one of the judges to serve as the chair of the hearing panel.

(b) Immediately forward the formal complaint to the Secretary of the Board of Commissioners, who shall send a copy of the formal complaint by certified mail to the respondent. The complaint shall be accompanied by a notice requiring the respondent to file, within twenty days after the mailing of the complaint, six copies of the respondent's answer and serve copies of the answer on special disciplinary counsel and the Chief Justice of the Courts of Appeals. For good cause shown, the Chief Justice of the Courts of Appeals may grant an extension of time to file the answer.

(2) With reasonable notice to the parties, the hearing panel shall hold a hearing on the complaint. The hearing panel chair may grant requests for continuances for good cause shown. All hearings shall be recorded by a court reporter and a transcript included in the record of the proceedings.

(3) If at the end of the evidence presented by the relator, a unanimous hearing panel finds that the evidence is insufficient to support a charge or count of misconduct or a finding of disability, the panel may order the complaint or count be dismissed. If at the end of all evidence, a majority of the hearing panel finds that the evidence is insufficient to support a charge or count of misconduct, the panel may order the complaint or count be dismissed. The hearing panel chair shall give written notice of the action taken to the Secretary who shall notify the Chief Justice of

the Courts of Appeals, relator, and respondent. There shall be no appeal from an order dismissing the complaint or count of misconduct.

(4) If a majority of the hearing panel determines, by clear and convincing evidence, that the respondent is guilty of misconduct and a disciplinary sanction is merited or that the respondent has a mental or physical disability that makes the respondent unable to discharge the duties of office, the hearing panel shall file a certified report of the proceedings, its findings of fact, conclusions of law and recommended sanction with the Secretary. The report shall include the transcript of testimony taken and an itemized statement of the actual and necessary expenses incurred in connection with the proceedings. The Secretary shall send a copy of the hearing panel's report and recommendations to the Chief Justice of the Courts of Appeals and serve a copy of the report and recommendations, by certified mail, on the relator and respondent. At the conclusion of all proceedings before the hearing panel, the Secretary shall file the record of such proceedings with the Clerk of the Supreme Court as provided in division (E)(1) of this section.

(5) In January each year, the administrative judge of each appellate district shall designate two fulltime trial judges from within the appellate district to be eligible to serve on a hearing panel appointed pursuant to division (C)(1)(a) of this section. In selecting the trial judges who shall be eligible for appointment to hearing panels, the administrative judge shall consider legal and judicial experience, gender, race, ethnicity, and other relevant factors. Before designating a judge as eligible for selection to serve on a hearing panel, the administrative judge shall contact the judge to determine the judge's availability for potential service. The administrative judge shall advise the Chief Justice of the Courts of Appeals, in writing, of the designations.

(D) Appointment of adjudicatory panel; proceedings before the panel.

(1) Upon receipt of the hearing panel's report and recommendations, the Chief Justice of the Courts of Appeals shall convene an adjudicatory panel of thirteen appellate judges to review the report and recommendations. The adjudicatory panel shall consist of the Chief Justice of the Courts of Appeals, who shall serve as chair of the panel, and the presiding judge of each appellate district. If a presiding judge of an appellate district is unavailable to serve on the adjudicatory panel, the appellate judge of the district who is senior in service on the court of appeals shall replace the presiding judge.

(2) The adjudicatory panel shall issue the respondent an order to show cause why the report and recommendation of the hearing panel shall not be confirmed and a disciplinary order entered. The Clerk shall serve notice of the show cause order by certified mail on relator and respondent.

(3) Within twenty days after issuance of the show cause order, the respondent or relator may file objections to the report or recommendations of the hearing panel with the Clerk. The objections shall be accompanied by a brief in support of the objections and proof of service of copies of the objections and the brief on all counsel of record. Twelve copies of the objections and brief in support shall be filed. Answer briefs and proof of service shall be filed within fifteen

days after briefs in support of objections have been filed. Twelve copies of the answer briefs shall be filed.

(4) If objections are filed, the adjudicatory panel shall promptly schedule oral argument on objections. After the hearing on objections, or if no objections are filed, the adjudicatory panel shall issue an order as it finds proper. Unless otherwise ordered, any disciplinary order or order related to the respondent's mental or physical disability shall be effective on the date the order is announced. The order may provide for reimbursement to the Attorney Services Fund of costs and expenses incurred by special disciplinary counsel, the panels appointed pursuant to this section, or the Secretary.

(5) The Clerk shall mail certified copies of the order to the parties. The Supreme Court Reporter shall publish the disciplinary order in the *Ohio Official Reports* and the *Ohio State Bar Association Report*.

(E) Miscellaneous provisions.

(1) Upon the filing of a formal complaint, the Secretary of the Board of Commissioners on Grievances and Discipline shall serve as clerk for the Chief Justice of the Courts of Appeals and the hearing panel. The relator and respondent shall file all pleadings, motions, documents, and other material with the Secretary, who shall transmit the documents and materials to the Chief Justice of the Courts of Appeals and the appropriate panel. The Chief Justice of the Courts of Appeals and panels shall transmit all orders, opinions, and other materials to the Secretary for service on or distribution to the parties. The Secretary shall maintain a complete record of the proceedings and, upon conclusion of the proceedings before the hearing panel, certify the record, including exhibits, to the Clerk of the Supreme Court who shall maintain the certified record. The Clerk shall serve as clerk for any adjudicatory panel appointed pursuant to division (D) of this section, and all proceedings before the adjudicatory panel shall be conducted as provided in this section and the Rules of Practice of the Supreme Court of Ohio. Upon request, the Secretary and Clerk shall assist the Chief Justice of the Courts of Appeals, hearing panel, and adjudicatory panel with ministerial matters such as scheduling a location for hearings and securing a court reporter.

(2) Any matter, a procedure for which is not specifically set forth in this rule, shall be handled in the manner set forth in Gov. Bar. R. V.

(3) If a judge selected to serve on any panel appointed pursuant to Section 4 of this rule is unable to serve because of the existence of a disqualifying factor, the judge shall notify the Chief Justice of the Courts of Appeals and provide written justification of the grounds for disqualification.

(4) The Chief Justice of the Courts of Appeals and any judge appointed to serve in any capacity pursuant to Section 4 of this rule shall continue to serve in the appointed capacity until the conclusion of the matter as long as the judge continues to hold judicial office. If the Chief Justice of the Courts of Appeals leaves judicial office while a matter commenced under

this rule during his or her tenure remains pending, the successor Chief Justice of the Courts of Appeals shall assume responsibility for that matter. If a judge appointed to serve in any capacity under this rule leaves judicial office while a matter to which the judge was assigned under this rule remains pending, the Chief Justice of the Courts of Appeals shall designate a judge to replace the former judge in the same manner as the original appointment was made.

(5) A party may allege the existence of bias, prejudice, or other disqualifying factor on the part of a judge appointed to serve on a panel pursuant to Section 4 of this rule by filing a timely motion with the Chief Justice of the Courts of Appeals. If the Chief Justice of the Courts of Appeals finds the existence of bias, prejudice, or other disqualifying factor, the judge named in the motion shall be disqualified, and the Chief Justice of the Courts of Appeals shall designate a judge to replace the disqualified judge in the same manner as the original appointment was made.

(6) Any judge selected to serve on any panel appointed pursuant to Section 4 of this rule shall be reimbursed from the Attorney Services Fund for travel expenses incurred in association with the judge's service on the panel. Reimbursement for travel expenses shall be made as provided in the Supreme Court Guidelines for Travel by Court Appointees. A judge shall request reimbursement by submitting a signed Travel Expense Report form and required receipts to the Chief Justice of the Courts of Appeals. The Chief Justice of the Courts of Appeals shall indicate approval of the reimbursement request and submit the approved form to the Administrative Director of the Supreme Court.

Section 5. Campaign Conduct; Enforcement and Sanctions.

Notwithstanding Section 2 of this rule, a grievance that alleges a violation by a judicial candidate of Canon 4 of the Code of Judicial Conduct during the course of a campaign for judicial office shall be brought, conducted, and disposed of in accordance with this rule and Gov. Bar R. V, as modified by this section. All other grievances shall be brought, conducted, and disposed of in accordance with this rule and Gov. Bar R. V.

