

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER ADOPTING AMENDMENTS TO THE RULES FOR SUPREME COURT
REVIEW OF RECOMMENDATIONS OF THE JUDICIAL STANDARDS
COMMISSION

The Rules for Supreme Court Review of Recommendations of the Judicial Standards Commission are hereby amended and recodified to read as printed on the following pages.

These amendments shall be promulgated by publication in the North Carolina Reports and posted on the Court's web site.

Ordered by the Court in Conference, this the 20th day of December, 2016.

_____/s/ Ervin, J.

For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 20th day of December, 2016.

_____/s/ J. Bryan Boyd

J. BRYAN BOYD

Clerk of the Supreme Court

Rules for Supreme Court Review of Recommendations of the Judicial Standards Commission

December 20, 2016

These rules are promulgated by the Court under the rule-making authority conferred by Article IV, Section 13(2) of the Constitution of North Carolina. They shall be effective in all proceedings before the Court in matters under Article 30 of Chapter 7A of the General Statutes. These rules supersede the Rules for Supreme Court Review of Recommendations of the Judicial Standards Commission, [288 N.C. 740 \(1975\)](#), as amended, [289 N.C. 732 \(1976\)](#). They shall be effective on the 20th day of December, 2016, and shall apply to all cases filed with the Court on or after that date.

Rule 1. Definitions

In these rules:

- (a) **Commission** means the Judicial Standards Commission.
- (b) **Respondent** means a justice or judge of the General Court of Justice, or a commissioner or deputy commissioner of the North Carolina Industrial Commission, who has been recommended for public reprimand, censure, suspension, or removal under Article 30 of Chapter 7A of the General Statutes.
- (c) **Court** means the Supreme Court of North Carolina.
- (d) **Clerk** means the Clerk of the Supreme Court of North Carolina.
- (e) **Commission's attorney** means the attorney representing the Commission in the respondent's case.
- (f) **Service** of a document required to be served means service in the manner provided in Rule 4 of the North Carolina Rules of Civil Procedure.

Rule 2. Confidentiality

Unless the respondent waives confidentiality in a writing filed with the Clerk, all filings and proceedings before the Court in matters under Article 30 of Chapter 7A of the General Statutes are confidential. These filings and proceedings are no longer confidential if the Court publicly reprimands, censures, suspends, or removes the respondent.

Rule 3. Procedure

(a) **Filing and Docketing.** In accordance with the Rules of the Judicial Standards Commission, the Executive Director of the Commission shall certify the Commission's recommendation and the record and file them with the Clerk. After receipt of the Commission's recommendation and the record, the Clerk shall docket the matter for the Court's review.

(b) **Notice to the Respondent.** When the Commission files a recommendation that a respondent be publicly reprimanded, censured, suspended, or removed, the Clerk shall send a copy of the recommendation and the record by certified mail, return receipt requested, to the respondent.

(c) **Request for Briefing and Argument.** Upon receipt of the Commission's recommendation, the respondent is entitled to file a brief and to argue the respondent's case, in person and through counsel, to the Court. If the respondent chooses to invoke this right, the respondent must file a request for briefing and argument. The request must indicate that the respondent desires to file a brief and specify whether oral argument is requested. If oral argument is not requested, the matter will be decided on the briefs.

The request for briefing and argument must be filed with the Clerk within 10 days from the date that the recommendation and the record were delivered to the respondent, as shown on the Clerk's return receipt. The request shall be signed by the respondent or the respondent's counsel of record. At the time the request is filed it shall be accompanied by a certificate showing service of a copy of the request on the Commission's attorney and either its Chairperson or Executive Director. Failure to file a request for briefing and argument waives the respondent's right under Article 30 of Chapter 7A of the General Statutes to file a brief and to be heard on oral argument before the Court.

(d) **Briefs.** The respondent's brief is due within 15 days after filing the request for briefing and argument. At the time the brief is filed the respondent shall also file a certificate showing service of a copy of the brief on the Commission's attorney and either its Chairperson or Executive Director. Within 15 days after being served with the respondent's brief, the Commission's attorney may file a brief, together with a certificate of service upon the respondent and the respondent's counsel of record. The form and content of briefs shall be similar to briefs in appeals to the Court. Failure to file a brief waives the respondent's right to oral argument.

(e) **Oral Argument.** If the respondent requests oral argument and files a brief, the Clerk will proceed to set the case for argument and notify the parties. Oral arguments shall conform as nearly as possible to the rules applicable to arguments on appeals to the Court, except they are confidential in accordance with Rule 2.

Rule 4. Decision by the Court

After considering the record, and the briefs and oral arguments, if any, the Court will act upon the Commission's recommendation. A majority of the Court voting is required to publicly reprimand, censure, suspend, or remove the respondent. A decision to publicly reprimand, censure, suspend, or remove the respondent shall be by published opinion or order. All other decisions of the Court shall be by written order filed with the Clerk and shall be confidential.

Rule 5. Costs

Printing and other costs in this Court will not be taxed, and there will be no filing fee.