

13-16 District Committee Proceedings

- B. Response by Respondent Required and Optional Demand for Three-Judge Circuit Court. After the Respondent has been served with the Charge of Misconduct, the Respondent must, within 21 days after service of the Charge of Misconduct:
- a. File an Answer to the Charge of Misconduct with the Clerk, which Answer is deemed consent to the jurisdiction of the District Committee; or
 - b. File an Answer to the Charge of Misconduct and a demand with the Clerk that the proceedings before the District Committee be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon the filing of an Answer and such a demand, and provision of available dates as specified above, further proceedings before the District Committee must terminate, and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame is not a deadline for the hearing to be held.

If Bar Counsel elects that further proceedings be conducted pursuant to Va. Code § 54.1-3935 instead of before the District Committee, Bar Counsel must, within 21 days after service of the Charge of Misconduct on Respondent, file a demand with the Clerk that proceedings before the District Committee be terminated and that the further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon the filing of such a demand, and provision of available dates as specified above, further proceedings before the District Committee must terminate, and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame is not a deadline for the hearing to be held. If Bar Counsel fails to file a demand within 21 days after service of the Charge of Misconduct on Respondent and provide available dates, as specified above, Bar Counsel is deemed to have consented to the jurisdiction of the District Committee.

If Bar Counsel timely files a demand that further proceedings be conducted pursuant to Va. Code § 54.1-3935 and Respondent has not previously filed an Answer to the Charge of Misconduct, Respondent must file an Answer to the complaint required by Va. Code § 54.1-3935 within 21 days after service of the complaint.

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X. Sanctions. If the District Committee finds that Misconduct has been shown by clear and convincing evidence, then the District Committee must, prior to determining the appropriate sanction to be imposed, inquire whether the Respondent has a Disciplinary Record in this or any other jurisdiction and must give Bar Counsel and the Respondent an opportunity to present material evidence in aggravation or mitigation, as well as argument. In determining what disposition of the Charge of Misconduct is warranted, the District Committee must consider the Respondent's Disciplinary Record. After considering evidence and arguments in aggravation and mitigation, the A-District Committee must may:

1. Conclude that an Admonition, with or without Terms, should be imposed;
2. Issue a Public Reprimand, with or without Terms; or
3. Certify the Charge of Misconduct to the Board or file a complaint in a Circuit Court, pursuant to Va. Code § 54.1-3935.

A three-judge Circuit Court must impose a public Admonition or Public Reprimand, with or without Terms, a Suspension of the Respondent's license, with or without Terms, or Revocation of the Respondent's License. A Suspension may be for a stated period not exceeding five years; provided, however, if the Suspension is for more than one year, the Respondent must apply for Reinstatement as provided in this Paragraph.

If the three-judge Circuit Court imposes either a Suspension or Revocation, the three-judge Circuit Court must also state the effective date.

13-17 Perfecting an Appeal of a District Committee Determination by the Respondent

- A. Notice of Appeal; Demand. Within ten days after service on the Respondent of the District Committee Determination, the Respondent may file with the Clerk either a notice of appeal to the Board or a notice of appeal and a written demand that further proceedings be conducted pursuant to Va. Code § 54.1-3935. In either case, the Respondent must send copies to the District Committee Chair and to Bar Counsel. Bar Counsel may file a written demand that further proceedings be conducted pursuant to Va. Code § 54.1-3935 within ten days after Respondent's filing of a notice of appeal of the District Committee Determination. Upon such demand from either Respondent or Bar Counsel, further proceedings before the Board must terminate, and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. If the Respondent or Bar Counsel fails to file a demand, as specified above, the Respondent or Bar Counsel is deemed to have consented to the jurisdiction of the Board.

13-18 Board Proceedings Upon Certification

- A. Filing by Respondent. Response by Respondent Required and Optional Demand for Three-Judge Circuit Court. After a Subcommittee or District Committee certifies a matter to the Board, and the Respondent has been served with the Certification, the Respondent must, within 21 days after service of the Certification:
1. File an Answer to the Certification with the Clerk, which Answer is deemed consent to the jurisdiction of the Board; or
 2. File an Answer to the Certification and a demand with the Clerk that the proceedings before the Board be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon the filing of an Answer and such demand and provision of available dates as specified above, further proceedings before the Board must terminate, and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be

scheduled as soon as practicable. However, the 30- to 120-day time frame is not a deadline for the hearing to be held.

If Bar Counsel elects that further proceedings be conducted pursuant to Va. Code § 54.1-3935 instead of before the Board, Bar Counsel must, within 21 days after service of the Certification on Respondent, file a demand with the Clerk that the proceedings before the Board be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon the filing of such demand and provision of available dates, as specified above, further proceedings before the Board must terminate, and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame is not a deadline for the hearing to be held. If Bar Counsel fails to file a demand within 21 days after service of the Certification on Respondent and provide available dates, as specified above, Bar Counsel is deemed to have consented to the jurisdiction of the Board.