(A) Filing of grievance; preliminary review; referral.

(1) A grievance that alleges a violation by a judicial candidate of Canon 4 of the Code of Judicial Conduct during the course of a campaign for judicial office shall be filed with the secretary of the Board of Commissioners on Grievances and Discipline. Within two days of receiving the grievance, the secretary shall conduct a preliminary review. If the secretary is unable to conduct the preliminary review because of a conflict of interest, he or she immediately shall forward the grievance to the chair of the Board who shall conduct the preliminary review. If the chair has a conflict of interest or is unavailable, the secretary immediately shall forward the grievance to the vice-chair of the Board who shall conduct the preliminary review.

(2) If a judicial candidate files a grievance alleging a violation by his or her opponent of Canon 4 of the Code of Judicial Conduct and the judicial candidate and his or her opponent have signed an agreement with a voluntarily organized judicial election monitoring committee that provides for expedited consideration of alleged violations of Canon 4 of the Code of Judicial

Conduct, the secretary may refer the grievance to the monitoring committee for consideration. The secretary shall not refer the grievance to the monitoring committee if the judicial candidate has exhausted the remedies provided for under the agreement.

(3) The secretary, chair, or vice-chair may refer a grievance to the Disciplinary Counsel under any of the following circumstances:

(a) The probable cause panel fails to find probable cause that a violation of Canon 4 has occurred;

(b) Secretary, chair, or vice-chair determines that it is unnecessary to handle the grievance on an expedited basis;

(c) The complainant withdraws the grievance or fails to prosecute the complaint before the Board hearing panel, five-judge commission, or Supreme Court.

(B) Probable cause panel; filing of formal complaint. If, after reviewing the grievance, the secretary, chair, or vice-chair determines that the grievance is facially valid, that the Board has jurisdiction over the matters raised in the grievance, and that the grievance should be considered on an expedited basis, the secretary immediately shall appoint three members of the Board to determine whether there is probable cause that a violation of Canon 4 has occurred. No member of the probable cause panel shall be a resident of the judicial district from which the grievance arose. The probable cause panel shall determine probable cause within five days after the grievance was filed and may conduct a hearing to facilitate the determination of probable cause. If the probable cause panel finds probable cause that a violation of Canon 4 has occurred, the panel shall notify the secretary who shall prepare a formal complaint based on instructions from the probable cause panel.

(C) Appointment of hearing panel; proceedings on the formal complaint.

(1) Within three days of the probable cause determination, the chair shall appoint three members of the Board to conduct a formal hearing on the complaint. One member of the hearing panel shall be a nonattorney member of the Board, and no member of the hearing panel shall be a resident of the judicial district in which the complaint arose. The secretary shall forward a copy of the complaint to each member of the hearing panel, the complainant, and the respondent.

(2) The chair or secretary may designate former members of the Board to serve on probable cause and hearing panels appointed pursuant to divisions (B) and (C)(1) of this section.

(3) Within five days of its appointment, the hearing panel shall conduct a formal hearing limited to the allegations contained in the complaint. The complainant and respondent shall be notified of the hearing. Within five days after conclusion of the hearing, the hearing panel shall issue a report of its findings and recommendations. If the hearing panel determines by clear and convincing evidence that a violation of Canon 4 has occurred, the hearing panel's

report and the record of the proceeding shall be certified to the Supreme Court, together with a recommendation as to whether the complaint should be considered on an expedited basis and whether the five-judge commission appointed pursuant to division (D) of this section should issue a cease and desist order pursuant to division (D)(2) of this section. If the hearing panel determines by clear and convincing evidence that a violation of Canon 4 has occurred, the hearing panel shall determine whether the respondent previously has been found to have violated Canon 4 and include the determination in its report.

(D) Appointment of five-judge commission; proceedings before the commission.

(1) Within five days of receiving the report, the Supreme Court shall appoint a commission of five judges as provided in section 2701.11 of the Revised Code and Gov. Jud. R. III. The commission shall expedite its consideration of the report and may make its determination from the report of the hearing panel, permit or require the filing of briefs, conduct oral argument, or order the hearing panel to take additional evidence. If the commission concludes the record supports the hearing panel's finding that a violation of Canon 4 has occurred and there has been no abuse of discretion by the hearing panel, the commission may enter an order that includes one or more of the following:

(a) A disciplinary sanction against the respondent;

(b) An order enforceable by contempt of court that the respondent cease and desist from engaging in the conduct that was found to be in violation of Canon 4;

(c) A fine imposed against the respondent;

(d) An assessment against the respondent of the costs of the proceeding;

(e) An assessment against the respondent of the reasonable and necessary attorneys fees incurred by the complainant in prosecuting the grievance.

(2) Upon recommendation of the hearing panel, motion of the complainant or *sua sponte*, the commission may enter an interim cease and desist order as it finds reasonable and necessary prior to making the determination required by division (D)(1) of this section. The interim order shall be based on the commission's preliminary review of the report and recommendation of the hearing panel and any record made before the commission.

(3) A party may allege the existence of bias, prejudice, or other disqualifying factor on the part of a judge appointed by the Supreme Court to serve on a commission of five judges by filing a motion with the Chief Justice of the Supreme Court. The motion shall be filed within three days of the date the party receives notice of the appointment of the commission. If the Chief Justice finds the existence of bias, prejudice, or other disqualifying factor, the judge named in the motion shall be disqualified, and the Supreme Court shall appoint a substitute judge.

(E) Appeal of sanction.

The respondent may appeal a sanction issued by the commission to the Supreme Court. Notice of appeal shall be given by the respondent to the secretary of the commission and the Supreme Court within twenty days after the respondent's receipt by certified mail of the commission's order. After receipt of the notice of appeal, the Court may issue a briefing order and other appropriate orders.

Section 6. Campaign Conduct; Enforcement and Sanctions; Justices and Candidates for the Supreme Court.

A grievance that alleges a violation by a judicial candidate for the Supreme Court of Canon 4 of the Code of Judicial Conduct during the course of a campaign for judicial office shall be brought, conducted, and disposed of in accordance with this section.

(A) Initial review.

(1) The grievance shall be filed with the Secretary of the Board of Commissioners on Grievances and Discipline. The Secretary shall promptly forward the grievance and any supporting documentation to the Chief Justice of the Courts of Appeals, elected pursuant to section 2501.03 of the Revised Code. Within two days of receiving the grievance, the Chief Justice of the Courts of Appeals shall review the grievance to determine whether the grievance alleges a violation of Canon 4 by a judicial candidate for the Supreme Court and whether the grievance should be considered on an expedited basis. If the Chief Justice of the Courts of Appeals determines that no Canon 4 violation is alleged or that the grievance should not be considered on an expedited basis, he or she may dismiss the grievance and notify the grievant of such determination or proceed with a review of the grievance pursuant to Section 4 of this rule.

(2) If the Chief Justice of the Courts of Appeals determines that the grievance alleges a violation of Canon 4 by a judicial candidate for the Supreme Court and that the grievance should be considered on an expedited basis, the Chief Justice of the Courts of Appeals shall immediately refer the grievance to a three-member review panel selected, by lot, from among the judges designated pursuant to Section 4(A)(3) of this rule. The review panel shall contact the judicial candidate named in the grievance for a written response, and determine from the grievance and the response whether probable cause exists that a violation of Canon 4 occurred. The review panel may conduct a hearing to facilitate the determination of probable cause. The probable cause determination shall be made within five days after the grievance was received by the Chief Justice of the Courts of Appeals.

(3) The review panel shall notify the Chief Justice of the Courts of Appeals of its probable cause determination and, if applicable, instructions regarding the preparation of a formal complaint. If the review panel finds no probable cause, the Chief Justice of the Courts of Appeals shall dismiss the grievance and notify the grievant. If the review panel finds probable cause, the Chief Justice of the Courts of Appeals shall instruct the Secretary of the Board of Commissioners on Grievances and Discipline to prepare a formal complaint in accordance with the instructions of the probable cause panel and in the name of the grievant as relator. Upon

preparation of the formal complaint, the Secretary shall serve a copy of the formal complaint on the relator and respondent and transmit a copy to the Chief Justice of the Courts of Appeal.

