SUPREME COURT STANDING COMMITTEE

ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held in Rooms 237-238 of the Maryland Judicial Center, 187 Harry S. Truman Parkway, Annapolis, Maryland on Friday, March 21, 2025.

Members present:

Hon. Yvette M. Bryant, Chair
Hon. Douglas R.M. Nazarian, Vice Chair

Hon. Vicki Ballou-Watts
Jamar R. Brown, Esq.
Hon. Catherine Chen
Julia Doyle, Esq.
Arthur J. Horne, Jr., Esq.
Hon. Karen R. Ketterman
Victor H. Laws, III, Esq.
Dawne D. Lindsey, Clerk
Bruce L. Marcus, Esq.
Stephen S. McCloskey, Esq.
Kathleen H. Meredith, Esq.
Judy Rupp, State Court Administrator
Scott D. Shellenberger, Esq.
Gregory K. Wells, Esq.
Hon. Dorothy J. Wilson
Brian L. Zavin, Esq.

In attendance:

Sandra F. Haines, Esq., Reporter
Colby L. Schmidt, Esq., Deputy Reporter
Heather Cobun, Esq., Assistant Reporter
Meredith A. Drummond, Esq., Assistant Reporter

Hon. Anne K. Albright, Appellate Court of Maryland
Derek Bayne, Esq., Commission on Judicial Disabilities
Tanya Bernstein, Esq., Commission on Judicial Disabilities
Kendra Jolivet, Esq., Commission on Judicial Disabilities
Thomas DeGonia, Esq., Bar Counsel
Tamara Dowd, Esq., Commission on Judicial Disabilities
Greg Hilton, Esq., Clerk of the Supreme Court of Maryland
Missy Higdon, Executive Director, Client Protection Fund
Hon. John P. Morrissey, Chief Judge, District Court of Maryland
Gillian Tonkin, Esq., Staff Attorney to Chief Judge, District Court
Pamela Ortiz, Esq., Director, Access to Justice

Rachel Konieczny, The Daily Record
Jeffrey Shipley, Esq., Director, Maryland State Board of Law Examiners

The Chair convened the meeting. She informed the Committee that she was just notified of the passing of former Montgomery County Circuit Court Judge William J. Rowan III. She asked the Committee to pause for a moment of silence for Judge Rowan in recognition of his service to the Judiciary.

The Reporter said that several handout Rules were circulated via email the previous day. Paper copies are available from the Executive Aide. She said that the 224th Report to the Supreme Court is in progress and will be filed soon. She advised that the meeting was being recorded for the purpose of assisting with the preparation of meeting minutes and that speaking will be treated as consent to being recorded. She also called for a motion to approve the minutes for the Friday, January 10, 2025 meeting, which were circulated previously for review. A motion to approve the minutes was made, seconded, and approved by consensus.

Agenda Item 1. Consideration of proposed Rules changes related to implementation of NextGen Bar Exam.

Mr. Marcus said that Agenda Item 1 includes stylistic and substantive changes to the Rules governing the Bar Exam in

anticipation of the implementation of the NextGen Bar Exam next year. He asked Jeffrey Shipley, Director of the State Board of Law Examiners ("SBLE"), to present the proposed changes.

Mr. Shipley explained that the Supreme Court of Maryland in 2019 adopted the Uniform Bar Exam ("UBE") and began using materials drafted by the National Conference of Bar Examiners ("NCBE") for the July 2019 Bar Exam. The UBE is part of a score portability compact between participating states, allowing test takers to transfer their scores without retaking the exam. Individual state boards may establish a minimum qualifying score in that state and a period for which a score is considered valid. Maryland, for example, permits a UBE score to be transferred to Maryland within three years of taking the exam. In addition, an applicant transferring a UBE score to Maryland must complete the Character and Fitness process, among other requirements.

Mr. Shipley informed the Committee that, in 2022, the NCBE announced that it would be retiring the UBE and replacing it with new, modern test materials: the NextGen UBE. The NextGen UBE is designed to test the skills and knowledge that newly admitted attorneys are expected to demonstrate. The NextGen UBE will be phased in between 2026 and 2028, with February 2028 being the last time a state may utilize the so-called "Legacy

UBE" and July 2028 being the first time all participating states must begin using the NextGen UBE.

Mr. Shipley said that Maryland has opted to begin using the NextGen UBE in July 2026, the first time it will be available. A series of Rules changes are required to transition to the NextGen UBE and phase out the Legacy UBE. The changes will also allow for the transfer of qualifying UBE scores to Maryland from other states after Maryland begins using the NextGen UBE. For example, if an applicant takes the Legacy UBE in a state that does not phase it out until after February 2028, that score will be accepted in Maryland so long as it is no more than three years old.

Mr. Marcus presented Rule 19-101, Definitions, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 100 – STATE BOARD OF LAW EXAMINERS AND CHARACTER COMMITTEES

AMEND Rule 19-101 by deleting "of the State of Maryland" and adding "Maryland State" to section (c), by deleting the provision pertaining to the administrative office of the Board from section (e), by adding a provision to section (e) and new subsections (e)(1) and (e)(2) pertaining to when a document is considered filed with the Board, by adding new section (f) to define the term "Legacy UBE", by adding new section (j) to define the term "NextGen UBE", by

making conforming amendments to section (m), by adding new section (n) to define the term "Signed Electronically", by making conforming amendments to section (q), by adding new section (r) to define the term "UBE in Maryland", by adding new section (t) to define the term "UBE Transfer", and by making stylistic changes, as follows:

Rule 19-101. DEFINITIONS

In this Chapter and Chapter 200 of this Title, the following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(a) ADA

"ADA" means the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

(b) Applicant; Petitioner

"Applicant" means an individual who applies for admission to the Bar of Maryland (1) pursuant to Rule 19-202, or (2) as a "petitioner" under Rule 19-216.

(c) Board

"Board" means the Maryland State Board of Law Examiners ~~of the State of Maryland~~.

(d) Court

"Court" means the Supreme Court of Maryland.

(e) Filed

"Filed" means received by the Board. ~~in the administrative office of the Board during normal business hours.~~ A document is considered filed when:

(1) the document and any required fee are submitted electronically through the Board's electronic filing system; or

(2) the document and any required fee are received by the Board in accordance with the Board's written policies and instructions.

(f) Legacy UBE

"Legacy UBE" means a Uniform Bar Examination administered using NCBE's Multistate Performance Test (MPT), Multistate Essay Examination (MEE), and Multistate Bar Examination (MBE).

~~(f)~~(g) Member of the Bar of a State

"Member of the Bar of a State" means an individual who is unconditionally admitted to practice law before the highest court of that state.

~~(g)~~(h) MPRE

"MPRE" means the Multistate Professional Responsibility Examination published and administered by NCBE.

~~(h)~~(i) NCBE

"NCBE" means the National Conference of Bar Examiners.

(j) NextGen UBE

"NextGen UBE" means a Uniform Bar Examination administered using NCBE's NextGen Bar Examination materials.

~~(i)~~(k) Oath

"Oath" means a declaration or affirmation made under the penalties of perjury that a certain statement of fact is true.

~~(j)~~(l) Qualifying MPRE score

"Qualifying MPRE score" means a score achieved on the MPRE that meets or exceeds the minimum passing score in Maryland established by Board rule within the required time period established by Board rule.

~~(k)~~(m) Qualifying UBE score

"Qualifying UBE score" means a score achieved on the Legacy UBE or the NextGen UBE in a state that administers the UBE that meets or exceeds the minimum ~~passing~~ qualifying score in Maryland established by Board rule within the ~~required~~ time period established by Board rule.

(n) "Signed Electronically"

"Signed electronically" means a document that is deemed to have an electronic signature when the document includes:

(1) a name typed in the space where a signature would otherwise appear, preceded by the characters "/s/";

(2) an electronic or scanned image of a signature

~~(l)~~(o) State

"State" means (1) a state, possession, territory, or commonwealth of the United States or (2) the District of Columbia.

~~(m)~~(p) Transmit

"Transmit" means to convey written material in a manner reasonably calculated to cause the intended recipient to receive it.

~~(n)~~(q) UBE

"UBE" means the Uniform Bar Examination, ~~published and~~ a bar exam score portability compact coordinated by the National Conference of Bar Examiners.

(r) UBE in Maryland

"UBE in Maryland" means a UBE administered by the State Board of Law Examiners.

~~(o)~~(s) UBE State

"UBE State" means a state participating in the UBE to which or from which a qualifying UBE score may be transferred.

(t) UBE Transfer

"UBE Transfer" means a bar application pathway in this State based upon a qualifying UBE score transferred from another UBE State.

Source: This Rule is derived from former Rule 1 of the Rules Governing Admission to the Bar of Maryland (2016).

Rule 19-101 was accompanied by the following Reporter's note:

> In order to facilitate the adoption of the NextGen Bar Exam in July of 2026, the Attorneys and Judges Subcommittee proposes amendments to the Title 19 Rules.
>
> A housekeeping amendment is proposed to section (c) of Rule 19-101 to correct the name of the SBLE. The definition of "Filed" in section (e) is proposed to be expanded to cover files received electronically as well as in person at the SBLE offices. New section (f) is proposed to introduce the term "Legacy UBE" which covers the current existing UBE bar examination. The definition "NextGen UBE" is proposed as new section (j) and covers the new UBE testing materials produced by the NCBE that will be implemented in this State in the summer of 2026. New section (n) is proposed to permit and define the parameters of what an acceptable electronic signature will be for the SBLE. Conforming amendments are proposed to section (q) to conform the definition of UBE to the changing procedures with the NCBE and the NextGen UBE. New section (r) is proposed to define the term "UBE in Maryland" as a UBE exam administered in Maryland by the State Board of Law Examiners. New section (t) is proposed to define the term "UBE Transfer" as a bar application pathway in this State that is based upon a qualifying UBE score from another UBE State. Stylistic changes are also proposed to this Rule.

Mr. Marcus said that there are a series of terminology changes in Rule 19-101, many of which are clarifying amendments. Other changes are more substantive. For example, in section (e), the definition of "filed" is altered to refer to a document and any fee being submitted electronically to the SBLE or being received by the SBLE in accordance with its policies for filing.

Mr. Marcus explained that the NextGen UBE will contemplate electronic filing.

The Chair asked whether the second definition of "filed" in subsection (e)(2) refers to paper documents received in the SBLE office. Mr. Shipley responded that the SBLE has an electronic portal that allows applicants to generate an application, but the application must be filed in paper, as of now. He said that, beginning in August 2025, the SBLE will accept electronically filed applications; however, some items will still be filed in paper because they cannot be filed electronically. He said that the proposed definition allows for both methods of filing, as needed. The Chair replied that she agreed but wanted to be clear that subsection (e)(2) refers to a paper document received by the SBLE office. Ms. Meredith pointed out that the inclusion of "in accordance with the Board's written policies and instructions" in subsection (e)(2) may address this issue.

The Reporter asked whether the SBLE's policies are available online. Mr. Shipley answered in the affirmative. The Reporter suggested adding "posted on the Board's website" to the end of subsection (e)(2). A motion to make the change was made, seconded, and approved by consensus.

Mr. Marcus asked if there was any other discussion on the proposed amendments to Rule 19-101. There being no further

motion to amend or reject the proposed amendments, Rule 19-101 was approved as amended.

Mr. Marcus presented Rule 19-105, Confidentiality, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 100 – STATE BOARD OF LAW EXAMINERS AND CHARACTER COMMITTEES

AMEND Rule 19-105 by adding the last four numbers of an applicant's SSN and information concerning an applicant's testing accommodations to the list of information in subsection (c)(8) that may be disclosed in certain situations, and by adding a Committee note following subsection (c)(8), as follows:

RULE 19-105. CONFIDENTIALITY

(a) Proceedings Before Accommodations Review Committee, Character Committee, or Board

Except as provided in sections (b), (c), and (d) of this Rule, the proceedings before the Accommodations Review Committee and its panels, a Character Committee, and the Board, including related papers, evidence, and information, are confidential and shall not be open to public inspection or subject to court process or compulsory disclosure.

(b) Right of Applicant

(1) Right to Attend Hearings and Inspect Papers

An applicant has the right to attend all hearings before a panel of the Accommodations Review Committee, a Character Committee, the Board, and the Court pertaining to the application. Except as provided in subsection (b)(2) of this Rule, and subject

to any protective order issued by a circuit court for good cause on motion by the Board, an applicant has the right to be informed of and inspect all papers, evidence, and information received or considered by the panel, Committee, or the Board pertaining to the applicant.

Committee note: The intent of this subsection, with the exceptions noted in subsection (b)(2), is to permit inspection by the applicant of all information received or considered by a Character Committee, the Accommodations Review Committee, or the Board. There may be information, however, such as identifying information regarding a victim that is not germane to any issue before those entities and that should not be revealed. Shielding of such information would have to be approved by a court.

(2) Exclusions

Subsection (b)(1) of this Rule does not apply to (A) papers or evidence received, considered, or prepared by the National Conference of Bar Examiners, a Character Committee, or the Board if the Committee or Board, without a hearing, recommends the applicant's admission; (B) personal memoranda, notes, and work product of members or staff of the National Conference of Bar Examiners, a Character Committee, or the Board; (C) correspondence between or among members or staff of the National Conference of Bar Examiners, a Character Committee, or the Board; or (D) an applicant's bar examination grades and answers, except as authorized in Rule 19-209.

(c) When Disclosure Authorized

The Board may disclose:

(1) to any person, statistical information that does not reveal the identity of an individual applicant;

(2) to any person, the fact that an applicant has passed the bar examination and the date of the examination;

(3) to any person, if the applicant has consented in writing, any material pertaining to the applicant that the applicant would be entitled to inspect under section (b) of this Rule;

(4) for use in a pending disability or disciplinary proceeding against the applicant as an attorney or judge, a pending proceeding for reinstatement of the applicant as an attorney after suspension or disbarment, or a pending proceeding for original admission of the applicant to the Bar, any material pertaining to an applicant requested by:

(A) a court of this State, another state, or the United States;

(B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state;

(C) the authority in another jurisdiction responsible for investigating the character and fitness of an applicant for admission to the bar of that jurisdiction, or

(D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction;

Committee note: The term "jurisdiction" is used in subsection (4)(C) and (D) because requests occasionally are received from authorities in Canada or other countries.

(5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this or any other state, a committee of the Senate of Maryland, the President of the United States, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;

(6) to a law school, the names of individuals who graduated from that law school who took a bar examination, whether they passed or failed the examination, and the number of bar examination attempts by each individual;

(7) to the Maryland State Bar Association and any other bona fide bar association in the State of Maryland, the name and address of an individual recommended for bar admission pursuant to Rule 19-211 or 19-216;

(8) to Bar admissions officials in any state and to the National Conference of Bar Examiners, the following information regarding applicants for admission pursuant to Rule 19-202 or petitioners pursuant to Rule 19-215: the applicant's name and any aliases, applicant number, birthdate, NCBE number, the last four digits of the applicant's Social Security Number, law school, date that a juris doctor or equivalent degree was conferred, bar examination raw and scaled scores, results and pass/fail status, ~~and~~ the number of bar examination attempts, and a summary of any ADA test accommodations granted to an applicant and the conditions for which any such accommodations were granted;

Committee note: Disclosure of information related to ADA test accommodations is required for the NCBE to configure the applicant's electronic bar examination materials and to provide the applicant with appropriate test accommodations if the exam is administered by a commercial test center.

(9) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and

(10) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of an individual who has filed a petition for admission pursuant to Rule 19-202 or a petition for admission pursuant to Rule 19-216.

Unless information disclosed pursuant to subsections (c)(4) and (5) of this Rule is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the individual or entity to whom the information was disclosed.

(d) Proceedings and Access to Records in the Supreme Court

(1) Subject to reasonable regulation by the Supreme Court, Bar Admission ceremonies shall be open.

(2) Unless the Court otherwise orders in a particular case:

(A) hearings in the Supreme Court shall be open, and

(B) if the Court conducts a hearing regarding a bar applicant, any report by the Accommodations Review Committee, a Character Committee, or the Board filed with the Court, but no other part of the applicant's record, shall be subject to public inspection.

(3) The Supreme Court may make any of the disclosures that the Board may make pursuant to section (c) of this Rule.

(4) Except as provided in subsections (d)(1), (2), and (3) of this Rule or as otherwise required by law, proceedings before the Supreme Court and the related papers, evidence, and information are confidential and shall not be open to public inspection or subject to court process or compulsory disclosure.

Source: This Rule is derived from former Rule 19 of the Rules Governing Admission to the Bar of Maryland (2016).

Rule 19-105 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes conforming amendments to Subsection (c)(8) of Rule 19-105 to conform this Rule to the requirements of the NCBE for administering UBE exams and the portability of UBE scores by adding requirements that the applicant provide the last four numbers of the applicant's SSN and information concerning an applicant's testing accommodations to the SBLE. A Committee note is also proposed following subsection (c)(8) to provide an explanation as to why testing accommodations are included as requirements in this subsection. The NCBE requires information about accommodations in order to ensure the exams they provide to applicants follow approved accommodations.

Mr. Marcus said that the proposed amendments to Rule 19-105 add provisions pertaining to applicants' Social Security numbers and any Americans with Disabilities Act ("ADA") accommodations for testing. Mr. Shipley explained that the SBLE and NCBE require applicants to disclose the last four digits of their Social Security numbers so that both entities can confirm that they are discussing the right applicant when transmitting information. Regarding ADA accommodations, Mr. Shipley said that the NextGen UBE is completely computerized. The NCBE will give states the ability to administer the exam from a third-party test center when accommodations are granted. When an applicant has been granted an accommodation, whether it is extra time, breaks, or a physical alteration to the test site, the SBLE and NCBE must be able to share that information with the test center to ensure that the accommodations are provided. The information shared will be a summary of the accommodations and will only include medical information when it is directly relevant to the accommodation required.

Mr. Laws asked the reasoning behind permitting the SBLE to share ADA accommodation information with admissions officials in another state. He questioned whether one state's accommodation decision will influence another state. Mr. Shipley responded that the applicant must disclose what accommodations have been granted in another jurisdiction. To the extent that one state

would like additional information, this provision permits the board officials to talk to each other without the applicant acting as intermediary.

There being no motion to amend or reject the proposed amendments to Rule 19-105, the Rule was approved as presented.