If Bar Counsel timely files a demand that further proceedings be conducted pursuant to Va. Code § 54.1-3935 and Respondent has not previously filed an Answer to the Certification, Respondent must file an Answer to the complaint required by Va. Code § 54.1-3935 within 21 days after service of the complaint.

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D. Expedited Hearings.

1. If Bar Counsel or a District Committee Chair has reasonable cause to believe that an Attorney is engaging in Misconduct which is likely to result in injury to, or loss of property of, one or more of the Attorney's clients or any other person, and that the continued practice of law by the Attorney poses an imminent danger to the public, Bar Counsel or the District Committee Chair may petition the Board to issue an order requiring the Attorney to appear before the Board for a hearing in accordance with the procedures set forth below.
2. The petition must be under oath and must set forth the nature of the alleged Misconduct, the factual basis for the

belief that immediate action by the Board is reasonable and necessary and any other facts which may be relevant to the Board's consideration of the matter, including any prior Disciplinary Record of the Attorney.

3. Upon receipt of the petition, the Chair or Vice-Chair of the Board must issue an order requiring the Respondent to appear before the Board not less than 14 nor more than 30 days from the date of the order for a hearing to determine whether the Misconduct has occurred and the imposition of sanctions is appropriate. The Board's order must be served on the Respondent no fewer than ten days prior to the date set for hearing.
4. If the Respondent, at the time the petition is received by the Board, is the subject of an order then in effect by a Circuit Court pursuant to Va. Code § 54.1-3936 appointing a receiver for his accounts, the Board must issue a further order summarily suspending the License of the Respondent until the Board enters its order following the expedited hearing.
5. At least five days prior to the date set for hearing, the Respondent must either file an Answer to the petition with the Clerk, which Answer is conclusively deemed consent to the jurisdiction of the Board; or file an Answer and a demand with the Clerk that proceedings before the Board be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing not less than 30 days nor more than 120 days from the date of the Board order. Bar Counsel may also, at least five days prior to the date set for hearing, file a demand with the Clerk that proceedings before the Board be terminated and that further proceedings be conducted pursuant to Va. Code § 54.1-3935; and simultaneously provide available dates for a hearing not less than 30 days nor more than 120 days from the date of the Board order. Upon the filing of an Answer and such demand by the Respondent and provision of available dates, as specified above, or the filing of such demand by Bar Counsel and provision of available dates,

as specified above, further proceedings before the Board must be terminated and Bar Counsel must file the complaint required by Va. Code § 54.1- 3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be held. If any order of summary Suspension has been entered, such Suspension must remain in effect until the court designated under Va. Code § 54.1-3935 enters a final order disposing of the issue before it. If the Respondent fails to file an Answer, or an Answer and a demand, and provide available dates, as specified above, the Respondent is deemed to have consented to the jurisdiction of the Board. If Bar Counsel fails to file a demand and provide available dates, as specified above, Bar Counsel is deemed to have consented to the jurisdiction of the Board. If Bar Counsel timely files a demand that further proceedings be conducted pursuant to Va. Code § 54.1-3935 and Respondent has not previously filed an Answer to the petition, Respondent must file an Answer to the complaint required by Va. Code § 54.1-3935 within 21 days after service of the complaint.

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M. Disposition Upon a Finding of Misconduct. If the Board concludes that there has been presented clear and convincing evidence that the Respondent has engaged in Misconduct, then the Board must, prior to determining the appropriate sanction to be imposed, inquire whether the Respondent has a Disciplinary Record in this or any other jurisdiction and must give Bar Counsel and the Respondent an opportunity to present evidence in aggravation and mitigation, as well as argument. In determining what disposition of the Certification is warranted, the Board must consider the Respondent's Disciplinary Record. aAfter considering evidence and arguments in aggravation and mitigation, the Board must impose one of the following sanctions and state the effective date of the sanction imposed:

1. Admonition, with or without Terms;
2. Public Reprimand, with or without Terms;
3. Suspension of the License of the Respondent, with or without Terms,

- a. ~~F~~for a stated period not exceeding five years; provided, however, if the Suspension is for more than one year, the Respondent must apply for Reinstatement as provided in this Paragraph; or
 - b. ~~or a stated period of one year or less, with or without terms; or~~
4. Revocation of the Respondent's License.

13-20 Board Proceedings Upon Certification for Sanction Determination

- A. Optional Demand for Three-Judge Circuit Court. If either Bar Counsel or the Respondent elects to have further proceedings conducted pursuant to Va. Code § 54.1-3935, the party seeking to terminate Board proceedings Respondent must file a demand with the Clerk within 10 days of the date of mailing of the notice of hearing and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon such demand and provision of available dates as specified above, further proceedings before the Board must be terminated and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be held. If the Respondent or Bar Counsel fails to file a demand, and provide available dates, as specified above, the Respondent or Bar Counsel is deemed to have consented to the jurisdiction of the Board.