(B) Appointment of hearing panel; proceedings on the formal complaint.

(1) Within three days of a determination that probable cause exists to support the preparation and prosecution of a formal complaint, the Chief Justice of the Courts of Appeals shall appoint a hearing panel of three fulltime trial court judges selected, by lot, from the list of judges developed and maintained pursuant to Section 4(C)(5) of this rule. The judges chosen shall be from separate appellate districts and shall not be from the district in which the respondent resides. The Chief Justice of the Courts of Appeals shall designate one of the judges to serve as the chair of the hearing panel.

(2) Within five days of appointment and with notice to the parties, the hearing panel shall hold a hearing on the complaint. All hearings shall be recorded by a court reporter and a transcript included in the record of the proceedings.

(3) Within five days of the conclusion of the hearing, the hearing panel shall prepare and issue a report of its findings and recommendations. If the panel finds, by clear and convincing evidence, that the respondent violated Canon 4 of the Code of Judicial Conduct and that a sanction for such violation is warranted, the hearing panel's report and the record of the proceedings shall be certified to the Secretary, together with a recommendation as to whether the complaint should be considered on an expedited basis and whether the five-judge commission appointed pursuant to division (C) of this section should issue a cease and desist order pursuant to division (C)(2) of this section. If the hearing panel determines, by clear and convincing evidence, that a violation of Canon 4 has occurred, the hearing panel shall determine whether the respondent previously has been found to have violated Canon 4 and include the determination in its report. The Secretary shall provide a copy of the hearing panel's report to the Chief Justice of the Courts of Appeals and send a copy of the hearing panel's report to the relator and respondent by certified mail.

(C) Appointment of five-judge commission; proceedings before the commission.

(1) Within five days of the issuance of the hearing panel's report, the Chief Justice of the Courts of Appeals shall appoint a commission of five appellate judges, chosen by lot from separate appellate districts. The Chief Justice of the Courts of Appeals shall designate one of the judges to serve as chair of the panel. No appellate judge who served on the panel that reviewed the allegations for probable cause shall be appointed to serve on the commission.

(2) Unless otherwise recommended by the hearing panel, the commission shall expedite its consideration of the report and may make its determination from the report of the hearing panel, permit or require the filing of briefs, conduct oral argument, or order the hearing panel to take additional evidence. If the commission concludes the record supports the hearing panel's finding that a violation of Canon 4 has occurred and there has been no abuse of discretion by the hearing panel, the commission may enter an order that includes one or more of the

sanctions set forth in Section 5(D)(1) of this rule. Upon recommendation of the hearing panel or *sua sponte*, the commission may enter an interim cease and desist order as it finds reasonable and necessary prior to making a determination on the hearing panel's report. The interim order shall be based on the commission's preliminary review of the report and recommendation of the hearing panel and any record made before the commission.

(3) The commission's determination and any cease and desist order shall be sent to the Secretary who shall provide a copy to the Chief Justice of the Courts of Appeals and serve a copy on the respondent and relator by certified mail. At the conclusion of all proceedings before the hearing panel, the Secretary shall file the record of such proceedings with the Clerk of the Supreme Court as provided in division (F)(1) of this section.

(D) Appeal of sanction.

(1) The respondent may appeal a sanction issued by the commission. The notice of appeal shall be filed by the respondent with the Clerk of the Supreme Court within twenty days after the receipt by certified mail of the commission's order. The Clerk shall provide a copy of the notice of appeal to the Chief Justice of the Courts of Appeals and send a copy to the relator by certified mail.

(2) Within five days of receipt of the notice of appeal, the Chief Justice of the Courts of Appeals shall convene an adjudicatory panel of thirteen appellate judges. The adjudicatory panel shall consist of the Chief Justice of the Courts of Appeals, who shall preside over the panel, and the presiding judge of each appellate district. No appellate judge who served on the panel that reviewed the allegations for probable cause or who served on the commission to review the report of the hearing panel shall be appointed to serve on the adjudicatory panel. If a presiding judge of an appellate district is unavailable to serve on the adjudicatory panel, the appellate judge of the district who is senior in service on the court of appeals shall replace the presiding judge.

(3) The adjudicatory panel may establish a briefing schedule and make other appropriate orders. All orders of the adjudicatory panel shall be issued upon instructions from the panel by the Clerk who shall send the orders by certified mail.

(E) Failure to prosecute. If, after probable cause has been found, the relator attempts to withdraw the grievance or otherwise fails to prosecute the formal complaint, the Chief Justice of the Courts of Appeals shall appoint a special disciplinary counsel who possesses the qualifications set forth in Section 4(B)(3) of this rule. Upon appointment, the special disciplinary counsel shall act as relator in the pending matter.

(F) Miscellaneous provisions.

(1) Upon the filing of a formal complaint, the Secretary of the Board of Commissioners on Grievances and Discipline shall serve as clerk for the Chief Justice of the Courts of Appeals, the hearing panel, and the five-judge commission. The relator and respondent shall file all pleadings, motions, documents, and other material with the Secretary, who shall transmit the documents and materials to the Chief Justice of the Courts of Appeals and the appropriate panel. The Chief Justice of the Courts of Appeals, the panel, and the five-judge commission shall transmit all orders, opinions, and other materials to the Secretary for service on or distribution to the parties. The Secretary shall maintain a complete record of the proceedings and, upon conclusion of the proceedings before the hearing panel and five-judge commission, certify the record, including exhibits, to the Clerk of the Supreme Court who shall maintain the certified record. The Clerk shall serve as clerk for the adjudicatory panel, and all proceedings before the adjudicatory panel shall be conducted as provided in this section and the Rules of Practice of the Supreme Court of Ohio. Upon request, the Secretary and Clerk shall assist the Chief Justice of the Courts of Appeals, hearing panel, five-judge commission, and adjudicatory panel with ministerial matters such as scheduling a location for hearings and securing a court reporter.

(2) If a judge selected to serve on any panel appointed pursuant to Section 6 of this rule is unable to serve because of the existence of a disqualifying factor, the judge shall notify the Chief Justice of the Courts of Appeals and provide written justification of the grounds for disqualification.

(3) The Chief Justice of the Courts of Appeals and any judge appointed to serve in any capacity pursuant to Section 6 of this rule shall continue to serve in the appointed capacity until the conclusion of the matter as long as the judge continues to hold judicial office. If the Chief Justice of the Courts of Appeals leaves judicial office while a matter commenced under this rule during his or her tenure remains pending, the successor Chief Justice of the Courts of Appeals shall assume responsibility for that matter. If a judge appointed to serve in any capacity under this rule leaves judicial office while a matter to which the judge was assigned under this rule remains pending, the Chief Justice of the Courts of Appeals shall designate a judge to replace the former judge in the same manner as the original appointment was made.

(4) A party may allege the existence of bias, prejudice, or other disqualifying factor on the part of a judge appointed to serve on a panel or commission pursuant to Section 6 of this rule by filing a motion with the Chief Justice of the Courts of Appeals. The motion shall be filed within three days of the date the party receives notice of the appointment of the panel or commission. If the Chief Justice of the Courts of Appeals finds the existence of bias, prejudice, or other disqualifying factor, the judge named in the motion shall be disqualified, and the Chief Justice of the Courts of Appeals shall designate a judge to replace the disqualified judge in the same manner as the original appointment was made.

Section 7. Miscellaneous Provisions.

The following provisions apply to proceedings under Sections 5 and 6 of this rule.

(A) Unless the justice, judge, or judicial candidate against whom a grievance has been filed agrees otherwise, the grievance shall remain private until the probable cause panel has made a determination of probable cause. After a determination of probable cause has been made, the grievance, formal complaint, report of the hearing panel, order of the five-judge commission of five judges, record of the proceedings, and all hearings shall be public.

(B) If any panel or commission of judges determines that the grievance was frivolous or filed solely for the purpose of obtaining an advantage for a judicial candidate, the panel or commission, in addition to any other order considered proper, may assess against the complainant the costs of the proceeding and any reasonable and necessary attorney fees incurred by the respondent in defending the grievance.