Mr. Marcus presented Rule 19-201, Eligibility for Admission to the Maryland Bar by Uniform Bar Examination; Rule 19-202, Application for Admission; Rule 19-203, Bar Examination; Rule 19-204, Character Review; Rule 19-206, Notice of Intent to Take the UBE in Maryland; and Rule 19-207, Notice of Intent to Transfer a Qualifying UBE Score, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
GENERAL ADMISSION

AMEND Rule 19-201 by adding a provision to section (a) of this Rule pertaining to UBE transfers, as follows:

RULE 19-201. ELIGIBILITY FOR ADMISSION TO THE MARYLAND BAR BY UNIFORM BAR EXAMINATION

(a) General Requirements

Subject to section (b) of this Rule, in order to be admitted to the Maryland Bar by the UBE <u>in Maryland or by UBE Transfer</u>, an individual shall have:

(1) completed the pre-legal education necessary to meet the minimum requirements for admission to a law school approved by the American Bar Association;

(2) graduated with a juris doctor or equivalent degree from a law school (A) located in a state and (B) approved by the American Bar Association;

(3) achieved a qualifying UBE score;

(4) achieved a qualifying MPRE score;

(5) successfully completed the Maryland Law Component; and

(6) established good moral character and fitness for admission to the Bar.

(b) Waiver of Juris Doctor Requirements

The Board may waive the requirements of subsection (a)(2) of this Rule for an applicant who (1) has passed the bar examination of another state, is a member in good standing of the Bar of that state, and the Board finds is qualified by reason of education or experience to take the bar examination; or (2) has completed legal education in a jurisdiction that is not defined as a state by Rule 19-101 (l) and has obtained an additional degree from a law school approved by the American Bar Association that meets the requirements prescribed by the Board Rules.

(c) Minors

If otherwise qualified, an applicant who is under 18 years of age is eligible to take the bar examination but shall not be admitted to the Bar until 18 years of age.

Source: This Rule is derived in part from former Rules 3 and 4 of the Rules Governing Admission to the Bar of Maryland (2016) and is in part new.

Rule 19-201 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes conforming amendments to section (a) of Rule 19-201 in order to ensure that the Rule covers qualifying UBE scores achieved by an applicant in another UBE jurisdiction.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
GENERAL ADMISSION

AMEND Rule 19-202 by replacing "rejected" with "denied" and "the" with "a" in section (c) of this Rule, as follows:

RULE 19-202. APPLICATION FOR ADMISSION

(a) Contents of Application

An individual who seeks admission to the Bar of Maryland pursuant to Rule 19-201 shall apply for admission. The application for admission shall consist of a completed Character Questionnaire filed pursuant to Rule 19-205 and either (1) a Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206 or (2) a Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207.

(b) Withdrawal of Application

At any time, an applicant may withdraw an application by filing with the Board written notice of withdrawal. Where an individual has filed a character questionnaire pursuant to Rule 19-205 (c) without then filing a Notice of Intent pursuant to Rule 19-206 or Rule 19-207, withdrawal of the character questionnaire pursuant to Rule 19-205 (f) shall constitute withdrawal of the application. No fees will be refunded.

Committee note: Withdrawal of an application terminates all aspects of the admission process. Compare to Rules 19-206(e) and 19-210(e), pertaining to withdrawal of a Notice of Intent.

(c) Subsequent Application

An applicant who reapplies for admission after an earlier application has been withdrawn pursuant to subsection (b) of this Rule or Rule 19-204 or has been ~~rejected~~ denied pursuant to Rule 19-204 must retake and pass the UBE in Maryland or transfer a then-qualifying UBE score, even if the applicant passed ~~the~~ a bar examination in Maryland or transferred a qualifying UBE score when the earlier application was pending. If the applicant failed the examination when the earlier application was pending, each failure shall be counted under Rule 19-210.

Source: This Rule is derived in part from former Rules 2 and 6(d) of the Rules Governing Admission to the Bar of Maryland (2016) and is in part new.

Rule 19-202 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes non-substantive, housekeeping amendments to section (c) of Rule 19-202 to replace "rejected" with "denied" and "the" with "a."

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
GENERAL ADMISSION

AMEND Rule 19-203 by deleting the provision in section (a) written in the passive voice (a) and

replacing it with a similar provision in the active voice, and by adding a Committee note following section (a) providing information on the switch to the NextGen UBE in this State.

RULE 19-203. BAR EXAMINATION

(a) Generally—UBE

~~The bar examination in Maryland shall consist of the UBE.~~ Maryland shall participate in the UBE.

Committee note: Prior to July 2026, the UBE in Maryland utilized the Legacy UBE materials. Beginning with the July 2026 administration, the UBE in Maryland shall use the NextGen UBE materials.

(b) Scheduling

The Board shall schedule a UBE in Maryland twice annually, once in February and once in July. The examination shall be scheduled on two successive days. The total duration of the examination shall be not more than 12 hours nor less than nine hours, unless extended at the applicant's request pursuant to Rules 19-206 or 19-210. At least 30 days before a scheduled examination, the Board shall post on the Judiciary website notice of the dates, times, and place or places of the examination.

(c) Purpose of Examination

The purpose of the bar examination is to enable applicants to demonstrate their capacity to achieve mastery of foundational legal doctrines, proficiency in fundamental legal skills, and competence in applying both to solve legal problems consistent with the highest ethical standards. It is the policy of the Court that no quota of successful applicants be set but that each applicant be judged for fitness to be a member of the Bar as demonstrated by the examination answers.

(d) Qualifying Score

By Board Rule, the Board shall establish the qualifying UBE score.

(e) Voiding of Examination Results for Ineligibility

If an applicant who is determined by the Board not to be eligible under Rule 19-201 takes an examination, the applicant's Notice of Intent to Take the UBE in Maryland shall be deemed invalid and the applicant's examination results shall be voided. An examination result that is voided for ineligibility shall not be a valid UBE score for purposes of transfer to another jurisdiction. No fees shall be refunded. The Board shall notify the applicant that the examination results have been voided and the reason for the voiding.

Source: This Rule is derived in part from former Rule 19-206 (2018) and is in part new.

Rule 19-203 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes revisions to Section (a) of Rule 19-203 to clarify that Maryland participates in the UBE and will no longer be administering a bar exam using its own examination materials. A Committee note is proposed following section (a) to specify when the Legacy UBE materials and the NextGen UBE materials will be used during bar examinations in this State.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
GENERAL ADMISSION

AMEND Rule 19-204 by capitalizing "Character Questionnaire" in subsection (a)(1) in each instance where it is lower case, as follows:

RULE 19-204. CHARACTER REVIEW

(a) Investigation and Report of Character Committee

(1) On receipt of a completed ~~character questionnaire~~ Character Questionnaire forwarded by the Board pursuant to Rule 19-205 (d), the Character Committee, in accordance with procedural guidelines established by Board Rule, shall (A) interview the applicant (B) consider the facts stated in the ~~character questionnaire~~ Character Questionnaire and the submissions made by the applicant's references, and make any further investigation it finds necessary or desirable, which may include verification of facts asserted by the applicant or the applicant's references, (C) evaluate the applicant's character and fitness for the practice of law, and (D) transmit to the Board a report of its investigation and a recommendation as to the approval or denial of the application for admission.

(2) If the Committee concludes that there may be grounds for recommending denial of the application, it shall notify the applicant in writing and schedule a hearing. The hearing shall be recorded verbatim. The applicant shall have the right to testify, to present other testimony and evidence, and to be represented by an attorney. The Committee shall prepare a report and recommendation setting forth findings of fact on which the recommendation is based and a statement supporting the conclusion. A transcript of the hearing shall be transmitted by the Committee to the Board along with the Committee's report. The Committee shall transmit a copy of its report to the applicant, and a copy of the hearing transcript shall be furnished to the applicant upon payment of reasonable costs.

(b) Hearing by Board

If the Board concludes after review of the Character Committee's report and the transcript that there may be grounds for recommending denial of the application, it shall promptly afford the applicant the opportunity for a hearing on the record made before the Committee. In its discretion, the Board may permit additional evidence to be submitted. If the recommendation of the Board differs from the recommendation of the Character Committee, the Board shall prepare a report and recommendation

setting forth findings of fact on which the recommendation is based and a statement supporting the conclusion and shall transmit a copy of its report and recommendation to the applicant and the Committee. If the Board decides to recommend denial of the application in its report to the Court, the Board shall first give the applicant an opportunity to withdraw the application pursuant to Rule 19-202 (b). If the applicant withdraws the application, the Board shall retain the records. If the applicant elects not to withdraw the application, the Board shall transmit to the Court a report of its proceedings and a recommendation as to the approval or denial of the application together with all papers relating to the application.

(c) Review by Court

(1) If the Court, after reviewing the report of the Character Committee and any report of the Board, believes there may be grounds to deny admission, the Court shall order the applicant to appear for a hearing and show cause why the application should not be denied.

(2) If the Board recommends approval of the application contrary to an adverse recommendation by the Character Committee, within 30 days after the filing of the Board's report, the Committee may file with the Court exceptions to the Board's recommendation. The Committee shall transmit copies of its exceptions to the applicant and the Board.

(3) Proceedings in the Court under section (c) of this Rule shall be on the record made before the Character Committee and the Board. If the Court denies the application, the Board shall retain the records.

(d) Burden of Proof

The applicant bears the burden of proving to the Character Committee, the Board, and the Court the applicant's good moral character and fitness for the practice of law. Failure or refusal to answer fully and candidly any question in the application or any relevant question asked by a member of the Character Committee, the Board, or the Court is sufficient cause for a finding that the applicant has not met this

burden. Undocumented immigration status, in itself, does not preclude admission to the Bar, provided that the applicant otherwise has demonstrated good moral character and fitness.

(e) Continuing Review

All applicants remain subject to further Character Committee and Board review and report until admitted to the Bar. The applicant shall be under a continuing obligation to report to the Board any material change in information previously furnished.

Source: This Rule is derived from former Rule 19-203 (2018).

Rule 19-204 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes non-substantive, housekeeping amendments to Rule 19-204 to capitalize each lowercase instance of "Character Questionnaire."

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
GENERAL ADMISSION

AMEND Rule 19-205 by capitalizing "Character Questionnaire" throughout this Rule in each instance where it is lower case, as follows:

RULE 19-205. CHARACTER QUESTIONNAIRE

(a) Who May File

An individual who meets the requirements of Rule 19-201(a)(1) may commence an application for admission to the Bar of this State by filing with the Board a completed Character Questionnaire and the prescribed fee.

Cross reference: See Rule 19-206 (Notice of Intent to Take the UBE in Maryland) and Rule 19-207 (Notice of Intent to Transfer a Qualifying UBE Score).

(b) Form of Questionnaire

(1) Generally

The ~~character questionnaire~~ Character Questionnaire shall be ~~on~~ in a form prescribed by the Board and shall be answered under oath. The ~~questionnaire~~ Character Questionnaire shall elicit the information the Board considers appropriate concerning the applicant's character, education, and eligibility to become an applicant and (A) require the applicant to provide the applicant's Social Security number, and (B) include an authorization to release confidential information pertaining to the applicant's character and fitness for the practice of law to a Character Committee, the Board, and the Court.

(2) Pre-Legal Education

The ~~character questionnaire~~ Character Questionnaire shall be accompanied by satisfactory evidence that the applicant meets the pre-legal education requirements of Rule 19-201 (a)(1).

(c) Time for Filing

The ~~character questionnaire~~ Character Questionnaire shall be filed prior to or contemporaneously with any Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206 or any Notice of Intent to Transfer a Qualifying UBE Score pursuant to Rule 19-207.

(d) Preliminary Determination of Eligibility

On receipt of a ~~character questionnaire~~ Character Questionnaire, the Board shall determine whether the applicant is eligible to file a ~~character questionnaire~~ Character Questionnaire pursuant to section (a) of this Rule. If the Board concludes that the requirements

have been met, it shall forward the ~~character questionnaire~~ Character Questionnaire to a Character Committee. If the Board concludes that the requirements have not been met, it shall promptly notify the applicant in writing.

(e) Updated Character Questionnaire

If a ~~character questionnaire~~ Character Questionnaire has been pending for more than three years since the date of the applicant's most recent ~~character questionnaire~~ Character Questionnaire or updated ~~character questionnaire~~ Character Questionnaire, the applicant shall file with the Board an updated ~~character questionnaire~~ Character Questionnaire contemporaneously with filing any Notice of Intent to Take the UBE in Maryland or any Notice to Transfer a Qualifying UBE Score. The updated ~~character questionnaire~~ Character Questionnaire shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

(f) Withdrawal of Character Questionnaire

At any time, an applicant may withdraw a ~~character questionnaire~~ Character Questionnaire by filing with the Board written notice of withdrawal. Withdrawing a ~~character questionnaire~~ Character Questionnaire shall result in withdrawal of the application for admission under Rule 19-202 (b). No fees will be refunded.

Source: This Rule is new in part and derived from former Rule 19-202 (2018) in part.

Rule 19-205 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes non-substantive, housekeeping amendments to Rule 19-205 to capitalize each lowercase instance of "Character Questionnaire."

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

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AMEND Rule 19-206 by replacing "on" with "in" in subsection (a)(3), as follows:

RULE 19-206. NOTICE OF INTENT TO TAKE THE UBE IN MARYLAND

(a) Filing

An applicant may file a Notice of Intent to Take the UBE in Maryland if the applicant:

(1) meets the pre-legal educational requirements of Rule 19-201 (a)(1);

(2) unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a)(2), or will meet those requirements before the first day of taking the UBE in Maryland; and

(3) contemporaneously files, or has previously filed, a completed Character Questionnaire pursuant to Rule 19-205 that has not been withdrawn pursuant to Rule 19-205 (f), and the applicant has not withdrawn or been denied admission pursuant to Rule 19-204.

The Notice of Intent shall be under oath, filed ~~on~~ in the form prescribed by the Board, and accompanied by the prescribed fee.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall indicate that request on the Notice of Intent to Take the UBE in Maryland, and shall file with the Board an "Accommodation Request" in a form prescribed by the Board, together with the supporting documentation that the Board requires. The form and documentation shall be filed no later than the deadline established by

the Board for filing the Notice of Intent to Take the UBE in Maryland. The Board may reject an accommodation request that is (1) substantially incomplete or (2) filed untimely. The Board shall notify the applicant in writing of the basis of the rejection and shall provide the applicant an opportunity to correct any deficiencies in the accommodation request before the filing deadline for the current examination or, if the current deadline has passed, before the filing deadline for the next administration of the examination.

Committee note: An applicant who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.

Cross reference: See Rule 19-208 for the procedure to appeal a denial of a request for a test accommodation.

(c) Verification of Legal Education

Unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), the applicant shall aver under oath that the applicant has met, will meet, or will be unqualifiedly eligible to meet those requirements prior to the first day of the applicant taking the UBE in Maryland. No later than the first day of July preceding an examination taken in July or the first day of February preceding an examination taken in February, the applicant shall cause the Board to receive an official transcript or other satisfactory evidence that reflects the date of the award to the applicant of a qualifying law degree under Rule 19- 201, unless the official transcript already is on file with the Board's administrative office.

Committee note: "Other satisfactory evidence" normally consists of a letter from the law school dean or other authorized law school official certifying the date of graduation or unqualified eligibility where the law school transcript is unavailable, such as a late graduation or a financial hold on the transcript.

(d) Time for Filing

An applicant who intends to take the UBE in Maryland shall file the Notice of Intent to Take the UBE by the appropriate deadline established by the Board through its rule-making authority pursuant to

Rule 19-102 (c)(2). Upon written request of an applicant and for good cause shown, the Board may accept a Notice of Intent to Take the UBE in Maryland filed after that deadline. If the Board rejects the Notice of Intent to Take the UBE in Maryland for lack of good cause for the untimeliness, the Board shall transmit written notice of the rejection to the applicant. The applicant may file an exception with the Court within five business days after notice of the rejection is transmitted.

(e) Withdrawal of Notice of Intent to Take the UBE in Maryland or Absence from Examination

If an applicant withdraws the Notice of Intent to Take the UBE in Maryland or fails to attend and take the examination, the examination fee shall not be refunded. The Board may apply the examination fee to a subsequent examination if the applicant establishes good cause for the withdrawal or failure to attend.

Source: This Rule is derived from former Rule 19-204 (2018).

Rule 19-206 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes a non-substantive, housekeeping amendment to subsection (a)(2) of Rule 19-206 to replace "on" with "in."

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AMEND Rule 19-207 by capitalizing "Character Questionnaire" in subsection (a)(3) and by adding a cross reference to Board Rule 5 following subsection (a)(4), as follows:

RULE 19-207. NOTICE OF INTENT TO TRANSFER A QUALIFYING UBE SCORE

(a) Filing

Beginning on July 1, 2019, an applicant may file a Notice of Intent to Transfer a Qualifying UBE Score if the applicant:

(1) meets the pre-legal educational requirements of Rule 19-201 (a) (1) to become admitted to the Maryland Bar;

(2) unless the requirements of Rule 19-201 (a)(2) have been waived pursuant to Rule 19-201 (b), meets the legal education requirements of Rule 19-201 (a) (2);

(3) contemporaneously files or has previously filed a completed ~~character questionnaire~~ Character Questionnaire pursuant to Rule 19-205 that has not been withdrawn pursuant to Rule 19-205 (f), and the applicant has not withdrawn or been denied admission pursuant to Rule 19-204; and

(4) has achieved a qualifying UBE score in another UBE State.

The Notice of Intent shall be under oath, filed on the form prescribed by the Board, and accompanied by the prescribed fee.

Cross Reference: *see* Board Rule 5 for the definition of a qualifying UBE score.

(b) Verification of Legal Education

The applicant shall cause the Board to receive an official transcript that reflects the date of the award to the applicant of a qualifying law degree under Rule 19-201 (a) prior to or contemporaneously with filing the Notice of Intent to Transfer a Qualifying UBE Score, unless the official transcript already is on file with the Board or the applicant has received a waiver under Rule 19-201 (b).

(c) Time for Filing

An applicant who intends to apply for admission by transferring a qualifying UBE score shall file the Notice of Intent to Transfer a Qualifying UBE Score no later than the last day that the transferred score constitutes a qualifying UBE score as defined by Board Rule.

Source: This Rule is new.

Rule 19-207 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes a non-substantive, housekeeping amendment to subsection (a)(3) of Rule 19-207 to capitalize the term "Character Questionnaire." A cross reference to Board Rule 5, which defines a qualifying UBE score, is also proposed to be added following subsection (a)(4).

Mr. Marcus said that the proposed amendments to Rule 19-201 add a clarification to section (a) pertaining to UBE transfers. Ms. Drummond added that an additional conforming amendment is needed in section (b). The reference to Rule 19-101 (l) should be changed to (o). By consensus, the Committee approved the conforming amendment.

Mr. Marcus said that Rule 19-202 contains technical amendments, including changing "rejected" to "denied" in section (c). Rule 19-203 contains stylistic changes and a new Committee note addressing the transition to NextGen UBE. Rules 19-204 and 19-205 are amended to capitalize "Character Questionnaire"

throughout. Rule 19-206 contains a technical amendment in subsection (a)(3). Rule 19-207 is amended to capitalize "Character Questionnaire" and to add a cross reference to a Board Rule that sets forth the definition of a qualifying score. Mr. Shipley added that the substance of that Board Rule is not changing; only the reference in the Rule is new.

