

Administrative Order

June 3, 2022

2022-RL-029

DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

Procedures when a complaint or report of attorney misconduct is filed against the disciplinary administrator or a member of the disciplinary administrator's staff under the Rules Relating to Discipline of Attorneys

- (a) **Application.** The procedures set out in this order apply when an initial complaint or report of attorney misconduct is filed against the disciplinary administrator or a member of the disciplinary administrator's staff under the Rules Relating to Discipline of Attorneys.
- (b) **Initial Complaint or Report.** Under Supreme Court Rule 208, an initial complaint or report of attorney misconduct must be submitted to the disciplinary administrator. When the circumstances in section (a) of this order arise, the disciplinary administrator must forward the initial complaint or report to the clerk of the appellate courts.
- (c) **Initial Review.** The clerk of the appellate courts will submit the initial complaint or report to the general counsel to the chief justice for initial review.
- (d) **Dismissal.** The general counsel to the chief justice may decline to investigate and may dismiss an initial complaint or report received under subsection (c) under the following circumstances: (1) if the allegations in the initial complaint or report do not constitute misconduct; (2) if the initial complaint or report is facially frivolous, lacks adequate factual detail, or is duplicative; or (3) if the matter is outside the jurisdiction of the Kansas Board for Discipline of Attorneys.
- (e) **Investigation.** Unless the general counsel to the chief justice dismisses an initial complaint or report under subsection (d), the general counsel to the chief justice must proceed as follows:
 - (1) conduct an informal inquiry to determine whether to dismiss the initial complaint or report if it appears to be frivolous or without merit; or
 - (2) request that the Supreme Court refer the initial complaint or report to a special prosecutor to:
 - (A) conduct an informal inquiry to determine whether to dismiss the initial complaint or report if it appears to be frivolous or without merit or to docket the initial complaint or report for investigation under Rule 209; or
 - (B) promptly docket the initial complaint or report for investigation under Rule 209.

- (f) **Role of the Special Prosecutor.** When the Supreme Court appoints a special prosecutor, the special prosecutor assumes the duties of the disciplinary administrator under the Rules Relating to the Discipline of Attorneys.
- (g) **Records.** The clerk of the appellate courts will maintain records of complaints or reports received under this order as follows: (1) permanently if the complaint or report results in the attorney's participation in the attorney diversion program under Rule 212 or in discipline under Rule 225; or (2) for a period of five years if the complaint or report is dismissed.
- (h) **Immunity.** Individuals and entities acting within the scope of their duties under this order and the Rules Relating to Discipline of Attorneys are absolutely immune from liability.
- (i) **Interaction with the Rules Relating to Discipline of Attorneys.** Unless otherwise specified herein, a complaint or report filed under the circumstances set out in subsection (a) of this order should proceed under the Rules Relating to Discipline of Attorneys. A deviation from this order or the Rules Relating to Discipline of Attorneys may not be asserted as a defense or be a ground for dismissal unless it causes prejudice to the respondent.
- (j) **Orders rescinded as obsolete.** The following Supreme Court orders relating to discipline of attorneys are rescinded as obsolete:
- Administrative Order No. 113 (dated October 11, 1996);
 - 2012 SC 52 (dated June 29, 2012);
 - 2012 SC 94 (dated November 26, 2012); and
 - 2012 SC 98 (dated December 18, 2012).

Dated this 3rd day of June 2022.

FOR THE COURT



MARLA LUCKERT
Chief Justice