(C) In recommending, imposing, or reviewing a sanction for a violation of Canon 4, the panel or commission of judges shall consider any prior violations by the respondent and may increase the severity of the sanction recommended or imposed for the violation pending before the panel or commission.

(D) Any sanction imposed by the five-judge commission or adjudicatory panel shall be published by the Supreme Court Reporter in the manner prescribed in Rule V, Section 8 of the Supreme Court Rules for the Government of the Bar of Ohio and noted in the public records maintained by the Supreme Court Office of Attorney Services.

(E) The Board may adopt regulations to facilitate and implement the expeditious consideration of grievances and complaints filed under Sections 5 and 6 of this rule. A panel may extend the time requirements contained in Sections 5 and 6 of this rule on its own motion, on agreement of the parties, or on motion of a party for good cause shown. In considering an extension of the time requirements, the panel shall consider all of the following:

(1) The immediacy of the alleged violation;

(2) The complexity of the complaint;

(3) When the parties received notice of the hearing;

(4) Whether a weekend or legal holiday intervenes to shorten the applicable time period;

(5) The parties' difficulty in obtaining documentation or witnesses, or both, to prove or defend an allegation.

(F) Any judge selected to serve on a commission appointed pursuant to Section 5 of this rule or to a panel or commission appointed pursuant to Section 6 of this rule shall be reimbursed from the Attorney Services Fund for travel expenses incurred in association with the judge's service on the panel or commission. Reimbursement for travel expenses shall be made as provided in the Supreme Court Guidelines for Travel by Court Appointees. A judge appointed to a commission pursuant to Section 5 of this rule shall request reimbursement by submitting a signed Travel Expense Report form and required receipts to the Administrative Director of the Supreme Court. A judge appointed to a panel or commission pursuant to Section 6 of this rule shall request reimbursement by submitting a signed Travel Expense Report form and required receipts to the Chief Justice of the Courts of Appeals. The Chief Justice of the Courts of Appeals shall indicate approval of the reimbursement request and submit the approved form to the Administrative Director of the Supreme Court.

Section 8. Definitions.

As used in this rule:

(A) "Complaint," "probable cause," and "misconduct" have the same meanings as in Gov. Bar R. V;

(B) "Costs" means expenses incurred by the Board of Commissioners on Grievances and Discipline, the Supreme Court, and any panel or commission of judges in conducting proceedings under this rule;

(C) "Disciplinary sanction" means any of the sanctions set forth in Gov. Bar R. V, Section 6, removal, or suspension from office;

(D) "Good cause," for purposes of Sections 4(A) and (B)(1) of this rule, means that, based on a review of a grievance and any response received, there exists an articulable legal and factual basis to warrant further investigation of the allegations contained in the grievance;

(E) "Judicial candidate" has the same meaning as in Rule 4.6 of the Code of Judicial Conduct.

[Effective: July 1, 1983; amended effective January 1, 1986; October 1, 1986; September 1, 1987; January 1, 1988; January 1, 1993; July 1, 1995; September 1, 1995; January 1, 1996; June 1, 1997; November 1, 1999; January 1, 2004; January 1, 2010.]

RULE III. Disability Retirement, Removal, or Suspension of Judges.

The following rule is adopted pursuant to sections 2701.11 and 2701.12 of the Revised Code.

Section 1. Complaint.

(A)(1) Six copies of the written and sworn complaint required by section 2701.11 of the Revised Code shall be filed with the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court when it is determined by Disciplinary Counsel or a Certified Grievance Committee after investigation pursuant to Gov. Jud. R. II that probable cause exists for the filing of a complaint. The Secretary shall transmit the complaint to the Chair of the Board. The complaint shall set forth specifically the grounds claimed to be cause for retirement, removal, or suspension of the Justice or judge from office and the time and place the acts or omissions occurred that are alleged to be cause for such retirement, removal, or suspension under section 2701.12 of the Revised Code. The filing of a complaint by Disciplinary Counsel or by the President, Secretary, or Chair of a Certified Grievance Committee shall constitute a representation that, after investigation, Disciplinary Counsel or a Certified Grievance Committee has determined that probable cause exists to warrant a hearing on the complaint. Complaints shall be filed in the name of Disciplinary Counsel or a Certified Grievance Committee as relator.

(2) At the time the written and sworn complaint is filed with the Secretary of the Board, the written and sworn complaint and all proceedings in connection with the complaint shall be public.

(B) In addition to the causes for removal or suspension of a Justice or judge, as provided in section 2701.12 of the Revised Code, a Justice or judge may be removed or suspended from office for any of the following:

(1) The willful and persistent failure to perform judicial duties;

(2) Habitual intemperance;

(3) Engaging in conduct prejudicial to the administration of justice or that would bring the judicial office into disrepute;

(4) Suspension from the practice of law for a period of six months to two years, probation, indefinite suspension from the practice of law, permanent disbarment, or resignation from the practice of law in Ohio.

(C) Cases involving the retirement, removal, or suspension of a Justice or Chief Justice of the Supreme Court shall be heard and decided by a panel as provided in Gov. Jud. R. II, Section 2(B).

Section 2. Action on the Complaint.

(A)(1) Upon receipt of a written and sworn complaint, the Chair of the Board shall convene the Board and present the complaint. The Secretary of the Board shall send a copy of the complaint to the judge against whom the complaint is made. The Board shall then review the investigation made by Disciplinary Counsel or a Certified Grievance Committee. If, after review of the investigation, two-thirds of the members of the Board determine that there is substantial credible evidence in support of the complaint, the Secretary of the Board shall certify to the Supreme Court the result of the investigation.

(2) The report of the Board of Commissioners shall be sent by certified mail to the judge against whom the complaint is made at the same time it is sent to the Supreme Court.

(B)(1) If the report finds there is substantial credible evidence in support of the complaint, the Supreme Court shall appoint within a reasonable time after its receipt a commission of five judges, as provided in section 2701.11 of the Revised Code.

The chair of the commission appointed to determine the question of retirement, removal, or suspension of a judge shall be designated by the Supreme Court. After receipt of the notice of appointment and the receipt of the complaint, the chair promptly shall fix a day, time, and place for the hearing.

(2) If the commission determines by majority vote that grounds for retirement, removal, or suspension without pay have been established by clear and convincing evidence as alleged in the complaint or as provided in section 2701.12 of the Revised Code, the commission shall make the necessary and proper order. Notice of any order shall be sent by certified mail with return receipt to the judge against whom the finding has been made and to the Supreme Court.

(3) As used in this rule:

(a) "Mental disability" means the condition defined in division (A) of section 5122.01 of the Revised Code that presently prevents the proper discharge of the judge's duties.

(b) "Physical disability" means the impairment of the faculties of a Justice or judge that has prevented the proper discharge of judicial duties for more than six months. Failure to be present in court or to perform usual judicial functions for six months or more shall raise a presumption of physical disability.

(4) The commission shall make the determination of disability based upon the testimony adduced before it. Expert medical testimony may be received by the commission, and, with the consent of the respondent, it may name medical experts to examine the Respondent.

Section 3. Appeal.

Any judge retired, removed, or suspended by the commission may appeal the action to the Supreme Court on the record made before the commission. Notice of the appeal shall be given by the judge to the commission and the Supreme Court within twenty days after the judge's receipt by certified mail of the findings made by the commission. After a notice of appeal is given, the time for filing a transcript of testimony, briefs, and the conduct of a hearing shall be as provided in Gov. Bar R. V.

Section 4. Reinstatement.

A Justice or judge who has been suspended by reason of physical or mental disability may apply for reinstatement by filing a petition with the Board setting forth the facts supporting the alleged restoration of health. The petition shall be processed in the same manner as a complaint.

Section 5. Procedure.

(A) The commission may take testimony in any manner prescribed by Ohio law. All rules of evidence shall be observed in the conduct of hearings before the commission. Respondent may be represented by counsel.

(B) The commission shall issue subpoenas for witnesses under the seal of the Supreme Court, signed by a member of the commission or the Secretary of the Board. The refusal or neglect of a person subpoenaed as a witness to obey a subpoena, to attend, to be sworn or to affirm, or to answer any proper question shall be considered contempt of the Supreme Court, and the person shall be punished accordingly.