By consensus, Rule 19-201 was approved as amended and Rules 19-202, 19-203, 19-204, 19-205, 19-206, and 19-207 were approved as presented.

Mr. Marcus presented Rule 19-209, Notice of Bar Examination Grades and Review Procedure, for consideration.

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AMEND Rule 19-209 by deleting the provisions of section (b) that require the Board to establish procedures and Rules to applicants that do not achieve passing scores on the UBE and replacing those provisions with provisions that require the Board to provide information about how an applicant can receive score information from the NCBE, and by adding a Committee note following section (b), as follows:

RULE 19-209. NOTICE OF BAR EXAMINATION GRADES AND REVIEW PROCEDURE

(a) Notice of Grades; Alteration

Subject to Rule 19-203(e), the Board shall transmit written notice of examination results to each applicant who took the UBE in Maryland. The Board shall determine the form and method of delivery of the notice of results. Applicants, whether successful or unsuccessful, shall be given their grades in the detail the Board considers appropriate. Thereafter, the Board may not alter any applicant's grades except when necessary to correct a clerical error.

(b) Review Procedure

The Board~~, by Rule,~~ shall ~~establish a procedure~~ provide information on any procedures offered by the NCBE by which unsuccessful applicants may obtain any of their written examination materials made available by the NCBE and request any review offered by NCBE of ~~their MBE scores~~ the scoring of the multiple-choice portions of their NextGen UBE attempt.

Committee note: For bar examinations administered prior to July 2026, the Board retained applicants' written examination answers until one day after the administration of the next bar examination and, pursuant to Board Rule 8, provided a procedure for applicants to request copies of their written answers and to request that NCBE perform a review of their MBE score sheet. Beginning in July 2026, all answers on the NextGen bar examination will remain in the custody of the NCBE and review of those answers is subject to procedures to be established by the NCBE.

Source: This Rule is derived from former Rule 19-207 (2018).

Rule 19-209 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes amending Section (b) of Rule 19-209 to remove the requirement of the Board to establish by Rule the procedure by which an applicant who does not achieve a qualifying score on the UBE may obtain a copy of the applicant's test. This change is

necessary as the UBE exams will no longer be under the custody and control of the Board after the NextGen UBE exam goes live. These materials will be under the control of the NCBE, and the Board's role at this point will be merely to provide applicants with information on how to obtain copies from the NCBE. A Committee note clarifying this change is proposed to be added following section (b).

Mr. Shipley informed the Committee that the proposed amendments to Rule 19-209 update provisions governing requests by unsuccessful applicants to review their materials. He said that, currently, the SBLE is the repository of exam answers and materials. Unsuccessful applicants may ask to review copies of their answers to identify where they fell short in preparation to take the exam again. Mr. Shipley explained that, after the move to the NextGen UBE, NCBE will have these materials and will be responsible for establishing request procedures.

There being no motion to amend or reject the proposed amendments to Rule 19-209, the Rule was approved as presented.

Mr. Marcus presented Rule 19-210, Re-Examination After Failure, for consideration.

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TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
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AMEND Rule 19-210 by changing the dates in section (c) from May 20 and December 20 to May 1 and December 1 to conform this Rule to revisions to Rules 19-102 and 19-206 approved in the Rules Order to the 222nd Report, by replacing the provisions of section (d) with new language that extend the number of attempts from three to five, by making conforming amendments to the Committee note following section (d), and by making stylistic changes, as follows:

RULE 19-210. RE-EXAMINATION AFTER FAILURE

(a) Notice of Intent to Take Another Scheduled UBE in Maryland

An unsuccessful applicant may file another Notice of Intent to Take the UBE in Maryland pursuant to Rule 19-206. The Notice of Intent shall be ~~on~~ in the form prescribed by the Board and shall be accompanied by the required examination fee.

(b) Request for Test Accommodation

An applicant who seeks a test accommodation under the ADA for the bar examination shall indicate that request on the Notice of Intent and shall file an Accommodation Request pursuant to Rule 19-206 (b).

Committee note: An applicant who may need a test accommodation is encouraged to file an Accommodation Request as early as possible.

Cross reference: See Rule 19-208 for the procedure to appeal a denial of a request for a test accommodation.

(c) Time for Filing

(1) Generally

An applicant who intends to take the July examination shall file a Notice of Intent to Take the UBE in Maryland, together with the prescribed fee, no later than the preceding May ~~20~~1. An applicant who intends to take the examination in February shall file the Notice of Intent, together with the prescribed fee, no later than the preceding December ~~20~~1.

(2) Late filing

Upon written request of an applicant and for good cause shown, the Board may accept a Notice of Intent filed after that deadline. If the Board rejects the Notice of Intent for lack of good cause for the untimeliness, the Board shall transmit written notice of the rejection to the applicant. The applicant may file an exception with the Court within five business days after notice of the rejection is transmitted.

(d) ~~Three or More Failures in Maryland – Re-examination in Maryland Conditional~~ Limitation on Total Number of Attempts

~~In this section, "bar examination in Maryland" includes the UBE in Maryland and a Maryland General Bar Examination given prior to June 30, 2019. If an applicant has failed three or more bar examinations in Maryland, the Board may condition retaking of the bar examination in Maryland on the successful completion of specified additional study.~~ An applicant who on five separate occasions has taken a bar examination in Maryland, a UBE in any State, or any combination thereof and who has failed to earn a qualifying score as defined by Board Rule in a single administration, shall not be permitted to take a further examination in Maryland, except that any applicant who has met or exceeded this limitation on total number of attempts by making 5 or more attempts in Maryland prior to July 1, 2026 shall be permitted one additional attempt in Maryland.

Committee note: ~~Prior failures in Maryland do not preclude the transfer of a qualifying UBE score to Maryland pursuant to Rule 19-207.~~ An applicant who achieves a qualifying UBE score in another State on an attempt that exceeds the limitation established by this Rule is not precluded from transferring that qualifying UBE score to Maryland pursuant to Rule 19-207. The provision of one additional attempt in Maryland for those making 5 or more prior attempts in Maryland is intended to prevent this Rule from establishing an absolute ex post facto prohibition on further attempts by those who have made all or substantially all of their prior attempts in Maryland.

(e) Withdrawal of Notice of Intent to Take the UBE in Maryland or Absence from Examination

> If an applicant withdraws the Notice of Intent to Take a Scheduled UBE in Maryland or fails to attend and take the examination, the examination fee shall not be refunded. The Board may apply the examination fee to a subsequent examination if the applicant establishes good cause for the withdrawal or failure to attend.
>
> Source: This Rule is derived in part from former Rule 19-208 (2018) and is in part new.

Rule 19-210 was accompanied by the following Reporter's note:

> The Attorneys and Judges Subcommittee proposes amendments to Rule 19-210 which will eliminate an existing provision granting the Board discretionary authority to condition re-taking of the bar examination after three or more unsuccessful attempts in Maryland on the successful completion of specified additional study. The discretionary authority provisions are replaced with a non-discretionary limit of five attempts with a one-attempt exception for individuals who have failed the bar exam five or more times in Maryland prior to the enactment of the amended Rule. The proposed revisions to section (d) instituting a limit on attempts will address a recent trend towards Maryland becoming a haven for test-takers who have been unable to pass the bar exam in Washington, D.C., New York, and other jurisdictions that have an existing limitation on attempts. These test-takers are coming to Maryland in sufficient numbers such that they present a significant administrative burden on the SBLE. Conforming amendments are also proposed to the Committee note following section (d).

Mr. Marcus informed the Committee that the proposed amendments to Rule 19-210 contain a substantive change impacting how the SBLE handles repeat exam takers. Mr. Shipley said that

the current Rule provides that, after three unsuccessful attempts at the Bar Exam in Maryland, the SBLE may condition additional testing attempts on "successful completion of specified additional study." He explained that "additional study" is vague and broadly applied. In practice, there is no limit on how many times an applicant may attempt the exam in Maryland so long as the applicant undertakes some kind of additional study. He noted that the SBLE has struggled with this issue for years.

Mr. Shipley said that a practical reality of the UBE and score portability is that other states increasingly are adding restrictions on repeat takers in their jurisdictions. This results in states with less strict caps, such as Maryland, being attractive to applicants who want to continue attempting to pass the exam. Mr. Shipley pointed out that Washington, D.C. allows only four attempts at its UBE; when individuals fail to pass after four times there, many come to Maryland. He added that New York recently announced that after an individual fails to pass the exam in that state four or more times, that individual will not be allowed to sit for the July Bar Exam going forward; the applicant may continue to attempt the exam in February. He said that approximately 11,000 applicants take the New York Bar Exam in July, and 3,000 of them fail. He told the Committee that Maryland cannot absorb that volume of unsuccessful

applicants who may see Maryland as an alternative location to continue taking the July Bar Exam. He also said that there are concerns that the NextGen UBE will lead to individuals who have failed the UBE in the past trying one more time on the new exam.

Mr. Shipley said that intelligent people can sometimes struggle to pass the exam, but Maryland's current policies are leading to the state becoming a haven for those who cannot pass and refuse to give up. The SBLE has been reluctant to place a firm limit on the number of times an applicant may attempt the exam, but the SBLE now is recommending in section (d) of Rule 19-210 that individuals be limited to five attempts. This limitation includes attempts at the UBE in Maryland or in any other state. There is a clause permitting an applicant one attempt at the NextGen UBE after July 1, 2026 regardless of the number of prior unsuccessful attempts.

Judge Wilson asked whether this proposed change in the Rules would prevent an applicant from going to a UBE jurisdiction without a cap and, if the applicant is ultimately successful, transferring a score to Maryland. Mr. Shipley said that would be permissible. Mr. Marcus commented that the Attorneys and Judges Subcommittee approved this recommendation.

The Deputy Reporter informed the Committee that an additional amendment is required in subsection (c)(1). Mr. Shipley said that he had noticed in reviewing the Rules for the

meeting that the subsection had not been updated when the filing deadlines were relocated to a Board Rule in 2021. Rule 19-210 (c)(1) still states the old deadlines. He suggested that the subsection be amended to conform with the language in Rule 19-206 (d).

The Reporter said that Rule 19-210 (c)(1) refers to filing both the Notice of Intent to Take the UBE in Maryland and the prescribed fee, but Rule 19-206 (d) does not address the fee. Mr. Shipley responded that the Board Rule addresses the fee. A motion to amend Rule 19-210 (c)(1) to conform it to Rule 19-206 (d) was made, seconded, and approved by consensus.

There being no further motion to amend or reject the proposed amendments to Rule 19-210, the Rule was approved as amended.

Mr. Marcus presented Rule 19-214, Order of Admission; Time Limitation, for consideration.

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TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
GENERAL ADMISSION

AMEND Rule 19-214 by adding a Committee note following section (a) as follows:

RULE 19-214. ORDER OF ADMISSION; TIME LIMITATION

(a) Order of Admission

When the Court has determined that an applicant or petitioner is qualified to practice law and is of good moral character, it shall enter an order directing that the applicant be admitted to the Bar on taking the oath required by law.

Committee note: Ordinarily, the Order of Ratification following the Board's report to the court, pursuant to Md. Rules 19-211 and 19-216 serves as the Order of Admission under this Rule. On those occasions when the Court makes an individual admissions decision pursuant to Md. Rule 19-204 or section (e) of this Rule, the Court will issue a separate Order of Admission.

(b) Administration of Oath

The oath shall be administered in open court, using the language specified in Code, Business Occupations and Professions Article, § 10-212. If administered in Maryland, the oath shall be administered by a justice of the Supreme Court or by the Clerk of that Court. If administered outside of Maryland, the oath shall be administered by a judge or clerk of a court of record who is authorized to administer oaths in the court where the administration occurs.

Cross reference: See Code, Business Occupations and Professions Article, § 10-212, requiring that the oath be taken in open court.

(c) Time Limitation for Taking Oath—Generally

An applicant or petitioner may not take the oath of admission to the Bar later than 24 months after the date that the Supreme Court ratified the Board's report pursuant to Rule 19-211 or Rule 19-216 that includes the applicant or petitioner.

(d) Extension

For good cause, the Board may extend the time for taking the oath, but the applicant's or petitioner's

failure to take action to satisfy admission requirements does not constitute good cause.

(e) Consequence of Failure to Take Oath Timely

(1) Applicant seeking admission under Rule 19-201

An applicant who seeks admission under Rule 19-201 but fails to take the oath within the required time period and wishes to be admitted shall reapply for admission and retake the bar examination or transfer a qualifying UBE score and successfully re-complete the Maryland Law Component, unless excused by the Court.

(2) Petitioner seeking admission under Rule 19-215

A petitioner who seeks admission under Rule 19-215 but fails to take the oath within the required time period and wishes to be admitted shall reapply for admission and successfully recomplete the Maryland Law Component, unless excused by the Court.

Cross reference: See Code, Business Occupations and Professions Article, § 10-212, for form of oath.

Source: This Rule is derived from former Rule 12 of the Rules Governing Admission to the Bar of Maryland (2016).

Rule 19-214 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes that a Committee note be added following section (a) to clarify the circumstance in which an individual Order of Admission will be issued by the Supreme Court separate from an Order of Ratification that serves as an Order of Admission pursuant to Rules 19-211 and 19-216.

Mr. Marcus explained that Rule 19-214 is amended to add a Committee note following section (a) addressing an order of

admission outside of scheduled admission ceremonies. There being no motion to amend or reject the proposed amendment to Rule 19-214, it was approved as presented.

Mr. Marcus presented Rule 19-215, Eligibility of Out-of-State Attorney for Admission without Examination, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR
ADMISSION OF OUT-OF-STATE ATTORNEYS

AMEND Rule 19-215 by deleting "under this Rule" from section (a) of this Rule, by adding provisions to section (a) pertaining to passing the UBE in Maryland or transferring a qualifying score, and by replacing "full time" with "full-time" in section (b), as follows:

RULE 19-215. ELIGIBILITY OF OUT-OF-STATE ATTORNEY FOR ADMISSION WITHOUT EXAMINATION

(a) Generally

Beginning on July 1, 2019, an individual is eligible for admission to the Bar of this State ~~under this Rule~~ <u>without passing the UBE in Maryland or transferring a qualifying UBE score to Maryland</u> if the individual:

(1) is a member in good standing of the Bar of a state;

(2) has passed a written bar examination in a state or is admitted to a state bar by diploma privilege after

graduating from a law school accredited by the American Bar Association;

(3) has the professional experience required by this Rule; and

(4) possesses the good moral character and fitness necessary for the practice of law.

(b) Required Professional Experience

The professional experience required for admission under this Rule shall be on a ~~full time~~ full-time basis as (1) a practitioner of law as provided in section (c) of this Rule; (2) a teacher of law at a law school accredited by the American Bar Association; (3) a judge of a court of record in a state; or (4) a combination thereof.

(c) Practitioner of Law

(1) Subject to subsections (c)(2) and (3) of this Rule, a practitioner of law is an individual who has regularly engaged in the authorized practice of law:

(A) in a state;

(B) as the principal means of earning a livelihood; and

(C) whose professional experience and responsibilities have been sufficient to satisfy the Board that the individual should be admitted under this Rule and Rule 19-216.

(2) As evidence of the requisite professional experience, for purposes of subsection (c)(1)(C) of this Rule, the Board may consider, among other things:

(A) the extent of the individual's experience in the practice of law;

(B) the individual's professional duties and responsibilities, the extent of contacts with and responsibility to clients or other beneficiaries of the individual's professional skills, the extent of professional contacts with practicing attorneys and judges, and the individual's professional reputation among those attorneys and judges; and

(C) any professional articles or treatises that the individual has written.

(3) The Board may consider, as the equivalent of practice of law in a state, practice outside the United States if the Board concludes that the nature of the practice makes it the functional equivalent of practice within a state.

(d) Duration of Professional Experience

An individual shall have the professional experience required by section (b) of this Rule for (1) a total of ten years, or (2) at least three of the five years immediately preceding the filing of a petition pursuant to Rule 19-216.

(e) Exceptional Cases

In exceptional cases, the Board may treat an individual's actual experience, although not meeting the literal requirements of subsection (c)(1) of this Rule, as the equivalent of the professional experience otherwise required by this Rule.

Source: This Rule is derived from sections (a) through (e) of former Rule 13 of the Rules Governing Admission to the Bar of Maryland (2016).

Rule 19-215 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes conforming amendments to section (a) of Rule 19-215 to conform this Rule to the proposed revisions to Rule 19-201 and 19-203. These amendments clarify that an individual may be admitted without taking the UBE or transferring a qualifying UBE score to this State pursuant to the provisions of this Rule. A house-keeping amendment is also proposed in section (b) to correct "full time" to "full-time."

Mr. Marcus said that the proposed amendments to Rule 19-215 are conforming ones. There being no motion to amend or reject the proposed amendments to Rule 19-215, the Rule was approved as presented.

Ms. Drummond commented that the conforming amendment to change references to Rule 19-101 (l) to 19-101 (o) is also needed in Rules 19-218 and 19-219. She said that staff will make the change. By consensus, the Committee approved those amendments.

Mr. Marcus thanked Mr. Shipley for his time and assistance to the Committee.

Agenda Item 2. Consideration of proposed amendments to Rule 19-409 (Interest on Funds), Rule 19-503 (Reporting Pro Bono Legal Service), and Rule 19-606 (Enforcement of Obligations).

Mr. Marcus said Supreme Court Clerk Gregory Hilton was present to provide background and answer questions about Agenda Item 2. Mr. Hilton said that he, together with Access to Justice Director Pamela Ortiz and Client Protection Fund Executive Director Melissa Higdon, recommended a series of amendments to the Rules impacting attorney reporting requirements. The proposed changes align the enforcement procedures for attorneys who fail to complete the various reporting requirements and "recertification" procedures for

those attorneys when they come into compliance. Mr. Hilton explained that attorneys are required to pay the annual Client Protection Fund ("CPF") Assessment; verify the attorney's Social Security number and, if applicable, Tax Identification Number; report on pro bono activities; and report information about the attorney's Interest on Lawyer Trust Accounts ("IOLTA"). Currently, the Rules provide that an attorney who does not pay the CPF assessment or report a TIN is subject to a "temporary suspension," while failure to file pro bono or IOLTA reports results in "decertification."

Mr. Hilton said that part of the proposed amendments is to change the sanction for any failure to fulfill a reporting or payment obligation to "administrative suspension." Mr. Marcus said that changing the terminology should clarify the status of attorneys who are not in compliance with the various requirements.