13-21 Board Proceedings Upon a First Offender Plea

- C. Optional Demand for Three-Judge Circuit Court. If either the Attorney Respondent or Bar Counsel elects to have further proceedings conducted pursuant to Va. Code § 54.1-3935, the Attorney party seeking to terminate Board proceedings must file a demand with the Clerk not later than ten days prior to the date set for the Board hearing, and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon such demand and provision of available dates as specified above, further proceedings before the Board must be terminated and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be

held. If the Respondent or Bar Counsel fails to file a demand, and provide available dates, as specified above, the Respondent or Bar Counsel is deemed to have consented to the jurisdiction of the Board.

13-22 Board Proceedings Upon a Guilty Plea or an Adjudication of a Crime

F. Optional Demand for Three-Judge Circuit Court. If either the Respondent or Bar Counsel elects to have further proceedings conducted pursuant to Va. Code § 54.1-3935, the Respondent party seeking to terminate Board proceedings must file a demand with the Clerk not later than ten days prior to the date set for the hearing before the Board, and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon such demand and provision of available dates as specified above, further proceedings before the Board must be terminated and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be held. Any summary Suspension issued by the Board must remain in effect until the court designated under Va. Code § 54.1-3935 enters a final order, unless earlier terminated pursuant to subparagraph 13-22.B. If the Respondent or Bar Counsel fails to file a demand, and provide available dates, as specified above, the Respondent or Bar Counsel is deemed to have consented to the jurisdiction of the Board.

13-24 Board Proceedings Upon Disbarment, Revocation or Suspension in Another Jurisdiction

I. Optional Demand for Three-Judge Circuit Court. If either the Respondent or Bar Counsel elects to have further proceedings conducted pursuant to Va. Code § 54.1-3935, the Respondent party seeking to terminate Board proceedings must file a demand with the Clerk within 14 days of the date of mailing of the Board order and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon such demand and provision of available dates as specified above, further proceedings before the Board must be terminated and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be

held. Any summary Suspension issued by the Board must remain in effect until the court designated under Va. Code § 54.1-3935 enters a final order. If the Respondent or Bar Counsel fails to file a demand, and provide available dates, as specified above, the Respondent or Bar Counsel is deemed to have consented to the jurisdiction of the Board.

13-25 Proceedings for Reinstatement

G. Reinstatement Proceedings After a Revocation. If the threshold requirements of subparagraph 13-25.F have been met, the following processes must ensue:

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3. Completion of Investigation and Hearing Date. As soon as practicable, Bar Counsel must complete the Investigation and notify the Clerk and the Petitioner of the completion of the Investigation in writing. The Petitioner or Bar Counsel may elect to have further proceedings on the petition conducted by a three-judge €Circuit €Court by filing a demand with the Clerk not later than 21 days after Bar Counsel's notice of completion of Investigation is served and simultaneously providing available dates for a hearing on the petition not less than 30 nor more than 120 days after the date of the demand. ~~The demand must include the Petitioner's available dates for a hearing on the petition not less than 30 days nor more than 120 days after the date of the demand;~~ However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be held. If the Petitioner or Bar Counsel does not file a demand with the Clerk to have further proceedings conducted by a three-judge €Circuit €Court by the 21-day deadline, the Petitioner or Bar Counsel will be deemed to have consented to the jurisdiction of the Board. If the Petitioner or Bar Counsel elects further proceedings before a three-judge €Circuit €Court as set forth in this subsection, Bar Counsel must file a petition for rule to show cause, attaching the petition for Reinstatement, in the Circuit Court for the City of Richmond, and the chief judge must issue a rule against the Petitioner to show cause why the Petitioner's license should be reinstated. The Circuit Court for the City of Richmond must then certify the fact of issuance of the rule to show cause

and the time and place of the hearing thereon to the Chief Justice of the Supreme Court, who must designate a three-judge eCircuit eCourt consisting of three eCircuit eCourt judges from any circuit to hold a hearing on the petition. The date of the hearing must be determined by the Clerk in consultation with the Bar Counsel and the Petitioner.

13-29 Duties of Disbarred or Suspended Respondent

- B. Optional Demand for Three-Judge Circuit Court. If the Respondent or Bar Counsel elects to have further proceedings conducted pursuant to Va. Code § 54.1-3935, the Respondent or Bar Counsel must file a demand with the Clerk within 10 days of the date of mailing of the petition for show cause and simultaneously provide available dates for a hearing not less than 30 nor more than 120 days from the date of the demand. Upon such demand and provision of available dates as specified above, further proceedings before the Board must be terminated and Bar Counsel must file the complaint required by Va. Code § 54.1-3935. The hearing must be scheduled as soon as practicable. However, the 30- to 120-day time frame does not constitute a deadline for the hearing to be held. If the Respondent or Bar Counsel fails to file a demand, and provide available dates, as specified above, the Respondent or Bar Counsel is deemed to have consented to the jurisdiction of the Board.