(C) Costs and expenses incurred by the Board and the commission shall be paid from the Attorney Registration Fund. The Supreme Court may order that the fund be reimbursed by the respondent if the proceeding terminates in retirement, removal, or suspension without pay.

(D) This rule and regulations relating to investigations and proceedings involving complaints and petitions for reinstatement shall be liberally construed for the protection of the public and the courts and shall apply to all pending investigations and complaints so far as may be practicable, and to all future investigations, complaints, and petitions whether the conduct involved occurred prior or subsequent to the adoption of this rule.

Section 6. Disqualification or Suspension without Pay; Criminal Charge or Conviction.

(A) A Justice or judge is disqualified from acting as a Justice or judge while there is pending an indictment or an information charging the Justice or judge with a crime punishable as a felony under state or federal law.

(B) A Justice or judge shall be suspended from judicial office without pay if the Justice or judge pleads guilty or no contest to or is found guilty of a crime punishable as a felony under state or federal law.

(C)(1) The judge presiding over a case that satisfies the circumstances described in division (B) of this section shall prepare a certified notice of a verdict of guilty, a judicial finding of guilt, or a guilty or no contest plea. The judge shall transmit the certified notice to the Secretary of the Board of Commissioners on Grievances and Discipline and to either the Disciplinary Counsel or the president, secretary, or chair of the geographically appropriate Certified Grievance Committee. Upon receipt from any source of the certified notice, the Secretary promptly shall submit the certified notice to the Supreme Court. The Secretary shall submit the certified notice regardless of the pendency of an appeal.

(2) Upon receipt of the certified notice, the Supreme Court shall enter an order immediately suspending the Justice or judge from judicial office without pay pending further proceedings pursuant to these rules. There shall be no appeal of a suspension from judicial office without pay imposed pursuant to this section.

(D) Suspension of a Justice or judge from judicial office without pay shall remain in effect until any of the following occurs:

(1) The conviction resulting from a plea of guilty or no contest, verdict of guilty, or judicial finding of guilt is reversed;

(2) A final decision on a complaint filed pursuant to Section 1 of this rule is issued by a five-judge commission appointed pursuant to Section 2 of this rule or by the Supreme Court;

(3) A disciplinary order is entered by the Supreme Court pursuant to Rule V of the Rules for the Government of the Bar of Ohio that suspends or disbars the Justice or judge from the practice of law;

(4) A final order is issued by a court removing the Justice or judge from judicial office.

Section 7. Suspension without Pay; Disciplinary Sanction.

(A) A disciplinary order entered by the Supreme Court pursuant to Rule V of the Rules for the Government of the Bar of Ohio that suspends a Justice or judge from the practice of law shall include a provision immediately suspending the Justice or judge from judicial office without pay for the term of the suspension, pending further proceedings pursuant to law. There shall be no appeal of a suspension from judicial office without pay imposed pursuant to this section.

(B) Suspension of a Justice or judge from judicial office without pay shall remain in effect until any of the following occurs:

(1) The Justice or judge is reinstated to the practice of law;

(2) A final decision on a complaint filed pursuant to Section 1 of this rule is issued by a five-judge commission appointed pursuant to Section 2 of this rule or by the Supreme Court;

(3) A final order is issued by a court removing the Justice or judge from judicial office.

Section 8. Definition.

As used in this rule, "pay" means all salary payable and benefits available to the Justice or judge as a result of his or her service in judicial office.

[Effective: July 1, 1983; amended effective October 1, 1986; January 1, 1988; January 1, 1993; June 22, 1998.]

RULE IV. Mandatory Continuing Legal Education for the Judiciary

Section 1. Purpose.

To serve the public interest that mandates the competent performance of the duties of judicial office in Ohio, each full-time judge, part-time judge, and retired judge shall participate in continuing legal education programs and activities in compliance with this rule and Rule X of the Supreme Court Rules for the Government of the Bar of Ohio.

Section 2. Definitions.

As used in this rule:

(A) "Judge" means an individual who currently holds judicial office by reason of election or gubernatorial appointment.

(B) "Retired judge" means an individual who has left judicial office either voluntarily by reason of resignation or retirement or involuntarily by reason of Article IV, Section 6(C) of the Ohio Constitution, is eligible for assignment to active duty pursuant to that section, and has been approved for assignment to active duty pursuant to the Guidelines for Assignment of Judges issued by the Chief Justice of the Supreme Court.

Section 3. Continuing Legal Education Requirements for Judges.

(A) *Total credit hours.* Each full-time judge, part-time judge, and retired judge shall complete a minimum of forty credit hours of continuing legal education for each two-year period on subjects devoted to the law and judicial administration.

(B) *Judicial College credit hours.* As part of the minimum forty credit hours of continuing legal education required by division (A) of this section, each full-time judge, part-time judge, and retired judge shall complete a minimum of ten credit hours of instruction offered by the Supreme Court of Ohio Judicial College.

(C) *Judicial conduct credit hours.* As part of the minimum ten credit hours of Judicial College instruction required by division (B) of this section, each full-time judge, part-time judge, and retired judge shall complete a minimum of three credit hours of instruction offered by the Judicial College on one or any combination of the following four judicial conduct topics:

(1) Judicial ethics, which shall include instruction on one or any combination of the Ohio Code of Judicial Conduct, the Ohio Rules of Professional Conduct, the Judicial Creed, and Ohio ethics laws;

(2) Professionalism, which shall include instruction on one or both of the following topics:

(a) The role of judges in promoting ethics and professionalism within the judiciary;

(b) The role of judges in promoting ethics and professionalism among attorneys by facilitating compliance with the requirements of the Ohio Rules of Professional Conduct, "A Lawyer's Creed," "A Lawyer's Aspirational Ideals," and the "Statement Regarding the Provision of Pro Bono Legal Services by Ohio Lawyers" adopted by the Supreme Court;

(3) Alcoholism, substance abuse, or mental health issues, which shall include instruction on any of their causes, prevention, detection, and treatment alternatives, as applicable;

(4) Access to justice and fairness in the courts and how these issues impact public trust and confidence in the judicial system and the perception of justice in Ohio, which shall include instruction on one or any combination of the following topics:

(a) Interacting with self-represented litigants;

(b) Encouraging pro bono representation;

(c) Accommodating language interpretation;

(d) Assuring fairness in matters of race, ethnicity, foreign origin, religion, gender, sexual orientation, disability, socio-economic status, or other relevant topics.

(D) *Single or multiple courses*. The Judicial College instruction related to judicial conduct required by division (C) of this section may be obtained in a single program or activity or in separate programs or activities that include one or more of the subjects set forth in that division.

Section 4. Biennial Compliance Periods.

A full-time judge, part-time judge, or retired judge whose last name begins with a letter from A through L shall complete the number of continuing legal education credit hours required by Section 3 of this rule by December 31st of each odd-numbered year. A full-time judge, part-time judge, or retired judge whose last name begins with a letter from M through Z shall complete the number of continuing legal education credit hours required by Section 3 of this rule by December 31st of each even-numbered year. If the name of a judge changes after being admitted to the practice of law, the judge shall remain in the same alphabetical grouping for purposes of meeting the requirements of this section.

Section 5. Allowance of Credit Hours.

(A) *Amount of credit hours*. Sixty minutes of actual instruction or other approved activity shall constitute one credit hour.

(B) *Continuing legal education teaching credit.* The Supreme Court Commission on Continuing Legal Education may allow up to three credit hours for each credit hour taught by a full-time judge, part-time judge, or retired judge at an approved continuing legal education program or activity the first time the program or activity is presented by the judge, two credit hours for each credit hour taught as part of a panel presentation in an approved program or activity the first time the program or activity is presented by the judge, and one credit hour for each credit hour taught in subsequent presentations of the same program or activity by the judge, with a maximum of one-half the required credit hours for teaching during the biennial compliance period.

(C) *Law school teaching credit.* The Commission may allow one-half credit hour for each semester hour taught by a full-time judge, part-time judge, or retired judge at a law school accredited by the American Bar Association. Prorated credit may be granted for quarter or trimester hours.