Mr. Marcus presented Rule 19-409, Interest on Funds, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 400 – ATTORNEY TRUST ACCOUNTS

AMEND Rule 19-409 by deleting an unnecessary definition in section (a); by adding taglines to

subsections (c)(1), (c)(2), (c)(3), and (c)(4); by revising certain language in subsection (c)(1); by providing in subsection (c)(2) that the State Court Administrator sends notice regarding the IOLTA Compliance Report through AIS; by adding provisions to subsection (c)(2) regarding the form and content of the report; by adding clarifying language to the end of subsection (c)(3); by clarifying in subsection (c)(4) that each attorney in active status shall file a report through AIS; by reorganizing subsection (c)(5) as section (d) and renumbering subsequent subsections; by providing in subsection (d)(1) that the State Court Administrator sends the Notice of Default and updating the requirements for the notice; by deleting current subsection (c)(5)(B); by providing in subsection (d)(2) that the State Court Administrator sends the list of defaulting attorneys to the Supreme Court and updating the information contained in the list; by deleting the requirement that a proposed order be transmitted with the list of defaulting attorneys; by replacing the entry of a decertification order pursuant to subsection (d)(3) with the entry of an Administrative Suspension Order for defaulting attorneys; by adding language to subsection (d)(3) regarding the duties of the Clerk upon entry of an Administrative Suspension Order; by adding new subsection (d)(4) detailing the effect of an Administrative Suspension Order; by deleting former subsections (c)(5)(E), (c)(5)(F), and (c)(5)(G); by adding new subsection (d)(5), with subsections (d)(5)(A) through (d)(5)(C), addressing the reinstatement process and the effect of terminating an Administrative Suspension Order; by deleting current subsection (c)(5)(H); by re-lettering current subsection (c)(5)(I) as section (e); by updating an internal reference in section (e); by adding a reference in section (e) to the access Rules in Title 16, Chapter 900; by creating new section (f) with the language of former subsection (c)(5)(H), with amendments; and by making stylistic changes, as follows:

Rule 19-409. INTEREST ON FUNDS

(a) ~~Definition~~ Definitions

In this Rule, (1) "AIS" means the Attorney Information System created in Rule 19-801~~,~~ and (2) "AOC" means the Administrative Office of the Courts~~, and (3) "Client Protection Fund" means the Client Protection Fund of the Bar of Maryland~~.

(b) Generally

Any interest paid on funds deposited in an attorney trust account, after deducting service charges and fees of the financial institution, shall be credited and belong to the client or third person whose funds are on deposit during the period the interest is earned, except to the extent that interest is paid to the Maryland Legal Services Corporation Fund as authorized by law. The attorney or law firm shall have no right or claim to the interest.

Cross reference: See Rule 19-411 (b)(1)(D) providing that certain fees may not be deducted from interest that otherwise would be payable to the Maryland Legal Services Corporation Fund.

(c) Duty to Report IOLTA Participation

(1) Required as a Condition of Practice

As a condition ~~precedent~~ of continuing to ~~the~~ practice ~~of~~ law in Maryland, each attorney admitted to practice in Maryland shall report in accordance with this Rule information concerning all IOLTA accounts.

(2) IOLTA Compliance Report

On or before July 10 of each year, ~~AOC~~ the State Court Administrator shall send electronically to each attorney ~~on~~ in active status a notice requiring the attorney to complete through AIS an IOLTA Compliance Report on or before September 10 of that year. The report shall be in a form approved by the State Court Administrator in consultation with the Maryland Legal Services Corporation. The report shall require, at a minimum, the disclosure of the name, address, location, and account number of each IOLTA account maintained by the attorney as of July 10 of each year.

(3) Shared Law Firm IOLTA Accounts

If all IOLTA eligible trust funds of all attorneys in a law firm are deposited in shared law firm IOLTA accounts, the firm shall designate an attorney to be its "IOLTA Reporting Attorney." The Reporting Attorney shall report on all law firm IOLTA accounts by submitting one report listing the specific account information for the firm with the Reporting Attorney's signature. Each attorney at the law firm other than the firm's IOLTA Reporting Attorney shall submit a report that includes the attorney's name, law firm address and phone number, and the name of the IOLTA Reporting Attorney. The report of an attorney other than the firm's IOLTA Reporting Attorney need not include account information for a shared law firm IOLTA account.

(4) Filing Report Through AIS

On or before September 10 of each year, ~~the~~ each attorney~~, through AIS,~~ in active status shall file electronically through AIS a completed IOLTA Compliance Report with AOC.

~~(5)~~(d) Enforcement

~~(A)~~(1) Notice of Default

As soon as practicable after February 10 of each year, ~~AOC~~ the State Court Administrator shall send electronically ~~notify each defaulting~~ a Notice of Default to each attorney ~~of the attorney's failure~~ who has failed to file the ~~required~~ IOLTA Compliance Report. The ~~notice~~ Notice of Default shall ~~(i)~~(A) be on a form approved by the State Court Administrator, (B) state that the attorney has not filed the ~~required~~ IOLTA Compliance Report, and ~~(ii)~~(C) state that ~~continued~~ failure to ~~file the Report may~~ cure the default will result in the entry of an order by the Supreme Court ~~prohibiting~~ administratively suspending the attorney from ~~practicing~~ the practice of law in Maryland.

~~(B) Additional Discretionary Notice~~

~~In addition to the electronic notice, AOC may give additional notice in other ways to defaulting attorneys. This discretion shall be liberally construed with respect to notices given in 2019.~~

~~(C)~~(2) List of Defaulting Attorneys

As soon as practicable after February 10 of each year but no later than March 10, ~~AOC~~ the State Court Administrator shall:

~~(i)~~(A) ~~prepare, certify, and,~~ transmit to the Supreme Court a list that includes the name and~~,~~ ~~unless the attorney has elected to keep the address confidential, the address~~ AIS number of each attorney engaged in the practice of law who has failed to file the IOLTA Compliance Report for the preceding reporting period;

~~(ii) include with the list a proposed Decertification Order stating the name and, unless the attorney has elected to keep the address confidential, the address of each attorney who has failed to file the IOLTA Compliance Report;~~ and

~~(iii)~~(B) at the request of the Court, furnish additional information from its records or give further notice to the defaulting attorneys.

~~(D) Decertification~~ (3) Administrative Suspension Order

If satisfied that ~~AOC~~ the State Court Administrator has given the ~~required notice~~ Notice of Default to the attorneys named ~~in the proposed decertification order~~ on the list, the Supreme Court shall enter ~~a decertification order~~ an Administrative Suspension Order prohibiting each ~~of them~~ attorney in default from practicing law in Maryland ~~until such time as a Recertification Order applicable to a listed attorney is entered pursuant to subsection (c)(4)(F) of this Rule. If the Court concludes that an attorney was not given the required notice, it shall delete that attorney's name from the proposed Order~~. The Clerk of the Supreme Court shall (A) send electronically a copy of the Order to each administratively suspended attorney named in the order, (B) comply with Rule 19-761, and (C) post the Order on the Judiciary website.

(4) Effect of Order

An attorney who has been sent a copy of the Administrative Suspension Order and who has not been restored to good standing may not practice law in Maryland and shall comply with the requirements of Rule 19-741 (b) and (c). In addition to any other

remedy or sanction allowed by law, an action for contempt may be brought against an attorney who practices law in violation of an Administrative Suspension Order.

~~(E) Transmittal of Decertification Order~~

~~AOC shall transmit a copy of the decertification order to each attorney named in the Order.~~

~~(F) Recertification; Reinstatement~~

~~If a decertified attorney thereafter files the outstanding IOLTA Compliance Report, AOC shall inform the Supreme Court and request the Court to enter an order that recertifies the attorney and terminates the decertification. Upon the entry of that order, AOC promptly shall transmit confirmation to the attorney. After an attorney is recertified, the fact that the attorney had been decertified need not be disclosed by the attorney in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.~~

~~(G) Duty of Clerk of Supreme Court~~

~~Upon entry of each Decertification Order and each Recertification Order entered pursuant to this Rule, the Clerk of the Supreme Court shall comply with Rule 19-761.~~

(5) Termination of Administrative Suspension Order

(A) Notice to Supreme Court

If, after an administrative suspension under this Rule, an attorney files the outstanding IOLTA Compliance Report and the attorney is in compliance with the requirements of Rules 19-503 and 19-605, the State Court Administrator shall inform the Supreme Court that the attorney is no longer in default and request the Court to enter an order terminating the attorney's administrative suspension.

(B) Duty of Court

Upon receipt of the notice and request provided for in subsection (d)(5)(A) of this Rule and payment of any fee for reinstatement, the Supreme

Court shall enter an order terminating the administrative suspension of the attorney and the Clerk of the Court shall (A) send electronically a copy of the Reinstatement Order to each attorney who has been restored to good standing, (B) comply with Rule 19-761, and (C) post the Order on the Judiciary website.

(C) Disclosure of Administrative Suspension

After an attorney's administrative suspension for failure to file an IOLTA Compliance Report has been terminated, the attorney need not disclose the administrative suspension in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.

~~(H) Certain Information Furnished to the Maryland Legal Services Corporation~~

~~AOC promptly shall submit to the Maryland Legal Services Corporation the data from the IOLTA Compliance Reports.~~

~~(I)~~(e) Confidentiality

Except as provided in ~~subsections (c)(4)(H) and (c)(4)(I)~~ section (f) of this Rule, IOLTA Compliance Reports are confidential and are not subject to inspection or disclosure under Code, General Provisions Article, § 4-301 or Title 16, Chapter 900 of these Rules. Neither AIS nor AOC shall release those Reports to any person, except as provided in this Rule or upon order of the Supreme Court. Non-identifying information and data contained in an attorney's IOLTA Compliance Report are not confidential.

(f) Information Furnished to the Maryland Legal Services Corporation

AOC promptly shall submit to the Maryland Legal Services Corporation all information from the IOLTA Compliance Reports.

Cross reference: See Code, Business Occupations and Professions Article, § ~~10-103~~ 10-303.

Source: This Rule is derived from former Rule 16-608 (2016).

Rule 19-409 was accompanied by the following Reporter's note:

> Amendments to Rules 19-409, 19-503, and 19-606 are proposed to streamline and update the Rules regarding reporting requirements for attorneys practicing law in Maryland. Attorneys in Maryland must comply with four requirements to remain in good standing: (1) pay the annual Client Protection Fund ("CPF") Assessment, including the portion of the assessment that is paid to the Disciplinary Fund pursuant to Rule 19-705, (2) verify the attorney's SSN and, if applicable, Tax Identification Number ("TIN"), (3) report on pro bono activities, and (4) report information about the attorney's Interest on Lawyer Trust Accounts ("IOLTA"). The Rules currently provide that attorneys who fail to pay their CPF assessment or report their TIN are subject to a temporary suspension, while attorneys who fail to file pro bono or IOLTA reports are only subject to decertification. Each Rule also contains its own process for reinstatement after the attorney cures the default.
>
> After these reporting requirements were implemented, there have been several changes in the compliance process for attorneys. Most notably, the process has been streamlined so that the CPF assessment, TIN information, and reports are due at the same time. Attorneys are also notified of the need to complete these requirements in one combined notice. Similarly, attorneys must complete all requirements through the Attorney Information System ("AIS").
>
> Proposed amendments to Rules 19-409, 19-503 and 19-606 were submitted to the Rules Committee for consideration by the Clerk of the Supreme Court, the Executive Director of CPF, the Executive Director of Maryland Legal Services Corporation ("MLSC"), and the Director of Access to Justice. The proponents recommended changes to reflect current practices, apply the same status to all violations, follow the same process for reinstatement after curing any default, and correct some errors in the current Rules. The proposed changes are intended to update and streamline the attorney compliance process.

The Attorneys and Judges Subcommittee agrees with the proponents of the amendments that a failure to fulfill any of the four compliance requirements should result in the same sanction, simplifying the process and making it easier to use the same reinstatement procedures when an attorney cures any default. The Subcommittee believes that, while a "suspension" is appropriate, the Rules should be clear that the suspension is not the result of a disciplinary proceeding for violation of the Maryland Attorneys' Rules of Professional Conduct. Accordingly, instead of imposition of a "temporary suspension," the proposed amendments throughout all three Rules provide that an attorney who fails to fulfill a reporting or payment obligation now would be "administratively suspended."

Several additional amendments are proposed in Rule 19-409. Overall, Rules 19-409 and 19-503 are restructured and reorganized to be more parallel.

In Rule 19-409, section (a) is amended to delete an unnecessary definition. The term "Client Protection Fund," which had appeared in an earlier version of the Rule, does not appear in the current version of the Rule. Stylistic changes are also made to the tagline and language of the section.

There are several stylistic changes throughout Rule 19-409 (c), including the addition of taglines for each subsection. Stylistic changes in subsection (c)(1) note that reporting in accordance with the Rule is a condition of continuing to practice law in Maryland.

In subsection (c)(2), a proposed amendment requires the State Court Administrator to send the notice of the reporting requirement to attorneys. The notice previously was sent by the Administrative Office of the Courts ("AOC"). Throughout the Rule, references to the mailings and notices from the AOC have been amended to be sent instead by the State Court Administrator. Other new language in the subsection notes that the IOLTA Compliance Report is completed through AIS, and a new sentence provides that the report is to be in a form approved by the State Court Administrator, in consultation with the Maryland Legal Services Corporation. Addition of the phrase "at a minimum" in subsection (c)(2) clarifies

that the information listed in the section is the minimum information that will be requested by the report.

Furthermore, phrases are added to the last sentence of Rule 19-409 (c)(3), making clear that an attorney does not need to include account information for a shared law firm IOLTA account, unless the attorney serves as the firm's IOLTA Reporting Attorney. Current subsection (c)(4) of Rule 19-409 is amended to clarify that attorneys in active status must file reports through AIS.

Current subsection (c)(5) of Rule 19-409 is re-lettered as section (d). New section (d) concerns enforcement of the requirement to file an IOLTA Compliance Report. The revised organization better parallels the sections used in Rule 19-503 concerning reporting of pro bono activities. Subsections within new section (d) are re-lettered or renumbered accordingly.

In addition to several stylistic changes, new language proposed in Rule 19-409 (d)(1) provides that the State Court Administrator sends a Notice of Default, and the Notice is to be on a form approved by the State Court Administrator. Most notably, language at the end of the subsection is changed to reflect that the penalty for being in default is an administrative suspension from the practice of law in Maryland.

Current subsection (c)(5)(B) is deleted, and subsection (c)(5)(C) is relabeled as subsection (d)(2). Amendments to subsection (d)(2) provide that the State Court administrator transmits a list of defaulting attorneys to the Supreme Court, including the attorney's name and AIS number. Attorneys' addresses no longer are needed with the list because addresses no longer are included in the Administrative Suspension Order. Similarly, the requirement that a proposed order be provided with the list is deleted because, in current practice, the Supreme Court prepares the order.

In amendments to renumbered subsection (d)(3), a process is set forth for the Supreme Court to enter an Administrative Suspension Order. New language at the end of the section sets forth the obligations of the

Clerk of the Supreme Court, including sending a copy of the Order to each suspended attorney electronically, complying with Rule 19-761, and posting the Order on the Judiciary's website.

New subsection (d)(4) of Rule 19-409 sets forth the effects of an Administrative Suspension Order, making clear that an attorney who has been administratively suspended may not practice law in Maryland and must comply with Rule 19-741. This language is taken from current Rule 19-606 (b)(3), which sets forth the effect of a Temporary Suspension Order for an attorney who fails to pay the CPF assessment or provide TIN information.

Current subsections (c)(5)(E) through (c)(5)(G) of Rule 19-409 are deleted as the process for reinstatement after a default is now set forth in new subsection (d)(5). Proposed subsection (d)(5)(A) requires that the State Court Administrator notify the Supreme Court when a default has been cured, provided that the attorney is in compliance with other reporting requirements. This notice includes a request for reinstatement. Subsection (d)(5)(B) provides that the Supreme Court terminates the administrative suspension after receipt of notice from the State Court Administrator and payment of any fee for reinstatement. The subsection also sets forth the obligation of the Clerk of the Supreme Court after an attorney has been restored to good standing.

Proposed new subsection (d)(5)(C) states that an attorney need not disclose an administrative suspension for a failure to file an IOLTA Compliance Report in response to a question of whether the attorney has been the subject of a disciplinary or remedial proceeding. In this manner, an administrative suspension clearly differs from a suspension for a violation of the Maryland Attorneys' Rules of Professional Conduct.

The language in Rule 19-409 (c)(5)(H) is deleted, and current subsection (c)(5)(I) is re-lettered as section (e). An internal reference is updated in the section, and a reference to the Rules concerning access to judicial records is added.

New section (f) is created from the language of former subsection (c)(5)(H), with changes. The word "certain" is deleted from the tagline, and the language is amended to state that MLSC receives "all information" from the reports. MLSC has historically been able to request paper copies of submitted IOLTA Compliance Reports. Changes to Rule 19-409 in 2018, removing the reference to paper copies, conformed the Rule to the implementation of AIS. References to paper forms were removed because reports now are filed through AIS. There is no indication from the Rules history materials that the change intended to alter the extent of the data provided to MLSC. Accordingly, Rule 19-409 (f) is amended to ensure that MLSC has access to information in the IOLTA Compliance Reports as intended by earlier versions of Rule 19-409.

Finally, a typographical error in the cross reference at the end of the Rule is corrected to reflect the appropriate statutory section.

Mr. Marcus explained that the proposed amendments to Rule 19-409, which governs IOLTA reporting, update various details for the process of sending notices and developing forms. The penalty for being in default is now an administrative suspension.

There being no motion to amend or reject the proposed amendments to Rule 19-409, the Rule was approved as presented.

Mr. Marcus presented Rule 19-503, Reporting Pro Bono Legal Service, for consideration.

AMEND Rule 19-503 by adding a new tagline to section (b); by creating new subsection (b)(1) with the tagline and first sentence of current section (b), with amendments; by creating new subsection (b)(2) using language from current section (b), with amendments; by providing that the State Court Administrator send the Notice of Default and updating requirements for the notice in subsection (c)(1); by deleting subsection (c)(2); by providing in subsection (c)(2) that the State Court Administrator send the list of defaulting attorneys to the Supreme Court and updating the information contained on the list; by deleting the requirement that a proposed order be included with the list of defaulting attorneys; by replacing the entry of a decertification order pursuant to subsection (c)(3) with entry of an Administrative Suspension Order for defaulting attorneys; by adding language to subsection (c)(3) regarding the duties of the Clerk upon entry of an Administrative Suspension Order; by deleting former subsection (c)(5); by adding subsection (c)(4) detailing the effect of an Administrative Suspension Order; by updating the tagline of renumbered subsection (c)(5); by adding language to subsection (c)(5)(A) clarifying when notice is sent to the Supreme Court after an attorney has cured a default and requiring the State Court Administrator to send the notice; by adding new subsection (c)(5)(B) addressing the duty of the Court after notice of a cured default; by updating the tagline of, deleting certain language in, and adding language to subsection (c)(5)(C) concerning disclosure of an administrative suspension; by deleting former subsection (c)(7); by creating new section (d) using the language of current section (e), with amendments; by re-lettering current section (d) as section (e); and by making stylistic changes, as follows:

Rule 19-503. REPORTING PRO BONO LEGAL SERVICE

(a) Definitions

In this Rule, (1) "AIS" means the Attorney Information System, (2) "AOC" means the Administrative Office of the Courts, and (3) "fiscal year" means the 12-month period commencing on July 1 and ending the following June 30.

