ARKANSAS JUDICIARY
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Rule 9. Hearing On Formal Statement Of Allegations

A. Hearing. The hearing on a formal statement of allegations prepared against a judge shall be before a Hearing Panel comprised of a full ninemember Commission on which no member of the Investigation Panelwhich considered the initialcomplaint mayserve. This same nine-member Hearing Panel shall be the only panel to hear the particular allegations, whether the hearing is recessed, continued, or requires more than one day.

B. Scheduling. The Commission shall, upon the receipt of the judge?s response or upon expiration of the time to answer, schedule a public hearing to commencewithin 90 days thereafter, unless continued for good cause shown. The judge and all counsel shall be notified promptly of the date, time and place of the hearing.

C. Discovery. The respondent judge and the Commission shall be entitled to discovery in accordance with the Arkansas Rules of Civil Procedure. Both the Commission and the respondent judge shall have the authority to issue summonses for any persons and subpoenas for any witnesses, and for the production of papers, books, accounts, documents, records, or other evidence and testimony relevant to an investigation or proceeding. The summonses or subpoenas shall be served in any manner provided by the Arkansas Rules of Civil Procedure for service of process. Any fees or expenses incurred for issuing or service of subpoenas or summonses shall be borne by the requesting party. The Circuit Court of Pulaski County shall have the power to enforce process.

D. Right to Counsel. The judge shall be entitled to counsel of his/her own choice at his or her own expense.

E. Conduct of Hearing. The Arkansas Rules of Evidence shall apply and all testimony shall be under oath. Commission attorneys, or special counsel retained for the purpose, shall present the case to the fact finder. The judge whose conduct is in question shall be permitted to adduce evidence and cross examine witnesses. Facts justifying action shall be established by clear and convincing evidence. The proceedings shall be recorded verbatim.

F. Immunity from Prosecution. The Commission and the judge are authorized to request from the appropriate prosecuting authorities immunity from criminal prosecution for a reluctant witness, using the procedure outlined in Ark. Code Ann. § 1643601, et seq. 10

G. Public Hearing. The hearing shall be open to the public and recorded by a certified court reporter.

H. Determination. The Commission shall, within sixty (60) days after the hearing, submit its finding and recommendations, together with the record and transcript of the proceedings. Both the decision of the Commission and a copy of the record shall be served upon the judge.

I. Disposition. In its report, the Commission shall dispose of the case in one of the following ways: (1) If it finds that there has been no misconduct, the complaint shall be dismissed and the Director shall send the judge and each complainant notice of dismissal; (2) If it finds that there has been conduct that is cause for discipline but for which an admonishment or informal adjustment is appropriate, it may so inform or admonish the judge, direct professional treatment, counseling, or assistance for the judge, or impose conditions on the judge?s future conduct; and (3) If it finds there has been conduct that is cause for formal discipline, it shall be imposed as set forth in Rule 9.

J. Commission Decision ? Formal Discipline. The recommendation for formal discipline shall be concurred in by a majority of all members of the Commission and may include one or more of the following: (1) A recommendation to the Supreme Court that the judge be removed from office; (2) A recommendation to the Supreme Court that the judge be suspended, with or without pay; (3) Upon a finding of physical or mental disability, a recommendation to the Supreme Court that the judge be granted leave with pay; (4) Upon a finding of physical or mental disability, a recommendation to the Supreme Court that the judge be retired and considered eligible for his/her retirement benefits, pursuant to Ark. Code Ann. § 248217 (1987); (5) Reprimand or censure.

K. Dissent. If a member or members of the Commission dissent from a recommendation as to discipline, a minority recommendation shall be transmitted with the majority recommendation to the Supreme Court.

L. Opinion to be Filed. The final decision in any case which has been the subject of a formal disciplinary hearing shall be in writing and shall be filed with the clerk of the Arkansas Supreme Court, along with any dissenting or concurring opinion by any Commission member. The opinion or opinions in any case must be filed within seven (7) days of rendition.

M. Witness Fees. All witnesses shall receive fees and expenses in the amount allowed by rule or statute for witnesses in civil cases. Expenses of witnesses shall be borne by the party calling them.

Associated Court Rules:
Rules of Procedure of the Arkansas Judicial Discipline and Disability Commission

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