(D) *Publication of article or book credit*. The Commission may allow up to twelve credit hours for the publication of an article or book personally authored by a full-time judge, part-time judge, or retired judge, with a maximum of twelve credit hours for publications during a biennial compliance period.

(E) *Self-study credit*. The Commission may allow up to twelve general credit hours for approved self-study by a full-time judge, part-time judge, or retired judge during a biennial compliance period.

(F) *Law school course credit*. The Commission may allow three general credit hours for each semester hour of a course taken by a full-time judge, part-time judge, or retired judge at a law school accredited by the American Bar Association. Prorated credit may be granted for quarter or trimester hours.

Section 6. Proration of Credit Hours.

A full-time judge, part-time judge, or retired judge who becomes subject to this rule during a biennial compliance period may have the continuing legal education requirements under Section 3 of this rule prorated by the Supreme Court Commission on Continuing Legal Education pursuant to CLE Regulation 305 for the biennial compliance period in which the judge is subject to this rule.

Section 7. Carryover of Credit Hours.

If the Supreme Court Commission on Continuing Legal Education determines that a full-time judge, part-time judge, or retired judge has timely completed in a biennial compliance period more than the number of continuing legal education credit hours required by Section 3 of this rule, the Commission may apply a maximum of twenty general credit hours to the next biennial compliance period.

Section 8. Exemptions.

(A) *Illness, disability, or special circumstances.* The Supreme Court Commission on Continuing Legal Education may grant a temporary exemption from the continuing legal education requirements of Section 3 of this rule to either of the following:

(1) A full-time judge, part-time judge, or retired judge suffering from severe, prolonged illness or disability preventing participation in accredited continuing legal education for the duration of the illness or disability;

(2) A full-time judge, part-time judge, or retired judge who has demonstrated special circumstances unique to that judge constituting good cause to grant an exemption not to exceed one year and subject to any prorated adjustment of the credit hour requirements.

(B) *Substitute program or activity.* A full-time judge, part-time judge, or retired judge who, because of a permanent physical disability or other compelling reason, has difficulty attending continuing legal education programs or activities may request, and the Commission may grant, approval of a substitute program or activity.

Section 9. Administration of Continuing Legal Education for Judges.

The Supreme Court Commission on Continuing Legal Education shall be responsible for administration of the continuing legal education requirements of Section 3 of this rule. The Commission shall accredit continuing legal education programs, activities, and sponsors; maintain records of continuing legal education credit; issue transcripts and reports; enforce and determine compliance with the provisions of this rule and Gov. Bar R. X; recommend sanctions for the failure to comply with the requirements of this rule or Gov. Bar R. X; and perform other functions necessary to carry out the duties of the Commission and facilitate the purpose of this rule.

Section 10. Judicial Orientation Program.

(A) *Requirement.* A person who, after January 1, 2007, is appointed by the governor or elected to a judgeship and who has not completed the Supreme Court of Ohio Judicial College Judicial Orientation for that jurisdiction shall complete the Judicial Orientation Program developed and accredited by the Judicial College. Except as provided in division (B)(3) of this section, this provision does not apply to any person reelected to the same judicial position.

(B) *Program parts.* The Judicial Orientation Program shall consist of the following four parts:

(1) Part I, which shall consist of a general and specific curriculum applicable to the jurisdictions of the attendees. The Judicial College shall conduct Part I each year after the November election but before the commencement of judicial terms in the following year.

(2) Part II, which shall consist of a general and specific curriculum applicable to the jurisdiction of the attendees. The Judicial College shall conduct Part II within six months after the conclusion of Part I.

(3) Part III, which shall consist of a capital case seminar offered or approved by the Judicial College. A judge of the common pleas court in the general division who is elected or appointed to the bench shall complete the seminar within twenty-four months of assuming the bench. A retired judge shall complete the seminar before accepting assignment to a capital case. All judges in divisions of the common pleas court other than the general division may take the capital case seminar. Judges in divisions of the common pleas court other than the general division who take the capital case seminar shall be eligible to preside over a capital case or participate in a capital case as a member of the three judge panel.

(4) Part IV, which shall be the Judicial College Mentor Program. The program shall pair a newly elected or appointed full-time judge or part-time judge with an experienced judge-mentor within the same subject matter jurisdiction. Each judge required by division (A) of this section to participate in the mentor program shall have regular contact with the mentoring judge for a minimum of one year. This program shall not apply to Supreme Court justices.

(C) *Supreme Court Justices.* A person elected or appointed to the Supreme Court shall complete only those portions of Parts I and II that are relevant to appellate or Supreme Court jurisdiction.

(D) *Later appointments.* Any judge appointed after the conclusion of Part I but before the beginning of Part II shall complete Part II.

(E) *Change in jurisdiction.* A sitting judge who changes jurisdictions shall complete only the portions of Parts I and II that are specifically designed for the new jurisdiction.

(F) *Tuition and costs.* The Judicial College shall not charge tuition for participation in Parts I and II and, pursuant to the "Guidelines for Reimbursement of Travel and Education Expenses for Appellate Judges" adopted by the Supreme Court, shall pay or reimburse the participating judges for the costs of mileage, lodging, and meals while attending Parts I and II.

(G) *Delayed or excused completion of program parts.*

(1) For good cause, the Executive Committee of the Judicial College Board of Trustees may delay or excuse completion of Part I or Part II, but not both.

(2) For good cause, the Chief Justice of the Supreme Court may delay or excuse completion of Part III.

(3) For good cause, the Executive Committee of the Judicial College Board of Trustees may delay or excuse completion of Part IV.

Section 11. Sanctions for Failure to Comply.

Failure to comply with the requirements of this rule shall result in sanctions as set forth in Section 9 of this rule, but shall not affect the force or validity of any order entered by a judge.

Section 12. Effective Dates.

(A) The effective date of this rule shall be January 1, 1981.

(B) The amendments to this rule adopted by the Supreme Court of Ohio on June 28, 1989, shall be effective on July 1, 1989.

(C) The amendments to this rule adopted by the Supreme Court of Ohio on March 27, 1990, shall be effective on April 16, 1990.

(D) The amendments to this rule adopted by the Supreme Court of Ohio on October 23, 1990 shall take effect on January 1, 1991.

(E) The amendments to this rule, adopted by the Supreme Court of Ohio on October 8, 1991, shall take effect on January 1, 1992.

(F) The amendments to this rule adopted by the Supreme Court of Ohio on October 20, 1992, shall take effect on January 1, 1993.

(G) The amendments to this rule adopted by the Supreme Court of Ohio on December 14, 1993 shall take effect on January 1, 1994. All matters relating to reporting and administration of judicial continuing education requirements for calendar year 1993 shall be governed by this rule as it existed prior to January 1, 1994.

(H) The amendments to this rule adopted by the Supreme Court of Ohio on October 27, 1998, shall take effect on January 1, 1999.

(I) The amendments to Sections 2(B), 3(B) and 6 (I) of this rule, adopted by the Supreme Court on April 22, 2002, shall take effect on July 1, 2002.

(J) The amendments to Sections 2(B), 3(B) and 6 (J) of this rule, adopted by the Supreme Court on July 20, 2004, shall take effect on September 1, 2004.

(K) The amendments to Sections 6, 7, and 8 of this rule, adopted by the Supreme Court on March 14, 2006, shall take effect on January 1, 2007.

(L) The amendments to Sections 4 and 5 of this rule, adopted by the Supreme Court on September 11, 2007, shall take effect on November 1, 2007.

(M) The amendments to this rule adopted by the Supreme Court of Ohio on February 5, 2008 shall take effect on March 1, 2008.

(N) The amendments to this rule adopted by the Supreme Court on March 9, 2009 shall take effect on May 1, 2009 and first apply to a judge whose last name begins with a letter from M through Z and reports compliance with the requirements of this rule by the thirty-first day of January 2011.

(O) The amendments to Sections 1 through 12 of this rule, adopted by the Supreme Court on October 23, 2012, shall take effect on January 1, 2014, and apply to the biennial compliance period ending on December 31, 2014, and all subsequent biennial compliance periods. Former Sections 1 through 7 of this rule shall apply to the biennial compliance period ending on December 31, 2013, and all prior biennial compliance periods.