(b) Duty to Report Pro Bono Legal Service

(1) Required as a Condition of Practice

As a condition ~~precedent to the practice~~ of continuing to practice law in Maryland, ~~each attorney admitted to practice in Maryland, by~~ on or before September 10 of each year ~~and in accordance with this Rule~~, each attorney in active status shall file electronically, through AIS, a Pro Bono Legal Service Report.

(2) Pro Bono Legal Service Report

On or before July 10 of each year, ~~AOC~~ the State Court Administrator shall send electronically to each attorney ~~registered with~~ in active status a notice requiring the attorney to complete through AIS a Pro Bono Legal Service Report on or before September 10 of that year. The report shall be in a form approved by the State Court Administrator. ~~The first notice to be sent under this Rule shall be emailed to attorneys on or before July 10, 2019 and shall require attorneys to report information with respect to pro bono legal service during the period January 1, 2018 through June 30, 2019. This report shall be filed electronically on or before September 10, 2019. Thereafter, the Report shall include information with respect to pro bono legal service during the preceding fiscal year.~~

Committee note: The purpose of pro bono legal service reporting is to document the pro bono legal service performed by attorneys in Maryland and determine the effectiveness of the Local Pro Bono Action Plans, the State Pro Bono Action Plan, the Rules in this Chapter, and Rule 19-306.1 (6.1) of the Maryland Attorneys' Rules of Professional Conduct.

(c) Enforcement

(1) Notice of Default

As soon as practicable after February 10 of each year, ~~AOC~~ the State Court Administrator shall send electronically ~~notify~~ a Notice of Default to each ~~defaulting~~ attorney ~~of the attorney's failure~~ who has failed to file the Pro Bono Legal Service Report for the preceding fiscal year. The ~~notice~~ Notice of Default shall (A) be on a form approved by the State Court Administrator, (B) state that the attorney has not filed the Pro Bono Legal Service Report, and ~~(B)~~(C) state that ~~continued~~ failure to ~~file the Report may~~ cure the default will result in the entry of an order by the Supreme Court ~~prohibiting~~ administratively suspending the attorney from ~~practicing~~ the practice of law in Maryland.

~~(2) Additional Discretionary Notice of Default~~

~~In addition to the electronic notice, AOC may give additional notice in other ways to defaulting attorneys.~~

~~(3)~~(2) List of Defaulting Attorneys

As soon as practicable after February 10 of each year but no later than March 10, ~~AOC~~ the State Court Administrator shall:

(A) ~~prepare, certify, and~~ transmit to the Supreme Court a list that includes the name and~~, unless the attorney has elected to keep the address confidential, the address~~ AIS number of each attorney engaged in the practice of law who has failed to file the Pro Bono Legal Service Report for the preceding reporting period;

~~(B) include with the list a proposed Decertification Order stating the name and, unless the attorney has elected to keep the address confidential, the address of each attorney who has failed to file the Pro Bono Legal Service Report;~~ and

~~(C)~~(B) at the request of the Court, furnish additional information from its records or give further notice to the defaulting attorneys.

~~(4) Decertification Order~~ (3) Administrative Suspension Order

If satisfied that ~~AOC~~ the State Court Administrator has given the ~~required notice~~ Notice of

Default to the attorneys named ~~in the proposed Decertification Order~~ on the list, the Supreme Court shall enter ~~a Decertification~~ an Administrative Suspension Order prohibiting each ~~of them~~ attorney in default from practicing law in Maryland ~~until such time as a Recertification Order applicable to a listed attorney is entered pursuant to subsection (c)(6) of this Rule. If the Court concludes that an attorney was not given the required notice, it shall delete that attorney's name from the proposed Order~~. The Clerk of the Supreme Court shall (A) send electronically a copy of the Order to each administratively suspended attorney named in the Order, (B) comply with Rule 19-761, and (C) post the Order on the Judiciary website.

~~(5) Transmittal of Decertification Order~~

~~AOC shall transmit a copy of the Decertification Order to each attorney named in the Order.~~

(4) Effect of Order

An attorney who has been served with a copy of the Administrative Suspension Order and who has not been restored to good standing may not practice law in Maryland and shall comply with the requirements of Rule 19-741 (b) and (c). In addition to any other remedy or sanction allowed by law, an action for contempt may be brought against an attorney who practices law in violation of an Administrative Suspension Order.

~~(6) Recertification; Reinstatement~~ (5) Termination of Administrative Suspension Order

(A) Notice to Supreme Court

If, after an administrative suspension under this Rule, ~~a decertified~~ an attorney ~~thereafter~~ files the outstanding Pro Bono Legal Service Report and is in compliance with the requirements of Rules 19-409 and 19-605, ~~AOC~~ the State Court Administrator shall inform the Supreme Court that the attorney is no longer in default and request the Court to enter an order ~~that recertifies the attorney and terminates the decertification~~ terminating the attorney's administrative suspension.

(B) Duty of Court

Upon receipt of the notice and request provided for in subsection (c)(5)(A) of this Rule and payment of any fee for reinstatement, the Supreme Court shall enter an order terminating the administrative suspension of the attorney and the Clerk of the Court shall (A) send electronically a copy of the reinstatement order to each attorney who has been restored to good standing, (B) comply with Rule 19-761, and (C) post the Order on the Judiciary website.

~~(B) Confirmation of Recertification~~ (C) Disclosure of Administrative Suspension

~~Upon entry of that order, AOC promptly shall transmit confirmation to the attorney.~~ After an ~~attorney is recertified, the fact that the attorney had been decertified~~ attorney's administrative suspension for failure to file a Pro Bono Legal Services Report has been terminated, the attorney need not ~~be disclosed by the attorney~~ disclose the administrative suspension in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.

~~(7) Duty of Clerk of Supreme Court~~

~~Upon entry of each Decertification Order and each Recertification Order entered pursuant to this Rule, the Clerk of the Supreme Court shall comply with Rule 19-761~~.

(d) Confidentiality

Pro Bono Legal Service Reports are confidential and are not subject to inspection or disclosure under Code, General Provisions Article, § 4-301 or Title 16, Chapter 900 of these Rules. Neither AIS nor AOC shall release those Reports to any person, except as provided in this Rule or upon order of the Supreme Court. Non-identifying information and data contained in an attorney's Pro Bono Legal Service Report are not confidential.

~~(d)~~(e) Certain Information Furnished to the Standing Committee on Pro Bono Legal Service

AOC promptly shall submit to the Standing Committee on Pro Bono Legal Service a compilation of

non-identifying information and data from the Pro Bono Legal Service Reports.

~~(e) Confidentiality~~

~~Pro Bono Legal Service Reports are confidential and are not subject to inspection or disclosure under Code, General Provisions Article, § 4-301. Neither AIS nor AOC shall release those Reports to any person, except as provided in this Rule or upon order of the Supreme Court. Non-identifying information and data contained in an attorney's Pro Bono Legal Service Report are not confidential.~~

Source: This Rule is derived from former Rule 16-903 (2016).

Rule 19-503 was accompanied by the following Reporter's note:

Amendments are proposed to Rules 19-409, 19-503, and 19-606 to streamline and update the Rules regarding reporting requirements for attorneys practicing law in Maryland. For further details, see the Reporter's note to Rule 19-409.

Several stylistic changes are proposed in Rule 19-503 (b). A new tagline is proposed and the current language is divided into two sections. Changes to the language in subsection (b)(1) provide that each attorney in active status must file a Pro Bono Legal Service Report to continue practicing law in Maryland.

In subsection (b)(2) of Rule 19-503, a proposed amendment requires the State Court Administrator to send the notice to attorneys of the reporting requirement. The notice was previously sent by the Administrative Office of the Courts ("AOC"). As in the amendments to Rule 19-409, references to the mailings and notices from the AOC are amended to be sent instead by the State Court Administrator throughout Rule 19-503. Additional language clarifies that the report is to be in a form approved by the State Court Administrator. The remaining language in the section, addressing notices for the reporting period of

January 1, 2018 to June 30, 2019, no longer is necessary and is proposed to be deleted.

In addition to several stylistic changes, new language proposed in Rule 19-503 (c)(1) provides that the State Court Administrator sends the Notice of Default, and the notice is to be on a form approved by the State Court Administrator. Most notably, language at the end of the subsection is changed to reflect that the penalty for being in default is an administrative suspension from the practice of law in Maryland.

Current subsection (c)(2) is proposed to be deleted, and subsection (c)(3) is relabeled as subsection (c)(2). Amendments to renumbered subsection (c)(2) provide that the State Court administrator transmits a list of defaulting attorneys to the Supreme Court, providing the attorney's name and AIS number. Attorneys' addresses no longer are needed because addresses are not included in the Administrative Suspension Order. Similarly, the requirement that a proposed order be provided with the list is deleted because, in current practice, the Supreme Court prepares the order.

In proposed amendments to renumbered subsection (c)(3), a process is set forth for entry of an Administrative Suspension Order. New language at the end of the section sets forth the obligations of the Clerk of the Supreme Court, including sending a copy of the Order to each suspended attorney electronically, complying with Rule 19-761, and posting the Order on the Judiciary's website.

Current subsection (c)(5) is proposed to be deleted. The requirement that AOC transmit the order is unnecessary because the Clerk of the Supreme Court sends a copy of the order to the suspended attorney pursuant to amended subsection (c)(3).

New subsection (c)(4) of Rule 19-503 sets forth the effects of an Administrative Suspension Order, making clear that an attorney who has been administratively suspended may not practice law in Maryland and must comply with Rule 19-741. This language is taken from current Rule 19-606 (b)(3), which sets forth the effect of a Temporary Suspension

Order for an attorney who fails to pay the CPF assessment or provide TIN information.

Current subsection (c)(6) is renumbered as subsection (c)(5) and sets forth a reinstatement process, consistent with the process in the proposed amendments to Rule 19-409. Proposed Rule 19-503 (c)(5)(A) requires that the State Court Administrator notify the Supreme Court when a default has been cured, provided that the attorney is in compliance with other reporting requirements. This notice includes a request for reinstatement. Subsection (c)(5)(B) states that the Supreme Court terminates the administrative suspension after receipt of notice from the State Court Administrator and payment of any fee for reinstatement. The subsection also sets forth the obligation of the Clerk of the Supreme Court after an attorney has been restored to good standing.

Proposed new subsection (c)(5)(C) states that an attorney need not disclose an administrative suspension for a failure to file a Pro Bono Legal Services Report if asked whether the attorney has been the subject of a disciplinary or remedial proceeding. In this manner, an administrative suspension clearly differs from a suspension for a violation of the Maryland Attorneys' Rules of Professional Conduct.

Current subsection (c)(7) of Rule 19-503 is proposed to be deleted as unnecessary. The requirement that the Clerk of the Supreme Court comply with Rule 19-761 is now included in subsection (c)(5)(B).

New section (d) is created with the current language of section (e), proposed to be deleted later in the Rule. A reference to the Rules concerning access to judicial records is added. Current section (d) is re-lettered as section (e).

Mr. Hilton explained that the proposed amendments to Rule 19-503 change the pro bono reporting process to align it with the changes to Rule 19-409. There being no motion to amend or

reject the proposed amendments to Rule 19-503, the Rule was approved as presented.

Mr. Marcus presented Rule 19-606, Enforcement of Obligations, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 600 – CLIENT PROTECTION FUND

AMEND Rule 19-606 by replacing several terms and phrases with updated language in subsection (a)(1), by changing references to a temporary suspension to an administrative suspension throughout the Rule, by modifying language in section (b) to reflect that the Fund provides the Court with a list of defaulting attorneys and must provide additional information or notice as directed by the Court, by updating in subsection (b)(2) the duties of the Clerk after entry of an Administrative Suspension Order, by updating an internal reference in subsection (b)(3), by deleting subsection (c)(1)(C), by requiring in subsection (c)(2) that an attorney pay a fee for reinstatement, by adding the duties of the Clerk after entry of an order terminating a suspension in subsection (c)(2), by adding new subsection (c)(3) addressing disclosure of an administrative suspension, and by making stylistic changes, as follows:

Rule 19-606. ENFORCEMENT OF OBLIGATIONS

(a) Notice of Default

(1) Generally

As soon as practicable after February 10 of each year, the Fund shall send electronically a Notice of Default to each attorney who has (1) failed to pay in full (A) the amount due as stated in the invoice, (B)

any penalty for late payment, or (C) any charge for a dishonored check or money order, or (2) failed to supply to the Fund a required social security number or federal tax identification number or statement that there is no such number.

(2) Form and Content

The Notice of Default shall (A) be on a form ~~created~~ approved by the State Court Administrator and approved by the Supreme Court, (B) identify the nature of the default and the amount, if any, owed to the Fund, and (C) ~~warn~~ state that failure to cure the default will result in the entry of an order by the Supreme Court ~~prohibiting~~ administratively suspending the attorney from ~~practicing~~ the practice of law in Maryland.

(b) ~~Temporary~~ Administrative Suspension

(1) ~~Proposed Order~~ List of Defaulting Attorneys

As soon as practicable after February 10 of each year but no later than March 10, the Fund shall transmit to the Supreme Court a ~~proposed Temporary Suspension Order stating the names and Fund account numbers~~ list that includes the name and AIS number of those attorneys who failed to cure the default stated in the Notice of Default. ~~The~~ At the request of the Court, the Fund shall furnish to the Court such additional information from its records ~~as the Court directs~~ or give further notice to the defaulting attorneys.

(2) ~~Entry of~~ Administrative Suspension Order

If satisfied that the Fund has given the required Notice of Default to the attorneys named in the list, the Supreme Court shall enter ~~a Temporary~~ an Administrative Suspension Order prohibiting each of the attorneys ~~who are~~ in default from practicing law in Maryland. The Clerk of the Supreme Court shall (A) send electronically a copy of the Order to ~~(A)~~ each administratively suspended attorney named in the Order, ~~(B) the clerks of the Appellate Court, each circuit court, the District Court of Maryland, the Supreme Court of the United States, the U.S. Court of Appeals for the Fourth Circuit, and the U.S. District Court for the District of Maryland and~~ (B) comply with

Rule 19-761, and (C) post notice of the Order on the Judiciary website.

(3) Effect of Order

An attorney who has been ~~served with~~ sent a copy of the ~~Temporary~~ Administrative Suspension Order and who has not been restored to good standing may not practice law in Maryland and shall comply with the requirements of Rule 19-741 (b) and (c) ~~and (d)~~. In addition to any other remedy or sanction allowed by law, an action for contempt may be brought against an attorney who practices law in violation of a ~~Temporary~~ Administrative Suspension Order.

(c) Termination of ~~Temporary~~ Administrative Suspension Order

(1) Duty of Trustees

Upon receipt of the attorney's social security number, federal tax identification number or statement that the attorney has no such number, and all amounts due by the attorney, including all related costs prescribed by the Supreme Court or the trustees, the trustees shall:

(A) remove the attorney's name from the list of attorneys in default; and

(B) if ~~a Temporary~~ an Administrative Suspension Order has been entered, inform the Supreme Court that the social security number, federal tax identification number or statement that the attorney has no such number, and full payment have been received and request the Court to enter an order terminating the attorney's administrative suspension~~; and~~

~~(C) if requested by the attorney, confirm that the trustees have complied with the requirements of subsections (c)(1)(A) and (B) of this Rule~~.

(2) Duty of Court

Upon receipt of the notice and request provided for in subsection (c)(1)(B) of this Rule and payment of any fee for reinstatement, the Supreme Court shall enter an order terminating the ~~temporary~~ administrative suspension of the attorney and the

Clerk of the Court shall (A) send electronically a copy of the reinstatement order to each attorney who has been restored to good standing, (B) comply with Rule 19-761, and (C) post ~~notice of~~ the Order on the Judiciary website.

(3) Disclosure of Administrative Suspension

After an attorney's administrative suspension for failure to comply with the requirements of Rule 19-605 has been terminated, the attorney need not disclose the administrative suspension in response to a request for information as to whether the attorney has been the subject of a disciplinary or remedial proceeding.

Source: This Rule is derived from former Rule 16-811.6 (2016).

Rule 19-606 was accompanied by the following Reporter's note:

Amendments are proposed to Rules 19-409, 19-503, and 19-606 to streamline and update the Rules regarding reporting requirements for attorneys practicing law in Maryland. For further details, see the Reporter's note to Rule 19-409.

Rule 19-606 is structured differently than Rules 19-409 and 19-503, but many of the changes to language appear throughout all three Rules. For example, the sanction of administrative suspension is imposed if an attorney fails to fulfill any reporting requirement and the process for reinstatement is consistent after curing a default for a failure to comply with any requirement.

Stylistic changes in subsection (a)(2) replace the term "created" with "approved" and "warn" with "state." Other changes to the language of subsection (a)(2) mirror the language used in a notice of default sent pursuant to Rules 19-409 or 19-503.

Proposed amendments to subsection (b)(1) provide that the Fund is to transmit a list of defaulting attorneys to the Supreme Court with the attorney's name and AIS number, instead of submitting a

proposed suspension order. In current practice, the Supreme Court prepares the order. Attorneys' addresses no longer are needed because they are not included in the order. Clarifying language added to the end of subsection (b)(1) requires the Fund to give further notice to the defaulting attorneys if so requested by the Court.

Proposed amendments to subsection (b)(2) update the tagline and language to reflect that an administrative suspension is the sanction for a default. The subsection is updated to reflect the obligations of the Clerk of the Supreme Court upon entry of an Administration Suspension Order. Former subsection (b)(2)(B), listing clerks to whom notice of the order must be sent, has been updated to refer to compliance with Rule 19-761. Rule 19-761 contains a complete list of the entities that are to be notified upon an attorney's suspension.

An internal reference to certain sections of Rule 19-741 is corrected in subsection (b)(3).

Current subsection (c)(1)(C) is proposed to be deleted to help streamline the reinstatement process, consistent with Rules 19-409 and 19-503. Subsection (c)(2) is amended to reflect that any fee for reinstatement must be paid before the administrative suspension is terminated. Proposed amendments also set forth the duty of the Clerk upon termination of the suspension, including electronically notifying the attorney, complying with Rule 19-761 and posting the order on the Judiciary website.

Proposed new subsection (c)(3) states that an attorney need not disclose a terminated administrative suspension for a failure to pay the CPF assessment or provide TIN information if asked whether the attorney has been the subject of a disciplinary or remedial proceeding. In this manner, an administrative suspension clearly differs from a suspension for a violation of the Maryland Attorneys' Rules of Professional Conduct.

Mr. Marcus informed the Committee that a "handout" version of Rule 19-606 (c)(2) was circulated prior to the meeting.

