



ARKANSAS JUDICIARY

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## **SECTION 6. CONFIDENTIALITY/RECORDS.**

A. Communications Confidential. Subject to the exceptions listed in subsections B and C of this Section:

- (1) All communications, complaints, formal complaints, testimony, and evidence filed with, given to, or given before the Committee, or filed with or given to any of the employees and agents of the Office of Professional Conduct during the performance of their duties, that are based upon a complaint alleging an attorney has violated the Rules, shall be absolutely privileged and confidential and exempt from disclosure under the Arkansas Freedom of Information Act, Ark. Code Ann. sections 25-19-101 et seq., pursuant to Ark. Code Ann. section 25-19-105(b)(8), as documents protected from disclosure by order or rule of the Supreme Court of Arkansas; and
- (2) All actions and activities arising from or in connection with an alleged violation of the Rules by an attorney licensed to practice law in this State are absolutely privileged and confidential.
- (3) These provisions of privilege and confidentiality shall apply to complainants, except that a complainant may disclose the fact that he or she has submitted a complaint to the Office of Professional Conduct and the contents of the complaint.

B. Exceptions.

- (1) Except as expressly provided in these Procedures, proceedings under these Procedures are not subject to the Arkansas Rules of Civil Procedure regarding discovery.
  - (2) The records of public hearings conducted by the Committee pursuant to Section 11 of these Procedures are public information.
  - (3) In the case of disbarment, the Committee and the Office of Professional Conduct are authorized to release any information that either deems necessary for that purpose.
- (4) The Committee is authorized to release information:
- (a) For statistical data purposes;
  - (b) To a corresponding lawyer disciplinary authority or an authorized agency or body of a foreign jurisdiction engaged in the regulation of the practice of law;
  - (c) To the State Board of Law Examiners;
  - (d) To the Committee on the Unauthorized Practice of Law;
  - (e) To the Arkansas Client Security Fund Committee;
  - (f) To the Commission on Judicial Discipline and Disability;
  - (g) To any other committee, commission, agency, or body within the State empowered

to investigate, regulate, or adjudicate matters incident to the legal profession, when such information will assist in the performance of those duties;

(h) To any agency, body, or office of the federal government or this State charged with responsibility for investigation and evaluation of a lawyer's qualifications for appointment to a governmental position of trust and responsibility or for the discipline or sanction of any attorney; or,

(i) Pursuant to the provisions of Section 9(A) and Section 15(B) of these Procedures

(5) Any attorney against whom a formal complaint is pending shall have disclosure of all information, excluding attorney work product, research, and materials obtained and intended for use as rebuttal to any witness for the respondent attorney at a hearing, in the possession of the Committee and the Office of Professional Conduct concerning that complaint, including any record of prior complaints about that attorney. Procedures for discovery for formal complaints are set out in Section 8.

(6) The attorney about whom a complaint is made may waive, in writing, the confidentiality of the information.

(7) In all cases, the complainant shall be provided with a copy of the respondent attorney's affidavit of response and afforded a reasonable opportunity to reply, in accordance with Section 9(B)(3).

C. Sanctions Made Public. When a public sanction becomes final under these Procedures or when the Committee decides to initiate disbarment proceedings, a copy shall be forwarded to the Clerk and shall be maintained as a public record by the Clerk. Such information shall also be publicly disseminated, including release to the press and posting on the Arkansas Judiciary website.

**Associated Court Rules:**

Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law

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