[Effective: January 1, 1981; amended effective July 1, 1989; April 16, 1990; January 1, 1991; January 1, 1992; January 1, 1993; January 1, 1994; January 1, 1999; July 1, 2002; September 1, 2004; January 1, 2007; November 1, 2007; March 1, 2008; May 1, 2009; January 1, 2014.]

RULE V. Judicial College

Section 1. Purpose; Duties; Construction.

(A) The purpose of this rule is to establish and maintain the Supreme Court of Ohio Judicial College and provide for its governance.

(B) The Supreme Court of Ohio Judicial College, in cooperation with the Ohio Judicial Conference, the state judicial associations, and the associations of court personnel, shall do all of the following:

(1) Foster awareness that judicial training and education are necessary to maintain professional competence;

(2) Provide a comprehensive program of continuing education for the judges, and court personnel of this state;

(3) Create standards and curricula for education and training programs that will provide quality education and training in procedural and substantive law of Ohio, incorporating national standards and trends;

(4) Provide training and education in professional ethics and substance abuse.

(C) This rule and bylaws adopted under authority of this rule shall be construed liberally to accomplish the goals and purposes of this rule.

Section 2. Board of Trustees.

(A) There is hereby created the board of trustees of the Supreme Court of Ohio Judicial College consisting of ten members appointed as follows:

(1) One judge appointed by the Ohio Judicial Conference;

(2) One judge appointed by the Association of Municipal and County Judges of Ohio;

(3) One judge appointed by the Ohio Common Pleas Judges Association;

(4) One judge appointed by the Ohio Courts of Appeals Judges Association;

(5) One judge appointed by the Ohio Association of Probate Judges;

(6) One judge appointed by the Ohio Association of Juvenile and Family Court Judges;

(7) One judge appointed by the Ohio Association of Domestic Relations Judges;

(8) One magistrate appointed by the Ohio Association of Magistrates;

(9) Two judges appointed by the Chief Justice of the Supreme Court.

The initial appointment of a trustee by the Ohio Association of Domestic Relations Judges pursuant to division (A)(7) of this section shall be made for a term beginning January 1, 1995 and ending December 31, 1997. The initial appointment of a trustee by the Ohio Association of Magistrates pursuant to division (A)(8) of this section shall be made for a term beginning January 15, 1995 and ending December 31, 1997.

(B)(1) Terms of office for trustees shall be three years. Trustees shall be eligible for reappointment, but shall not serve more than two consecutive full terms. A trustee appointed to fill a vacancy occurring prior to the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of the unexpired term.

(2) To be eligible for the position of trustee, an individual shall be a sitting judge or magistrate as appropriate under this rule. If a trustee leaves judicial office, the trustee shall be disqualified and a vacancy shall occur. A change in judicial position shall not disqualify a member. Vacancies shall be filled by the original appointing authority within sixty days of receiving notice of the vacancy and, if the appointing authority does not act within that time, by the board.

(C) Except for the annual meeting, the board shall meet at the call of the chair, or upon the written request of a majority of the trustees. Five trustees shall constitute a quorum. No action shall be taken by the board without the concurrence of a majority of the trustees constituting a quorum at that meeting.

(D) Trustees shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their official duties.

(E) At its first meeting each year, the board shall elect from its membership a chair, vice-chair, and secretary as the officers of the Supreme Court of Ohio Judicial College. The officers shall be elected for a term of one year beginning on the day of their election and shall serve until their successors have assumed office. No person shall serve more than three consecutive one-year terms in any office.

(F) There shall be an annual meeting of the board in September.

(G) The executive committee shall consist of the officers of the board and shall exercise the duties, powers, privileges, and prerogatives of the board, consistent with the policies of the board, between meetings of the board. The executive committee shall carry out all other duties as may be prescribed by the board.

(H) The board may adopt bylaws consistent with this rule.

Section 3. Powers of the Board of Trustees.

(A) The board shall file with the Supreme Court of Ohio a proposed budget for the year beginning the ensuing first day of July for approval by the Supreme Court. The budget shall be a public record.

(B) The board shall recommend for appointment, with the advice and consent of the Supreme Court, employees necessary to carry out the duties of the Supreme Court of Ohio Judicial College and upon terms and conditions as the board shall determine.

(C) Facilities for the Supreme Court of Ohio Judicial College shall be provided by the Supreme Court.

(D) The Supreme Court of Ohio Judicial College may receive, administer, distribute, and account for any bequest, devise, grant, or gift consistent with the purpose and goals of the Supreme Court of Ohio Judicial College.

Section 4. Effective Dates.

(A) The effective date of this rule shall be July 1, 1989.

(B) The amendments to Section 1 of this rule adopted by the Supreme Court of Ohio on October 23, 1990 shall take effect on January 1, 1991.

(C) The amendments to Sections 1, 2, and 3 of this rule, adopted by the Supreme Court of Ohio on October 22, 1991, shall take effect on January 1, 1992.

(D) The amendments to Section 2 of this rule, adopted by the Supreme Court of Ohio on December 14, 1993, shall take effect on January 1, 1995.

(E) The amendments to Section 2 of this rule, adopted by the Supreme Court of Ohio on January 11, 1995, shall take effect on January 15, 1995.

(F) The amendments to this rule adopted by the Supreme Court of Ohio on February 5, 2008 shall take effect on March 1, 2008.

[Former Rule V renumbered as Rule XX and new Rule V adopted effective July 1, 1989; amended effective January 1, 1991; January 1, 1992, January 1, 1995; January 15, 1995; March 1, 2008.]

RULE VI. Reference of Civil Action Pursuant to Section 2701.10 of the Revised Code.

Section 1. Authority; Registration; Eligibility.

(A) Parties to a civil action or proceeding pending in a court of common pleas, municipal court, or county court who agree to have their action or proceeding referred or issue or question submitted to a voluntarily retired judge pursuant to section 2701.10 of the Revised Code shall refer the action or proceeding or submit the issue or question according to the provisions of this rule and that section.

(B) To be eligible for the referral of actions or proceedings or submission of issues or questions, a retired judge shall register with the appropriate clerk of courts in accordance with section 2701.10 of the Revised Code and shall file a retired judge registration form with the Supreme Court.

(C)(1) A voluntarily retired judge or a judge retired under Article IV, Section 6(C) of the Ohio Constitution may register pursuant to section 2701.10 of the Revised Code.

(2) As used in this rule, "voluntarily retired judge" means any person who was elected or appointed to and served on an Ohio court without being defeated in an election for new or continued service on that court. "Voluntarily retired judge" does not include either of the following:

(a) A judge who has been removed or suspended without reinstatement from service on any Ohio court pursuant to the Supreme Court Rules for the Government of the Judiciary or who has resigned or retired from service while a complaint was pending under those rules;

(b) A judge who has resigned from office between the date of defeat in an election for further service on that court and the end of his or her term.

(D) A retired judge who registers and is selected to receive referrals and submissions pursuant to section 2701.10 of the Revised Code may accept assignments from the Chief Justice of the Supreme Court pursuant to Article IV, Section 6(C) of the Ohio Constitution.

Section 2. Reference Procedure.

(A) Upon the consent of all parties to a civil action or proceeding pending in any court of common pleas, municipal court, or county court, the parties shall notify the court of their agreement to have the action or proceeding referred for adjudication or have any specific issues or questions of fact or law in the action or proceeding submitted for determination to a retired judge of their choosing who is eligible to accept referrals or submissions. The parties shall file with the clerk of courts in which the action or proceeding was pending a copy of the written agreement and exchange copies between or among themselves. The agreement shall comply with the requirements of section 2701.10 of the Revised Code and serves as the notice of the intention

of the parties to refer the action or proceeding, or submit an issue or question in the action or proceeding, to a retired judge pursuant to that section.

(B) After the agreement is filed with the clerk, the judge before whom the action or proceeding is pending shall order the referral or submission in accordance with the agreement or any amendment to the agreement.

Section 3. Trial Procedure.

(A) The Ohio Rules of Civil Procedure and the Ohio Rules of Evidence apply to actions or proceedings referred or issues or questions submitted to a retired judge pursuant to section 2701.10 of the Revised Code.