HANDOUT

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 600 – CLIENT PROTECTION FUND

Rule 19-606. ENFORCEMENT OF OBLIGATIONS

. . .

(c) Termination of ~~Temporary~~ Administrative Suspension Order

. . .

(2) Duty of Court

Upon receipt of the notice and request provided for in subsection (c)(1)(B) of this Rule and payment of any fee for reinstatement**, and if the attorney is in compliance with the requirements of Rules 19-409 and 19-503**, the Supreme Court shall enter an order terminating the ~~temporary~~ administrative suspension of the attorney and the Clerk of the Court shall (A) send electronically a copy of the reinstatement order to each attorney who has been restored to good standing, (B) comply with Rule 19-761, and (C) post ~~notice of~~ the Order on the Judiciary website.

. . .

Mr. Marcus said that Rule 19-606 contains the enforcement mechanism for attorneys who are not in compliance with certain obligations administered by the Fund. The proposed amendments make terminology changes similar to those in Rule 19-409 and

Rule 19-503. The amendment to Rule 19-606 updates the process by which an attorney is placed on temporary suspension – now administrative suspension – and how that suspension is terminated.

The Reporter drew the Committee's attention to the handout version of subsection (c)(2), which adds a requirement that the attorney be in compliance with all of the reporting and payment requirements before the suspension may be terminated. She pointed out to Mr. Hilton that it could fall to him as Clerk of the Supreme Court to verify with the Client Protection Fund and the Administrative Office of the Courts that all of the various requirements had been met before recommending the end of the administrative suspension to the Court. Mr. Hilton responded that he currently does verify that all of the requirements have been met and that updates to the Attorney Information System will make this easier.

Mr. Marcus said that the proposed handout for Rule 19-606 will require a motion to approve. A motion was made to approve Rule 19-606 with the handout version of subsection (c)(2). The motion was seconded and approved by consensus.

Agenda Item 3. Consideration of proposed amendments to Rule 19-728 (Post-Hearing Proceedings).

Mr. Marcus presented Rule 19-728, Post-Hearing Proceedings, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

PROCEEDINGS ON PETITION FOR DISCIPLINARY OR REMEDIAL ACTION

AMEND Rule 19-728 by adding new subsection (b)(4), pertaining to motions filed in the Supreme Court after a disciplinary hearing, by adding motions to the list of items in section (c) which require a response in 15 days, and by making stylistic changes, as follows:

Rule 19-728. POST-HEARING PROCEEDINGS

(a) Notice of the Filing of the Record

Upon receiving the record, the Clerk of the Supreme Court shall notify the parties that the record has been filed.

(b) ~~Exceptions; Recommendations; Statement of Costs~~ Post Notice Filings

Within 30 days after service of the notice required by section (a) of this Rule, each party may file (1) exceptions to the findings and conclusions of the hearing judge, (2) recommendations concerning the appropriate disposition under Rule 19-740 (c), ~~and~~ (3) a statement of costs to which the party may be entitled under Rule 19-709; or (4) any motion.

(c) Response

Within 15 days after service of exceptions, recommendations, ~~or~~ a statement of costs, or any motion, the adverse party may file a response.

(d) Form

The parties shall file eight copies of any exceptions, recommendations, and responses. The copies shall conform to the requirements of Rule 8-112.

(e) Proceedings in Supreme Court

Review in and disposition by the Supreme Court are governed by Rule 19-740.

Source: This Rule is derived from former Rule 16-758 (2016).

Rule 19-728 was accompanied by the following Reporter's note:

At the request of the Clerk of the Supreme Court, sections (b) and (c) of this Rule are proposed to be amended to clarify that the deadline to reply to a motion during post-circuit court disciplinary hearings is 15 days for post-hearing motions practice in the Supreme Court. This matter was previously considered by the Attorneys and Judges subcommittee during its October 25, 2024 meeting, and staff was directed to revise this Rule to provide for a 15 day deadline.

Mr. Marcus informed the Committee that Supreme Court Clerk Gregory Hilton requested a clarification in Rule 19-728, which governs post-circuit court proceedings in attorney discipline matters. Mr. Hilton explained that there are sometimes motions filed with the Supreme Court in attorney discipline cases, but there is nothing in the Rule setting forth the time to respond to those motions. He said that he does not have a preference, but suggested that either five days, the response time for

motions generally in the appellate courts under Rule 8-431 (b), or 15 days, the response time in other portions of Title 19, would be appropriate. The Attorneys and Judges Subcommittee recommends 15 days.

There being no motion to amend or reject the proposed amendments to Rule 19-728, the Rule was approved as presented.

Agenda Item 4. Consideration of proposed amendments to Rule 8-111 (Designation of Parties; References).

Judge Nazarian presented Rule 8-111, Designation of Parties; References, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 8-111 by deleting "or a final" and "and Rule 8-204" from section (c), by moving "under Code, Criminal Procedure Article, § 11-103" from the end of subsection (c)(1) to the beginning of subsection (c)(1), and by adding a provision concerning a victim's right to appeal a final order to subsection (c)(1), as follows:

Rule 8-111. DESIGNATION OF PARTIES; REFERENCES

(a) Formal Designation

(1) No Prior Appellate Decision

When no prior appellate decision has been rendered, the party first appealing the decision of the trial court shall be designated the appellant and the adverse party shall be designated the appellee. Unless the Court orders otherwise, the opposing parties to a subsequently filed appeal shall be designated the cross-appellant and cross-appellee.

(2) Prior Appellate Decision

In an appeal to the Supreme Court from a decision by the Appellate Court or by a circuit court exercising appellate jurisdiction, the party seeking review of the most recent decision shall be designated the petitioner and the adverse party shall be designated the respondent. Except as otherwise specifically provided or necessarily implied, the term "appellant" as used in the Rules in this Title shall include a petitioner and the term "appellee" shall include a respondent.

Cross reference: See Rule 8-305 for designation of parties in cases certified pursuant to the Maryland Uniform Certification of Questions of Law Act.

(b) Alternative References

In the interest of clarity, the parties are encouraged to use the designations used in the trial court, the actual names of the parties, or descriptive terms such as "employer," "insured," "seller," "husband," and "wife" in papers filed with the Court and in oral argument.

(c) Victims and Victims' Representatives

Although not a party to a criminal or juvenile proceeding, a victim of a crime or a delinquent act or a victim's representative may: (1) under Code, Criminal Procedure Article, § 11-103, file an application for leave to appeal to the Appellate Court from an interlocutory ~~or a final~~ order or appeal to the Appellate Court of Maryland from a final order; ~~under Code, Criminal Procedure Article, § 11-103 and Rule 8-204;~~ or (2) participate in the same manner as a party regarding the rights of the victim or victim's representative.

Cross reference: See Rule 1-326 for service and notice to attorneys for victims and victims' representatives regarding the rights of victims and representatives.

Source: This Rule is derived as follows:

Section (a) is derived in part from former Rule 827 and in part new.

Section (b) is derived from Fed. R. App. P. 28 (d).

Section (c) is new.

Rule 8-111 was accompanied by the following Reporter's note:

The Appellate Subcommittee proposes a housekeeping amendment to conform section (c) of Rule 8-111 to the current version of Code, Criminal Procedure Article, § 11-103 (b), which was amended by the General Assembly in 2013 to add a provision to permit a victim to appeal a final order to the Appellate Court of Maryland without filing a request for leave of court to do so. Before this amendment, a victim was required to file a request for leave of court to appeal both an interlocutory order and a final order. This housekeeping amendment will bring section (c) of this Rule into conformity with the provisions of Code, Criminal Procedure Article, § 11-103. It is also proposed to delete the reference to Rule 8-204 from subsection (c)(1). This is because its placement near the citation to the Criminal Procedure Article was viewed as potentially confusing and perhaps misleading to an individual reading this Rule in that it may be construed to require a victim to request leave of court to appeal an order in which it may not be required to do so.

Judge Nazarian informed the Committee that he was contacted by a fellow Appellate Court judge's senior law clerk who pointed out that Rule 8-111 had not been updated to conform to a

statutory change impacting the ability of victims to appeal to the Appellate Court from a final order. The proposed amendments to Rule 8-111 (c) conform the Rule to Code, Criminal Procedure Article, § 11-103.

There being no motion to amend or reject the proposed amendments to Rule 8-111, the Rule was approved as presented.

Agenda Item 5. Consideration of proposed amendments to Rule 8-305 (Certification of Questions of Law to the Supreme Court).

Judge Nazarian presented Rule 8-305, Certification of Questions of Law to the Supreme Court, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 300 – OBTAINING REVIEW IN THE SUPREME COURT

AMEND Rule 8-305 by replacing "party" with "parties," "appellant" with "appellants," and "original" with "certification" in section (b), by deleting a provision of section (b) pertaining to the filing fee for docketing regular appeals, by adding a provision to section (b) pertaining to electronic forwarding of certification orders, by adding new subsection (c)(1) pertaining to actions to be taken by the Supreme Court, by adding new subsection (c)(2) pertaining to the payment of fees, and by making stylistic changes, as follows:

Rule 8-305. CERTIFICATION OF QUESTIONS OF LAW TO THE SUPREME COURT

(a) Certifying Court

"Certifying court" as used in this Rule means a court authorized by Code, Courts Article, § 12-603 to certify a question of law to the Supreme Court of Maryland.

Committee note: Necessary implication requires that the definition of "court" set forth in Rule 1-202 does not apply in this Rule.

(b) Certification Order

(1) Generally

In disposing of an action pending before it, a certifying court, on motion of any party or on its own initiative, may submit to the Supreme Court a question of law of this State, in accordance with the Maryland Uniform Certification of Questions of Law Act, by filing a certification order.

(2) Contents of Order

The certification order shall be signed by a judge of the certifying court and state the question of law submitted, the relevant facts from which the question arises, and the ~~party~~ parties who shall be treated as the ~~appellant~~ appellants in the certification procedure.

(3) Transmittal of Order to Supreme Court

The ~~original~~ certification order shall be forwarded to the Supreme Court by the clerk of the certifying court under its official seal~~, together with the filing fee for docketing regular appeals~~. By prior arrangement with the Clerk of the Supreme Court, the certification order may be forwarded through electronic mail or other electronic means.

(c) Proceeding in the Supreme Court

(1) Upon Receipt of Order by Supreme Court

Upon receipt of the certification order, the Supreme Court will promptly consider whether to accept or reject the certification.

(A) Order Rejected by Supreme Court

If the Supreme Court rejects the certification, the Clerk shall send notice to the clerk of the certifying court.

(B) Order Accepted by Supreme Court

If the Supreme Court accepts the certification, the Clerk shall send notice of acceptance to the clerk of the certifying court, docket the certification as a miscellaneous matter, and send a copy of the notice and a briefing schedule to the parties.

(2) Payment of Fees

Within fifteen days of the date on which the Clerk sends notice of acceptance, the parties shall deposit the filing fee for docketing an appeal with the Clerk of the Supreme Court. Unless otherwise directed by the certifying court, the parties shall each pay an equal share of the filing fee. The obligation to pay the filing fee may be enforced by the certifying court or by the Supreme Court.

(3) Certification Order Equivalent of Transmission of Record

The filing of the certification order in the Supreme Court shall be the equivalent of the transmission of a record on appeal. The Supreme Court may request, in addition, all or any part of the record before the certifying court. Upon request, the certifying court shall file the original or a copy of the parts of the record requested together with a certificate, under the official seal of the certifying court and signed by a judge or clerk of that court, stating that the materials submitted are all the parts of the record requested by the Supreme Court.

(d) Use of MDEC; Coordination with Certifying Court

(1) Use of MDEC During Pendency of Certification

The parties to the certified question will receive notices, orders and other papers from the Supreme Court and shall file all papers with the Supreme Court through the MDEC system.

(2) Coordination with Certifying Court

By prior arrangement between the Clerk of the Supreme Court and the clerk of the certifying court, notices, correspondence, and other papers, including the written opinion of the Supreme Court, may be transmitted between the Supreme Court and the certifying court through electronic mail or other electronic means.

~~(d)~~(e) Decision by the Supreme Court

The written opinion of the Supreme Court stating the law governing the question certified shall be sent by the Clerk of the Supreme Court to the certifying court. The Clerk of the Supreme Court shall certify, under seal of the Court, that the opinion is in response to the question of law of this State submitted by the certifying court.

Cross reference: Code, Courts Article, §§ 12-601 through 12-609.

Source: This Rule is derived in part from former Rule 896 and is in part new.

Rule 8-305 was accompanied by the following Reporter's note:

By request of the Clerk of the Supreme Court of Maryland, the Appellate Subcommittee proposes revisions to Rule 8-305 to conform the Rule to the provisions of a Memorandum of Understanding between the U.S. District Court for the District of Maryland and the Supreme Court of Maryland.

Judge Nazarian explained that Supreme Court Clerk Gregory Hilton suggested amending Rule 8-305 to reflect the current method of handling certified questions of law transmitted to the Maryland Supreme Court from the federal courts. Mr. Hilton

added that the Court has seen an uptick in certified questions, and the changes should make the process faster.

There being no motion to amend or reject the proposed amendments to Rule 8-305, the Rule was approved as presented.

Agenda Item 6. Consideration of proposed new Rule 8-306 (Direct Appeal to the Supreme Court) and conforming amendments to Rule 8-301 (Method of Securing Review – the Supreme Court), Rule 8-504 (Contents of Brief), and Rule 8-523 (Consideration on Brief).

Judge Nazarian presented new Rule 8-306, Direct Appeal to the Supreme Court, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT

AND THE APPELLATE COURT

CHAPTER 300 – OBTAINING REVIEW IN THE SUPREME COURT

ADD new Rule 8-306, as follows:

Rule 8-306. DIRECT APPEAL TO THE SUPREME COURT

(a) Generally

In any matter in which a direct appeal to the Supreme Court is authorized by statute or other law, and upon the filing of such an appeal, the Supreme

Court may direct the lower court promptly to transmit the record and may take any of the following actions allowed by law:

(1) Dismiss the appeal pursuant to Rule 8-602;

(2) Affirm the judgment that is the source of the appeal;

(3) Vacate or reverse the judgment that is the source of the appeal; or

(4) Remand the appeal to the lower court to modify the judgment or for proceedings as directed by Order of the Supreme Court. The Supreme Court may elect to retain appellate jurisdiction over an appeal in an Order directing a remand.

(b) Briefing; Oral Argument

(1) Briefing

After a review of the record, the Supreme Court may direct the parties to brief the issues on appeal pursuant to Rules 8-503 and 8-504. An Order from the Supreme Court requiring briefs to be filed shall establish a time that transcripts must be ordered by the parties and submitted to the Court.

(2) Submit on Brief; Oral Argument

After briefing is completed pursuant to subsection (b)(1) of this Rule, the Supreme Court may decide the appeal based on the briefs submitted or may schedule oral argument.

(c) Expedited Direct Appeals

The Supreme Court, as authorized by statute, other law, or on its own initiative, may expedite the briefing, oral argument, and consideration of a direct appeal considered under this Rule.

Cross reference: For examples of statutes that permit direct appeal to the Supreme Court of Maryland, see Code, Criminal Procedure Article, § 8-201 (Petition for DNA Testing and Preservation of Scientific Identification Evidence); Code, Election Law Article, § 5-305 (Petitions Challenging Residency of Candidate); Code, Election Law Article, § 6-209 (Judicial Review); Code, Election Law Article, § 6-210 (Schedule of

Process); Code, Election Law Article, § 9-209 (Judicial Review of Ballot);Code, Election Law Article, § 12-203 (Appeal Proceedings); Code, Election Law Article, § 16-1004 (Injunction to Prohibit Violation of § 16-201 of Election Law title); Code, Financial Institutions Article, § 9-712 (Pledge, transfer, or sale of assets); and Code, Public Utilities Article, § 7-528 (Effective Date of Qualified Rate Orders).

Source: This Rule is new.

Rule 8-306 was accompanied by the following Reporter's note:

> By request of the Chief Justice and the Clerk of the Supreme Court of Maryland, new Rule 8-306 is proposed to clarify the procedures that govern direct appeals to the Supreme Court of Maryland.

Judge Nazarian informed the Committee that proposed new Rule 8-306 addresses a request from Chief Justice Fader. The Chief Justice had asked the Committee to consider establishing a Rule governing direct appeals to the Supreme Court. Judge Nazarian explained that direct appeals are authorized by statute and are very rare, applying in certain election cases, DNA cases, and other specified areas of law. The new Rule sets forth the procedure for handling these cases in the Supreme Court.

There being no motion to amend or reject the proposed new Rule 8-306, it was approved as presented.

Judge Nazarian presented conforming amendments to Rule 8-301, Method of Securing Review – the Supreme Court; Rule 8-504, Contents of Brief; and Rule 8-523, Consideration on Brief, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 300 – OBTAINING REVIEW IN THE SUPREME COURT

AMEND Rule 8-301 by adding a reference to Rule 8-306 to section (b), by deleting "the other Rules of this Title applicable to appeals" from section (b), and by deleting the last sentence of section (b), as follows:

Rule 8-301. METHOD OF SECURING REVIEW – THE SUPREME COURT

(a) Generally

Appellate review by the Supreme Court may be obtained only:

(1) by direct appeal where allowed by law;

(2) pursuant to the Maryland Uniform Certification of Questions of Law Act;

(3) by writ of certiorari upon petition filed pursuant to Rules 8-302 and 8-303; or

(4) by writ of certiorari issued on the Court's own initiative.

Cross reference: For Code provisions governing direct appeals to the Supreme Court, see Code, Election Law Article, § 12-203 concerning appeals from circuit court

decisions regarding contested elections; Code, Election Law Article, § 16-1004 concerning appeals from circuit court decisions regarding injunctive relief sought for certain violations of election law; and Code, Financial Institutions Article, § 9-712(d)(2) concerning appeals from circuit court decisions approving transfer of assets of savings and loan associations. For the Maryland Uniform Certification of Questions of Law Act, see Code, Courts Article, §§ 12-601 through 12-613. For the authority of the Court to issue a writ of certiorari on its own initiative, see Code, Courts Article, § 12-201.

(b) Direct Appeals to Supreme Court

A direct appeal to the Supreme Court allowed by law is governed by ~~the other Rules of this Title applicable to appeals,~~ Rule 8-306, or by the law authorizing the direct appeal. In the event of a conflict, the law authorizing the direct appeal shall prevail. ~~Except as otherwise required by necessary implication, references in those Rules to the Appellate Court shall be regarded as references to the Supreme Court.~~

(c) Certification of Questions of Law

Certification of questions of law to the Supreme Court pursuant to the Maryland Uniform Certification of Questions of Law Act is governed by Rule 8-305.

Source: This Rule is in part derived from Rule 810 and in part new.

