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## SECTION 7. PROCEDURE.

A. General. A panel of the Committee shall adjudicate all formal complaints alleging violation of the Rules that may be brought to its attention and shall give the attorney involved an opportunity to explain or refute the charge.

B. Standard of Proof. Formal charges of misconduct, petitions for reinstatement, and petitions for transfer to or from inactive status shall be established by a preponderance of the evidence.

C. Burden of Proof. The burden of proof in proceedings seeking discipline or involuntary transfer to inactive status is on the Executive Director. The burden of proof in proceedings seeking reinstatement or transfer from involuntary or voluntary inactive status is on the attorney seeking such action.

D. Limitations on Actions. The institution of disciplinary actions pursuant to these Procedures shall be exempt from all statutes of limitations.

E. Evidence and Procedures. Except as noted in these Procedures, the Arkansas Rules of Evidence and the Arkansas Rules of Civil Procedure shall not generally apply to disciplinary proceedings. The Executive Director and all other attorneys submitting documents in disciplinary proceedings shall quote, highlight, or pinpoint cite the portions of exhibits, transcripts, and other submissions on which they want the Committee members to focus, rather than merely submitting voluminous documents without specific references.

F. Pleadings. All pleadings filed before the Committee shall be captioned "Before the Arkansas Supreme Court Committee on Professional Conduct" and be styled "In re \_\_\_\_\_," to reflect the name of the respondent attorney.

G. Prior Sanctions. Information concerning prior discipline of the respondent attorney shall not be divulged to the Committee members hearing or reviewing a complaint until after a finding of misconduct has been made, unless said information is relevant for purposes of impeachment or probative of issues pending in the present matter, including, without limitation, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. [See Ark. R. Evid. 404(b).] If a panel is considering a matter by ballot-vote procedure, information concerning prior discipline of the respondent attorney, which is not subject to disclosure as set out above, shall be provided to the panel members in a sealed envelope accompanying the ballot, and shall not be unsealed and reviewed by the voting panel member until and unless the panel member shall mark the ballot finding a violation of a Rule.

H. Ex Parte Communication.

(1) Members of the Committee shall not communicate ex parte with the

Executive Director, the staff of the Office of Professional Conduct, the respondent attorney, or his or her counsel regarding a pending or impending investigation or disciplinary matter, except as explicitly provided for by law or these Procedures, or for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits.  
(2) A violation of this rule may be cause for removal of any member from the panel before which a matter is pending.

**Associated Court Rules:**

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

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