(B) Within a reasonable time after accepting the referral or submission, the judge shall schedule a pretrial conference. An order shall be filed with the clerk of courts that includes all of the following:

(1) The issues to be decided by the judge;

(2) A determination as to whether the case shall be submitted entirely on documentary evidence or if oral testimony is required;

(3) A date for completion of discovery;

(4) A trial date or, if the case is to be submitted to the judge on documentary evidence alone, a date for submission;

(5) Any other matters agreed upon by the parties at the pretrial conference;

(6) Any other matters resolved before trial.

(C) At the conclusion of the trial or after submission on documentary evidence, the judge may direct the parties to file post-trial memoranda. The judge shall decide the case promptly.

(D) The decision of the judge shall be in writing and contain separate findings of fact and conclusions of law. The judge shall file a copy of the decision and a judgment entry with the clerk of courts and direct the clerk to serve copies of the decision and judgment entry on all the parties.

(E) If the judge dies or becomes incapacitated before filing a decision and judgment entry in a case with the appropriate clerk of courts, the parties shall notify the court in which the action or proceeding was pending and the clerk shall return the action or proceeding to the regular docket of the judge to whom it originally was assigned.

Section 4. Authority of Chief Justice; Code of Judicial Conduct.

(A) The Chief Justice of the Supreme Court shall have the same authority over actions or proceedings referred or issues or questions submitted pursuant to section 2701.10 of the Revised Code and this rule as in all other cases.

(B) A judge selected pursuant to section 2701.10 of the Revised Code shall comply with the Code of Judicial Conduct.

Section 5. Appendix of Forms.

The following forms are intended for illustration only. Substantial compliance with the prescribed forms is sufficient. Minor departures that do not negate substantial compliance shall not render void forms that are otherwise sufficient, and the forms may be varied when necessary to meet the facts of a particular case.

[Effective: January 1, 1989; amended effective November 2, 1992; February 2, 2009.]

FORM 1. RETIRED JUDGE REGISTRATION FORM

(1)
INDEX OF RETIRED JUDGES REGISTRATION FORM*
R.C. 2701.10

IN THE _____ COURT OF _____ COUNTY:

Name: _____
Address: _____
_____
Telephone Number: _____
Attorney Registration Number: _____

I, _____, hereby place my name on the index of retired judges in this court. In doing so, I state that I have registered with the Supreme Court of Ohio as a retired judge and I am eligible for service as a retired judge under the Constitution and laws of Ohio. I further state that, upon removing my name from registration with the Supreme Court of Ohio, I shall notify this court in writing.

_____
Signature

_____
Date

*TO BE FILED WITH THE APPROPRIATE LOCAL CLERK OF COURT.

[Effective: January 1, 1989; amended effective February 2, 2009.]

FORM 2. REGISTRATION OF RETIRED JUDGE

(2)
THE SUPREME COURT OF OHIO
65 South Front Street
Columbus, Ohio 43215

REGISTRATION OF RETIRED JUDGE*
R.C. 2701.10

Name: _____
Address: _____
_____
Telephone Number: _____
Attorney Registration Number: _____
Date of Birth: _____

Undergraduate and graduate education (include schools, graduation date(s) and degree(s) conferred):_____
_____

Law school education (include graduation date):_____
_____

Judicial experience (include administrative experience): _____
_____

Date of retirement from judicial service: _____
_____

Area(s) of expertise (based upon legal and judicial experience, other career experience, and scholarly pursuits):_____
_____

Publications:_____
_____

I state that the information contained on this form is correct.

_____ _____
Signature Date

* TO BE FILED WITH THE SUPREME COURT OF OHIO

[Effective: January 1, 1989; amended effective February 2, 2009.]

FORM 3. AGREEMENT FOR REFERRAL OR SUBMISSION TO RETIRED JUDGE

(3)
IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

A.B.	)	CASE NO. _____
Plaintiff(s)	)	ASSIGNED JUDGE _____
v.	)	AGREEMENT FOR REFERRAL
	)	OR SUBMISSION TO RETIRED
C.D.	)	JUDGE PURSUANT TO R.C.
Defendant(s)	)	2701.10

1. Plaintiff(s) _____ and _____ and defendant(s) _____ and _____ do hereby agree that this case shall be transferred to _____, a Retired Judge, who shall: (check appropriate item)

( ) a. Hear and determine all issues of law and fact which may hereafter arise in this case, receive evidence, and render a judgment adjudicating the action or proceeding in its entirety, including all post-trial proceedings, if any.

( ) b. Hear and determine issues of law and fact, receive evidence, and render a decision with respect to the following specific issue(s) or question(s) only:

_____

_____

_____

2. The parties hereto agree to assume the responsibility for providing all facilities, equipment, and personnel reasonably deemed necessary by the Retired Judge during his or her consideration of the action or proceeding referred, or the issue(s) or question(s) submitted, and that they will pay all costs arising out of the provision of the facilities, equipment, and personnel.

3. The parties hereto agree to pay the sum of $ ____(per diem) or $ ____(per hour) plus all reasonable expenses incurred incident to the conduct of the proceedings. Payment of all amounts due and owing to the Retired Judge for his or her services shall be made at such times and in such amounts as the parties hereto and the Retired Judge may find mutually agreeable.

4. If any different or additional terms and conditions are desired by the parties hereto and the Retired Judge, the same will be appended hereto and signed by the parties and the Retired Judge.

THIS AGREEMENT entered into this _____ day of _____, 20__.

Plaintiff(s): _____

_____

Defendant(s): _____

_____

Retired Judge: _____

[Effective: January 1, 1989; amended effective February 2, 2009.]

FORM 4. ORDER OF REFERRAL OR SUBMISSION TO RETIRED JUDGE

(4)
IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

A.B.	)	CASE NO. _____
Plaintiff(s)	)	ASSIGNED JUDGE _____
v.	)	AGREEMENT FOR REFERRAL
	)	OR SUBMISSION TO RETIRED
C.D.	)	JUDGE PURSUANT TO R.C.
Defendant(s)	)	2701.10

The parties having elected to have _____ a duly registered Retired Judge (act as an adjudicator of the action between them in its entirety, including all post-trial proceedings, if any) (decide the particular issue(s) of fact and/or law which they have set forth in their agreement); and it appearing that they and the Retired Judge have filed their written agreement concerning this (referral) (submission) with this Court:

IT IS HEREBY ORDERED that this case is transferred, pursuant to R.C. 2701.10, to _____, a duly registered Retired Judge, as provided in their agreement. Should the Retired Judge become unable, for any reason, to fulfill the agreement, this case will revert to the docket of this Court for further proceeding.

The Clerk of this Court is hereby ordered to deliver to _____, the Retired Judge, a complete copy of the court file in this case, including copies of all documents filed as of the date of this order. Henceforth, copies of all documents filed with this Court shall also be served upon the Retired Judge at an address he or she shall provide to the parties.

Signature: _____
Judge of the Court of Common Pleas

Dated: _____

[Effective: January 1, 1989; amended effective February 2, 2009.]

RULE VII. Duties of Judge Leaving Office.

Section 1. Notice of Intent to Leave Office Before End of Term.

A judge intending to leave a judicial office before the end of the judge's term of office, thereby creating a vacancy, shall do both of the following at least three days prior to leaving the office:

(A) Submit an original resignation from office letter to the Governor indicating the date the judge will leave the office;

(B) Submit an original notification letter to the Chief Justice of the Supreme Court indicating the judge has submitted a resignation from office letter to the Governor and containing a copy of the letter.

Section 2. Delivery of Property and Effects to Successor Judge.

Upon leaving judicial office, a judge shall deliver to the judge's successor all records; papers, books, and other instruments of writing; and other property and effects belonging to the court.

[Effective: July 1, 1983; amended effective October 1, 1986; January 1, 1988; January 1, 1993; June 22, 1998; January 1, 2013.]

RULE XX. Title

These rules shall be known as the Supreme Court Rules for the Government of the Judiciary of Ohio and shall be referred to and cited as "Gov. Jud. R. ___."

[Former Rule V renumbered as Rule XX and adopted effective July 1, 1989.]