Rule 8-301 was accompanied by the following Reporter's note:

By request of the Chief Justice and the Clerk of the Supreme Court of Maryland, new Rule 8-306 was proposed to clarify the procedures that govern direct appeals to the Supreme Court of Maryland. Section (b) of this Rule is proposed to be amended to conform this Rule to the provisions of proposed new Rule 8-306.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE COURT OF APPEALS AND COURT OF SPECIAL APPEALS

Chapter 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-504 a conforming amendment referencing new Rule 8-306 is proposed to be added to subsection (a)(8) of this Rule, as follows:

Rule 8-504. CONTENTS OF BRIEF

(a) Contents

A brief shall comply with the requirements of Rule 8-112 and include the following items in the order listed:

(1) A table of contents and a table of citations of cases, constitutional provisions, statutes, ordinances, rules, and regulations, with cases alphabetically arranged. When a reported Maryland case is cited, the citation shall include a reference to the official Report.

Cross reference: Citation of unreported opinions is governed by Rule 1-104.

(2) A brief statement of the case, indicating the nature of the case, the course of the proceedings, and the disposition in the lower court, except that the appellee's brief shall not contain a statement of the case unless the appellee disagrees with the statement in the appellant's brief.

(3) A statement of the questions presented, separately numbered, indicating the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances of the case without unnecessary detail.

(4) A clear concise statement of the facts material to a determination of the questions presented, except that the appellee's brief shall contain a statement of only those additional facts necessary to correct or amplify the statement in the appellant's brief.

Reference shall be made to the pages of the record extract or appendix supporting the assertions. If pursuant to these rules or by leave of court a record extract is not filed, reference shall be made to the pages of the record or to the transcript of testimony as contained in the record.

Cross reference: Rule 8-111 (b).

(5) A concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument.

(6) Argument in support of the party's position on each issue.

(7) A short conclusion stating the precise relief sought.

(8) In the Appellate Court, or on direct appeal to the Supreme Court pursuant to Rule 8-306, a statement as to whether the party filing the brief requests oral argument.

(9) If the brief is prepared with proportionally spaced type, a Certification of Word Count and Compliance with Rule 8-112 substantially in the form set forth in subsection (a)(9)(A) of this Rule. The party or amicus curiae providing the certification may rely on the word count of the word-processing system used to prepare the brief.

(A) Form

A Certification of Word Count and Compliance with Rule 8-112 shall be substantially in the following form:

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

1. This brief contains _____ words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the requirements stated in Rule 8-112.

(10) The citation and verbatim text of all pertinent constitutional provisions, statutes, ordinances, rules,

and regulations except that the appellee's brief shall contain only those not included in the appellant's brief.

(11) Unless filed as a separate document, a certificate of service in compliance with Rule 1-323.

Cross reference: For requirements concerning the form of a brief, see Rule 8-112.

(b) Appendix

(1) Generally

Unless the material is included in the record extract pursuant to Rule 8-501, the appellant shall reproduce, as an appendix to the brief, the pertinent part of every ruling, opinion, or jury instruction of each lower court that deals with points raised by the appellant on appeal. If the appellee believes that the part reproduced by the appellant is inadequate, the appellee shall reproduce, as an appendix to the appellee's brief, any additional part of the instructions or opinion believed necessary by the appellee.

(2) Appeals in Juvenile and Criminal Prosecution or Conviction Cases

In an appeal from an order relating to a child entered by a court exercising juvenile jurisdiction or an appendix required to be filed under seal as defined in Rule 8-125 (b)(2), each appendix shall be filed as a separate volume and, unless otherwise ordered by the court, shall be filed under seal.

Cross reference: See Rules 8-121, 8-122, 8-123, and 8-124.

Committee note: Rule 8-501 (j) allows a party to include in an appendix to a brief any material that inadvertently was omitted from the record extract.

(c) Effect of Noncompliance

For noncompliance with this Rule, the appellate court may dismiss the appeal or make any other appropriate order with respect to the case, including an order that an improperly prepared brief be reproduced at the expense of the attorney for the party for whom the brief was filed.

Source: This Rule is derived as follows:

Section (a) is derived from former Rules 831 c and d and 1031 c 1 through 5 and d 1 through 5, with the exception of subsection (a)(6) which is derived from FRAP 28 (a)(5).

Section (b) is derived in part from Fed. R. App. P. 32 and former Rule 1031 c 6 and d 6, and is in part new.

Section (c) is derived from former Rules 831 g and 1031 f.

Rule 8-504 was accompanied by the following Reporter's note:

By request of the Chief Justice and the Clerk of the Supreme Court of Maryland, new Rule 8-306 has been proposed to clarify the procedures that govern direct appeals to the Supreme Court of Maryland. A conforming amendment to subsection (a)(8) referencing new Rule 8-306 is proposed.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-523 by adding a cross reference to new Rule 8-306 following subsection (a)(2), as follows:

RULE 8-523. CONSIDERATION ON BRIEF

(a) Submission on Brief by Party

(1) In the Appellate Court

In the Appellate Court, a party to a case the Court has scheduled for argument may submit for consideration on brief by filing a notice with the Clerk at least ten days prior to argument. Before filing a notice submitting on brief, a party shall attempt to ascertain whether any other parties to the appeal also will submit on brief and state the position of those other parties in the notice. The Court may require oral argument from either side or both sides, notwithstanding the submission on brief.

(2) In the Supreme Court

In the Supreme Court a party may not submit an appeal for consideration on brief except with permission of the Court. A request to submit on brief shall be made in writing at least 15 days before argument.

Cross reference: See Rule 8-306 (b)(2) for the procedure governing submission on brief in direct appeals to the Supreme Court of Maryland.

(b) Directed by the Appellate Court

(1) When Directed

In the Appellate Court, if all the judges of the panel to which an appeal has been assigned conclude, after the filing of the appellant's brief, that oral argument would not be of assistance to the Court because of the nature of the questions raised, the Court shall direct that the appeal be considered on brief without oral argument. The Clerk shall promptly mail notice to all parties that the Court has directed consideration of the appeal on brief.

(2) Request for Oral Argument

If pursuant to subsection (1) of this section the Court directs that an appeal be considered on brief without oral argument, any party may file a request for oral argument. The request shall be filed within ten days after the later of (A) the date the Clerk mails the notice required by subsection (1) of this section or (B) the date the appellee's brief is filed. If the Court grants the request for oral argument, the appeal shall be assigned for argument pursuant to Rule 8-521. Unless the Court specifies otherwise in its order

granting the request, oral argument shall be as provided in Rule 8-522.

Source: This Rule is derived from former Rules 846 d, 1047, and 1038.

Rule 8-523 was accompanied by the following Reporter's note:

By request of the Chief Justice and the Clerk of the Supreme Court of Maryland, new Rule 8-306 has been proposed to clarify the procedures that govern direct appeals to the Supreme Court of Maryland. A cross reference to proposed new Rule 8-306 is proposed to be added to this Rule following subsection (a)(2).

Judge Nazarian also presented a handout of Rule 16-406, Notice to the Appellate Court, for consideration.

HANDOUT

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 400 – CIRCUIT COURTS – CLERKS' OFFICES

AMEND Rule 16-406 by revising the title of the Rule, by adding new item (4) pertaining to a notice of appeal filed in the Supreme Court, by adding "or the Clerk of the Supreme Court, as appropriate" to the end of the first sentence, by adding "[i]n the Appellate Court" to the second sentence, and by making stylistic changes, as follows:

Rule 16-406. NOTICE TO THE APPELLATE COURT OR SUPREME COURT

Upon the filing of (1) a notice of appeal or application for leave to appeal to the Appellate Court, (2) a timely motion pursuant to Rule 2-532, 2-533, or 2-534 if filed after the filing of a notice of appeal, ~~or~~ (3) an order striking a notice of appeal pursuant to Rule 8-203, or (4) a notice of appeal, where permitted by law or Rule, to the Supreme Court, the clerk of the circuit court immediately shall send via the MDEC system a copy of the paper filed to the Clerk of the Appellate Court or the Clerk of the Supreme Court, as appropriate. ~~If~~ In the Appellate Court, if a notice of appeal is accompanied by a Civil Appeal Information Report required by Rule 8-205, the Information Report shall be transmitted ~~in the same manner as~~ with the notice of appeal.

Source: This Rule is derived from former Rule 16-309 (2016).

Rule 16-406 was accompanied by the following Reporter's note:

Amendments are proposed to conform Rule 16-406 to the provisions of proposed new Rule 8-306, which pertains to direct appeals to the Supreme Court of Maryland. New item (4) is proposed, which adds to the list notices of appeal in direct appeals to the Supreme Court. In addition, the Clerk of the Supreme Court is added to the portion of the first sentence that pertains to recipients of circuit court transmissions required by the Rule. Because the proposed revision expands the applicability of the Rule to the Supreme Court from just the Appellate Court, an amendment is added to the second sentence of the Rule to clarify that the provision pertaining to Information Reports remains applicable only to appeals in the Appellate Court.

In the last sentence, an amendment replacing "in the same manner as" with the word "with" is stylistic, only.

Judge Nazarian informed the Committee that the various conforming amendments, including one handout, require a motion to approve because they were not discussed by the Appellate Subcommittee. A motion to approve the amendments to Rule 8-301, Rule 8-504, Rule 8-523, and Rule 16-406 was made, seconded, and approved by consensus.

Agenda Item 7. Consideration of proposed amendments to Rule 8-503 (Style and Form of Briefs).

Judge Nazarian presented Rule 8-503, Style and Form of Briefs, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

Amend Rule 8-503 by deleting the provision in subsection (d)(4)(B) pertaining to word counts in amicus briefs, by adding new subsection (d)(5) pertaining to images included in briefs, and by adding a cross reference to subsection (e)(4) of Rule 8-511 following subsection (d)(4)(B) of this Rule, as follows:

RULE 8-503. STYLE AND FORM OF BRIEFS

(a) Numbering of Pages; Binding

The pages of a brief shall be consecutively numbered. The brief shall be securely bound along the left margin.

(b) References

References (1) to the record extract, regardless of whether the record extract is included as an attachment to the appellant's brief or filed as a separate volume, shall be indicated as (E .....), (2) to any appendix to appellant's brief shall be indicated as (App .....), (3) to an appendix to appellee's brief shall be indicated as (Apx .....), and (4) to an appendix to a reply brief shall be indicated as (Rep. App .....), and (5) to an appendix to a cross-appellant's reply brief shall be indicated as (Cr. Apx .....). If the case falls within an exception listed in Rule 8-501(b), references to the transcript of testimony contained in the record shall be indicated as (T .....) and other references to the record shall be indicated as (R .....).

(c) Covers

A brief shall have a back and cover of the following color:

(1) In the Appellate Court

(A) appellant's brief--yellow;

(B) appellee's brief--green;

(C) reply brief--light red;

(D) amicus curiae brief--gray.;

(E) cross-appellant's reply brief--purple;

(F) briefs of incarcerated or institutionalized parties who are self-represented--white.

(2) In the Supreme Court.

(A) appellant's brief--white;

(B) appellee's brief--blue;

(C) reply brief--tan;

(D) amicus curiae brief--gray;

(E) cross-appellant's reply brief--orange.

The cover page shall contain the name of the appellate court, the caption of the case on appeal, and the case number on appeal, as well as the name, address, telephone number, and e-mail address, if available, of at least one attorney for a party represented by an attorney or of the party if not represented by an attorney. If the appeal is from a decision of a trial court, the cover page shall also name the trial court and each judge of that court whose ruling is at issue in the appeal. The name typed or printed on the cover constitutes a signature for purposes of Rule 1-311.

(d) Length

(1) Principal Briefs of Parties

Except as otherwise provided in section (e) of this Rule or with permission of the Court, the principal brief of an appellant or appellee shall not exceed 9,100 words in the Appellate Court or 13,000 words in the Supreme Court. This limitation does not apply to (A) the table of contents and citations required by Rule 8-504 (a)(1); (B) the information required by Rule 8-504 (a)(10); or (C) a Certification of Word Count and Compliance with Rule 8-112 required by Rule 8-504 (a)(9).

(2) Motion to Dismiss

Except with permission of the Court, any portion of a party's brief pertaining to a motion to dismiss shall not exceed an additional 2,600 words in the Appellate Court or 6,500 words in the Supreme Court.

(3) Reply Brief

Any reply brief shall not exceed 3,900 words in the Appellate Court or 6,500 words in the Supreme Court.

(4) Amicus Curiae Brief

Except with the permission of the Court, an amicus curiae brief:

(A) if filed in the Appellate Court, shall not exceed 3,900 words; and

(B) if filed in the Supreme Court, shall not exceed 6,500 words~~, except that an amicus curiae brief~~

~~supporting or opposing a petition for certiorari or other extraordinary writ shall not exceed 3,900 words~~.

Cross reference: see Rule 8-511 (e)(4) for the word limit that applies to an amicus curiae brief supporting or opposing a petition for certiorari or other extraordinary writ.

(5) Use of Images

Images should only be used in an appellate brief for demonstrative purposes and not in such a manner so as to avoid the word count limits contained in Rule 8-112.

(e) Briefs of Cross-Appellant and Cross-Appellee

In cases involving cross-appeals, the principal brief filed by the appellee/cross-appellant shall not exceed 13,000 words. The reply brief filed by the appellant/cross-appellee shall not exceed (1) 13,000 words in the Supreme Court or (2) in the Appellate Court (A) 9,100 words if no reply to the appellee's answer is included or (B) 13,000 words if a reply is included. The reply brief filed by the cross-appellant shall not exceed 3,900 words in the Appellate Court or 6,500 words in the Supreme Court.

(f) Incorporation by Reference

In a case involving more than one appellant or appellee, any appellant or appellee may adopt by reference any part of the brief of another.

(g) Effect of Noncompliance

For noncompliance with this Rule, the appellate court may dismiss the appeal or make any other appropriate order with respect to the case, including an order that an improperly prepared brief be reproduced at the expense of the attorney for the party for whom the brief was filed.

Source: This Rule is derived as follows:

Section (a) is derived from former Rules 831 a and 1031 a.

Section (b) is derived from former Rules 831 a and 1031 a.

Section (c) is derived from former Rules 831 a and 1031 a.

Section (d) is in part derived from Rule 831 b and 1031 b and in part new.

Section (e) is new.

Section (f) is derived from Fed. R. App. P. 28(i).

Section (g) is derived from former Rules 831 g and 1031 f.

Rule 8-503 was accompanied by the following Reporter's note:

Subsection (d)(4)(B) of Rule 8-503 is proposed to be amended to correct an inconsistency between the word count provisions of this subsection (3,900 words) and the word count provisions in subsection (e)(4) of Rule 8-511 (1,900 words). This is accomplished by deleting the provision pertaining to word counts in subsection (d)(4)(B) of this Rule and by adding a cross reference to subsection (e)(4) of Rule 8-511 following subsection (d)(4)(B) of this Rule.

New subsection (d)(5) is proposed to provide guidance to the practitioner and the appellate bench concerning the use of images in appellate briefs. An image may be used in an appellate brief for demonstrative purposes but may be used in such a manner as to attempt to circumvent the word count restrictions in Rule 8-112. The subcommittee considered whether words contained in an image should be included in the word count limit, but ultimately settled on the suggested language in proposed new subsection (d)(5) because current limits in technology do not permit words contained in images to be counted in an automated fashion as word counts are in word-processed documents. As a result of this, the subcommittee chose to emphasize the intended use of the image and not merely the word count.

Judge Nazarian said that the amendments to Rule 8-503 resolve a conflict in the Rules governing amicus briefs and clarify the applicability of the Rule to images used within appellate briefs. He explained that the Committee recently consolidated the amicus brief provisions in Rule 8-511 but neglected to conform the word limit provision in Rule 8-503 (d)(4)(B). The proposed amendments delete the word count provision for amicus briefs supporting or opposing a petition for certiorari or extraordinary relief from Rule 8-503 (d)(4)(B). A cross reference to Rule 8-511 (e)(4), which contains the governing provision for these briefs, is added following the subsection.

Judge Nazarian said that new subsection (d)(5) is recommended by the Appellate Subcommittee to clarify the applicability of the Rule's word count provisions to images and screenshots containing text, which some attorneys insert into their briefs. He said that appellate judges have noticed an issue with attorneys using screenshots containing text in a clear attempt to circumvent the word limits for briefs. Parties are permitted to rely on the word count of a word processor to verify word counts, but these images are excluded from those counts. Judge Nazarian said that, in one egregious case in the Appellate Court, there was so much text in images within a brief that there was a 2,000-word difference when that text was

counted. He noted that images can serve a demonstrative purpose in a brief, but that they should not be used to circumvent word count Rules.

Judge Ketterman pointed out that the second paragraph of the Reporter's note is missing the word "not" in the phrase "may *not* be used in such a manner." The Deputy Reporter said that will be corrected.

The Reporter commented that new subsection (d)(5) uses "should not," which goes against the style conventions of the Rules. She explained that the Rules never use "should" in the body of a Rule; they use "shall." A motion to change "should" to "shall" in subsection (d)(5) was made, seconded, and approved by consensus.

There being no further motion to amend or reject Rule 8-503, the Rule was approved as amended.

Agenda Item 8. Consideration of proposed amendments to Rule 8-502 (Filing of Briefs), Rule 20-403 (Record Extract or Appendix), and Rule 20-404 (Briefs).

Judge Nazarian presented Rule 8-502, Filing of Briefs, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 8 – APPELLATE REVIEW IN THE SUPREME COURT AND THE APPELLATE COURT

CHAPTER 500 – RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-502 by adding a reference to subsection (a)(9) to the beginning of subsection (c)(1), by replacing "eight" with "five" in subsection (c)(1), by deleting "eight copies of each" from subsection (c)(1), by deleting the last sentence in subsection (c)(1), by replacing "two copies" with "one copy" in subsection (c)(3), and by making stylistic changes as follows:

Rule 8-502. FILING OF BRIEFS

. . .

(c) Filing and Service

(1) Filing in Appellate Court

Unless filing an informal brief pursuant to subsection (a)(9) of this Rule, ~~In~~ in an appeal to the Appellate Court, ~~eight~~ five copies of each brief and ~~eight copies of each~~ record extract shall be filed, unless otherwise ordered by the court. ~~Unless filing an informal brief pursuant to subsection (a)(9) of this Rule, incarcerated or institutionalized parties who are self represented shall file eight copies of each brief and eight copies of each record extract.~~

(2) Filing in Supreme Court

In the Supreme Court, eight copies of each brief and record extract shall be filed, unless otherwise ordered by the court.

(3) Service on Parties

~~Two copies~~ One copy of each brief and record extract shall be served on each party pursuant to Rule 1-321.

. . .

> Source note: This Rule is derived from former Rules 1030 and 830 with the exception of subsection (a)(8) which is derived from the last sentence of former Rule Z56, subsection (b)(2) which is in part derived from Rule 833 and in part new, and section (e) which is derived from Fed. R. App. P. 28(j) and the Fourth Circuit's Rule 28.

Rule 8-502 was accompanied by the following Reporter's note:

> The Appellate Subcommittee proposes amendments to section (c) of this Rule in order to reduce the number of paper copies filed in appellate actions in the Appellate Court of Maryland. In addition, the number of paper copies to be served on opposing counsel is proposed to be reduced from two to one. This is anticipated to reduce the cost of an appeal. Conforming amendments are also proposed to Rules 20-403 and 20-404.

Judge Nazarian explained that the proposed amendments to Rule 8-502 reduce the number of paper copies of the brief and record extract required to be filed in the Appellate Court and served on opposing parties. Section (c) is divided into three subsections, with subsection (c)(1) amended to reduce the number of copies filed with the Appellate Court from eight to five. Eight copies of the brief and record extract are still required to be filed in the Supreme Court pursuant to subsection (c)(2). Subsection (c)(3) requires only one copy to be served on each party.

Mr. Zavin commented that parties often agree to waive serving copies of the brief and record extract on each other. He moved to add "unless otherwise agreed by the parties" to subsection (c)(3) to accommodate this practice. The motion was seconded and approved by consensus.

There being no further motion to amend or reject the proposed amendments to Rule 8-502, the Rule was approved as amended.

Judge Nazarian presented conforming amendments to Rule 20-403, Record Extract or Appendix, and Rule 20-404, Briefs, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 – APPELLATE REVIEW

AMEND Rule 20-403 by deleting "eight" from section (b), by adding a provision to section (b) of this Rule referencing section (c) of Rule 8-502 for the number of paper copies to be filed, by deleting "two" from section (c), and by adding a provision to section (c) of this Rule referencing section (c) of Rule 8-502 for the number of paper copies to be filed, as follows:

RULE 20-403. RECORD EXTRACT OR APPENDIX

(a) Electronic Filing Required

The registered user responsible for the preparation of a record extract or appendix shall cause

all portions of the document to be filed electronically unless otherwise ordered by the court. For a record extract in excess of 300 pages, the extract shall be filed in separate volumes not exceeding 300 pages each.

(b) Paper Copies Required from Persons Who File Electronically

In addition to the electronic filing, the party responsible for the preparation and filing of the record extract or appendix shall file ~~eight~~ the number of copies of the document in paper form required in section (c) of Rule 8-502.

(c) Service

In addition to electronic service, the party responsible for the preparation and filing of the record extract or appendix shall serve ~~two~~ the number of paper copies of the document required in section (c) of Rule 8-502 on each party pursuant to the provisions of Rule 1-321.

(d) Record Extract or Appendix Filed by a Person Other than a Registered User

A person who is not required to file electronically and files a record extract or appendix in paper form shall file and serve the number of paper copies required by the Rules in Title 8 of these Rules.

Source: This Rule is new.

Rule 20-403 was accompanied by the following Reporter's note:

The Appellate Subcommittee proposes amendments to section (b) and section (c) of this Rule in order to reduce the number of paper copies filed in appellate actions in this State. This is anticipated to reduce the cost of an appeal. The Subcommittee opted to replace the provisions in section (b) and section (c) that stated the actual number of copies required with a reference to Rule 8-502 (c). This was done, in part, to continue the gradual migration away from Title 20

provisions that would be more properly located in other Titles of the Rules in the wake of all jurisdictions in the State having switched to MDEC.

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 400 – APPELLATE REVIEW

AMEND Rule 20-404, by deleting "eight copies of the brief in paper form" from section (b), by adding a provision to section (b) of this Rule referencing section (c) of Rule 8-502 for the number of paper copies to be filed, by deleting "two" from section (c), and by adding a provision to section (c) of this Rule referencing section (c) of Rule 8-502 for the number of paper copies to be filed, as follows:

RULE 20-404. BRIEFS

(a) Electronic Filing Required

All briefs filed by a registered user shall be filed electronically, unless otherwise ordered by the court.

(b) Paper Copies Required from Persons Who File Electronically

In addition to the electronic filing, the party filing a brief shall file ~~eight copies of the brief in paper form~~ the number of paper copies specified in section (c) of Rule 8-502.

(c) Service

In addition to electronic service, the party filing a brief shall serve ~~two~~ the number of paper copies of the brief required by section (c) of Rule 8-502 on each party pursuant to the provisions of Rule 1-321.

(d) Brief Filed by a Person Other than a Registered User

A person who is not required to file electronically and files a brief in paper form shall file and serve the number of paper copies required by Rule 8-502.

Source: This Rule is new.

Rule 20-404 was accompanied by the following Reporter's note:

The Appellate Subcommittee proposes amendments to section (b) and section (c) of this Rule in order to reduce the number of paper copies filed in appellate actions in this State. This is anticipated to reduce the cost of an appeal. The Subcommittee opted to replace the provisions in section (b) and section (c) that stated the actual amount of copies required with a reference to Rule 8-502 (c). This was done, in part, to continue the gradual migration away from Title 20 provisions that would be more properly located in other Titles of the Rules in the wake of all jurisdictions in the State having switched to MDEC.

Judge Nazarian said that the proposed amendments to Rules 20-403 and 20-404 conform the Rules with the changes made to Rule 8-502.

There being no motion to amend or reject the proposed amendments to Rule 20-403 and Rule 20-404, they were approved as presented.

Agenda Item 9. Consideration of proposed new Rule 1-315 (Request for Recusal) and conforming amendments to Rule 3-505 (Disqualification of Judge).

Mr. Marcus presented Rule 1-315, Request for Recusal, and a conforming amendment to Rule 3-505, Disqualification of Judge, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 300 – GENERAL PROVISIONS

ADD new Rule 1-315, as follows:

Rule 1-315. REQUEST FOR RECUSAL

(a) Request

A party that believes that a fair and impartial proceeding cannot be had before the judge or judicial appointee to whom the proceeding has been assigned may request that judge or judicial appointee to recuse.

Cross reference: For the obligation of judges to recuse, see Md. Const. Art. IV, § 7 and Rule 18-102.11. For the obligation of judicial appointees to recuse, see Rule 18-202.11.

(b) Reassignment

If the judge or judicial appointee grants the request, the proceeding shall be reassigned in the court where the action is pending in accordance with the assignment policies and procedures of that court.

Cross reference: For recusal and reassignment in District Court proceedings, see Rules 3-505 and 4-254 (a). For assignment of proceedings in the circuit courts, see Rule 16-302. For assignment of proceedings in the courts of this state, generally, see the Rules in Title 16, Chapter 100.

Source: This Rule is derived in part from Rule 3-505 (a) and is in part new.

Rule 1-315 was accompanied by the following Reporter's note:

> Proposed new Rule 1-315 implements a recommendation by the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee ("the EJC Report").
>
> The EJC Report briefly discusses the issue of judicial recusal, which is addressed in detail in the Code of Judicial Conduct. Rule 18-102.11 provides that judges must recuse themselves under certain circumstances and suggests in its comments that, "A judge should disclose on the record information that the judge believes the parties or their attorneys might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification."
>
> The EJC Report noted that Rule 3-505 is the only Rule that discusses the procedure for requesting recusal and the Report proposes that the Committee "should consider moving Rule 3-505 to Title 1 of the rules and reword it to make clear that it applies to all judges in all courts."
>
> Proposed new Rule 1-315 is derived from Rule 3-505 (a). Section (a) contains the provision that a party may request a judge or judicial appointee to recuse of the party believes a fair and impartial trial cannot be had before that judge or judicial appointee. A cross reference to the Maryland Constitution and the Title 18 Rules governing disqualification of judges and judicial appointees follows section (a).
>
> Rather than set forth the administrative procedure for reassignment in each court (e.g., by the administrative judge or that judge's designee in the District and circuit court, by the Chief Judge of the Appellate Court), section (b) provides that reassignment shall be done in accordance with the policies of the court. The various courts in the state have established methods of dealing with reassignment when there is a recusal or disqualification and there is no indication that those procedures are insufficient. Because the intent of the

Rule is to highlight for the public the option of requesting recusal, section (b) simply refers to the assignment policies and procedures of the court.

MARYLAND RULES OF PROCEDURE

TITLE 3 – CIVIL PROCEDURE – DISTRICT COURT

CHAPTER 500 – TRIAL

AMEND Rule 3-505 by adding a reference to Rule 1-315 in section (a), as follows:

Rule 3-505. DISQUALIFICATION OF JUDGE

(a) Request for Recusal

A party who believes that a fair and impartial trial cannot be had before the judge to whom the action has been assigned may request ~~that judge's~~ recusal of that judge pursuant to Rule 1-315. If the judge grants the request, the action shall be reassigned by the administrative judge of the district or a person designated by the administrative judge.

(b) Motion and Affidavit

Without a request for recusal, or upon denial of a request by the assigned judge, a party may at any time before trial file a motion for reassignment with the administrative judge of the district or, if the assigned judge is the administrative judge of the district, with the Chief Judge of the District Court. The motion shall be accompanied by an affidavit alleging that the party cannot receive a fair and impartial trial before the assigned judge and setting forth reasonable grounds for the allegation. If the motion is granted, the action shall be reassigned.

(c) Further Reassignment by Another Party

When an action is reassigned upon motion of one party, any other party may obtain further reassignment pursuant to this Rule.

Source: This Rule is derived from former M.D.R. 542.

Rule 3-505 was accompanied by the following Reporter's note:

> Rule 3-505 (a) is proposed to be amended to refer to a request to recuse pursuant to proposed new Rule 1-315.

Mr. Marcus informed the Committee that proposed new Rule 1-315 addresses an anomaly in the Rules: Rule 3-505, a District Court Rule, is the only Rule that addresses requests for recusal of judges. Article IV, Section 7 of the Maryland Constitution prohibits judges from presiding over cases where they are "interested" or "where either of the parties may be connected with [the judge], by affinity or consanguinity, within such degrees as now are, or may hereafter be prescribed by Law, or where he shall have been of counsel in the case." Title 18 contains provisions governing the duty of judges and judicial appointees to recuse if they become aware of a conflict.

Mr. Marcus said that the Equal Justice Committee Rules Review Subcommittee recommended the creation of a Title 1 Rule, which would apply to all courts, alerting parties of the ability to ask a judge to recuse from a case. Mr. Marcus said that the Attorneys and Judges Subcommittee considered the option of placing a recusal provision in each Title, but chose to

recommend a new Title 1 Rule. Proposed new Rule 1-315 includes a cross reference to the constitutional provision and the two Title 18 Rules. Ms. Meredith pointed out a typo in the Reporter's note, which will be corrected.

Mr. Marcus said that Rule 3-505 has a conforming amendment to refer to recusal pursuant to the new Rule. Mr. Laws asked why there is still a recusal provision in Rule 3-505 if the new Rule is meant to apply to all courts. The Reporter replied that the District Court is unique and staff opted not to delete the provision from Rule 3-505, which has specific references to reassignment by the Administrative Judge. Instead, Rule 3-505 is amended to refer to the new Rule for the request for recusal but maintains the provisions containing the administrative process for reassignment. Assistant Reporter Cobun commented that she was unable to find anything in the history of the Rules explaining why the recusal provision was added only to Rule 3-505.

There being no motion to amend or reject proposed new Rule 1-315 and the amendments to Rule 3-505, they were approved as presented.

Agenda Item 10. Consideration of proposed amendments to Rule 18-407 (Confidentiality), Rule 18-434 (Hearing on Cases), Rule 18-436 (Consent to Disposition), and Rule 18-441 (Cases of Alleged or Apparent Disability or Impairment).

Mr. Marcus presented Rule 18-407, Confidentiality, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 – JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 1 – GENERAL PROVISIONS

AMEND Rule 18-407 by adding the words "investigations and" to subsection (a)(2), by adding a reference to Rules 18-422, 18-423, 18-424, and 18-433 to subsection (a)(2), by adding new subsection (b)(3)(C) referencing Rules 18-441 and 18-442, and by making stylistic changes as follows:

Rule 18-407. CONFIDENTIALITY

(a) Generally

Except as otherwise expressly provided by these Rules, proceedings and information relating to a complaint or charges shall be open to the public or confidential and not open to the public, as follows:

(1) Judge's Address and Identifying Information

The judge's current home address and personal identifying information not otherwise public shall remain confidential at all stages of proceedings under these Rules. Any other address of record shall be open to the public if the charges and proceedings are open to the public.

(2) Complaints; Investigations; Disposition Without Charges;

Discovery

Except as otherwise required by Rules 18-425, 18-426, and 18-427, all investigations and

proceedings under Rules 18-421, 18-422, 18-423, 18-424, 18-428, 18-433 and 18-441 shall be confidential.

(3) Upon Resignation, Voluntary Retirement, Filing of a Response, or Expiration of the Time for Filing a Response

Charges alleging sanctionable conduct and all subsequent proceedings before the Commission on those charges shall be open to the public upon the first to occur of (A) the resignation or voluntary retirement of the judge, (B) the filing of a response by the judge to the charges, or (C) expiration of the time for filing a response. Charges alleging disability or impairment and all proceedings before the Commission on them shall be confidential.

(4) Work Product, Proceedings, and Deliberations

Except to the extent admitted into evidence before the Commission, the following matters shall be confidential: (A) Investigative Counsel's work product and, subject to Rules 18-422 (b)(3)(A), 18-424 (d)(3) and 18-433 (c), reports prepared by Investigative Counsel not submitted to the Commission; (B) proceedings before the Board, including any peer review proceeding; (C) any materials reviewed by the Board during its proceedings that were not submitted to the Commission; (D) deliberations of the Board and Commission; and (E) records of the Board's and Commission's deliberations.

(5) Proceedings in the Supreme Court

Unless otherwise ordered by the Supreme Court, the record of Commission proceedings filed with that Court and any proceedings before that Court on charges of sanctionable conduct shall be open to the public. The record of Commission proceedings filed with that Court and any proceedings before that Court on charges of disability or impairment shall be confidential. An order of retirement by the Court shall be public.

(b) Permitted Release of Information by Commission

(1) Written Waiver

The Commission may release confidential information upon receipt of a written waiver by the subject judge, except that those matters listed in subsection (a)(4) shall remain confidential notwithstanding a waiver by the judge.

(2) Explanatory Statement

The Commission may issue a brief explanatory statement necessary to correct any inaccurate or misleading information from any source about the Commission's process or procedures.

(3) To ~~Chief Justice of~~ the Supreme Court

(A) Upon request by the Chief Justice of the Supreme Court, the Commission shall disclose to the Chief Justice:

(i) whether a complaint is pending against the judge who is the subject of the request; and

(ii) the disposition of each complaint that has been filed against the judge within the preceding five years.

(B) The Chief Justice may disclose this information to the incumbent justices of the Supreme Court in connection with the exercise of any administrative matter over which the Court has jurisdiction. Each justice who receives information pursuant to subsection (b)(3) of this Rule shall maintain the applicable level of confidentiality of the information otherwise required by the Rules in this Chapter.

(C) The Commission shall provide information to the Supreme Court pursuant to Rule 18-441 (e) and Rule 18-442.

(4) Information Involving Possible Criminal Activity, Health, Safety, and Certain Ethical Concerns

The Commission may provide (A) information involving possible criminal activity, including information requested by subpoena from a grand jury, to applicable law enforcement and prosecuting officials, (B) information regarding health and safety concerns to applicable health agencies and law enforcement officials, and to any individual who is the subject of or may be affected by any such health or

safety concern, and (C) if the judge resigns or voluntarily retires prior to the disposition of the matter involving the subject judge, information to Bar Counsel pertaining to conduct that may constitute a violation of the Maryland Attorneys' Rules of Professional Conduct that raises a substantial question as to the judge's honesty, trustworthiness, or fitness as an attorney in other respects.

Committee note: Nothing in this Rule prohibits the Commission from reporting to Bar Counsel potential professional misconduct on the part of attorneys that is discovered during the course of an investigation conducted by the Commission. Subject to the assertion of a lawful privilege, filing objections, or motions for protective order or to quash, the Commission shall provide responsive information pursuant to a subpoena from a grand jury to the appropriate law enforcement and prosecutorial officials.

Cross reference: See Rule 19-308.3, concerning an attorney's duty to report violations of the Maryland Attorney's Rules of Professional conduct.

(5) Finding of Disability or Impairment

The Commission may disclose any final disposition imposed against a judge related to charges of disability or impairment to the applicable administrative judge or Chief Justice or Judge of the disabled or impaired judge's court or, if the disabled or impaired judge is a recalled senior judge, to the Supreme Court.

(6) Nominations; Appointments; Approvals

(A) Permitted Disclosures

Upon a written application made by a judicial nominating commission, a Bar Admission authority, the President of the United States, the Governor of a state, territory, district, or possession of the United States, or a committee of the General Assembly of Maryland or of the United States Senate which asserts that the applicant is considering the nomination, appointment, confirmation, or approval of a judge or former judge, the Commission shall disclose to the applicant:

(i) Information about any completed proceedings that did not result either in dismissal of the complaint or in a conditional diversion agreement that has been satisfied; and

(ii) Whether a complaint against the judge is pending.

Committee note: A reprimand issued by the Commission is disclosed under subsection (b)(6)(A)(i). An unsatisfied conditional diversion agreement is disclosed under subsection (b)(6)(A)(ii) as a pending complaint against the judge.

(B) Restrictions

Unless the judge waives the restrictions set forth in this subsection, when the Commission furnishes information to an applicant under this section, the Commission shall furnish only one copy of the material, which shall be furnished under seal. As a condition to receiving the material, the applicant shall agree that (i) the applicant will not copy the material or permit it to be copied; (ii) when inspection of the material has been completed, the applicant will seal and return the material to the Commission; and (iii) the applicant will not disclose the contents of the material or any information contained in it to anyone other than another member of the applicant.

(C) Copy to Judge

The Commission shall send the judge a copy of all documents disclosed under this subsection.

Cross reference: For the powers of the Commission in an investigation or proceeding under Md. Const., Art. IV, § 4B, see Code, Courts Article, §§ 13-401 through 13-403.

(c) Statistical or Annual Report

The Commission may include in a publicly available statistical or annual report the number of complaints received, investigations undertaken, and dispositions made within each category of disposition during a fiscal or calendar year, provided that, if a disposition has not been made public, the identity of

the judge involved is not disclosed or readily discernible.

Source: This Rule is in part derived from former Rule 18-409 (2018) and is in part new.

Rule 18-407 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes amendments to Rule 18-407 to clarify that all investigations, as well as proceedings are subject to the confidentiality provisions set forth in section (a). References to Rules 18-422, 18-423, 18-424, and 18-433 are added to subsection (a)(2) to clarify that the confidentiality provisions hold in those Rules. In addition, new subsection (b)(3)(C) is added to clarify that the Commission will provide information to the Supreme Court pursuant to Rules 18-441 and 18-442.

Mr. Marcus said that representatives from the Commission on Judicial Disabilities were present to provide background on the Rules in Agenda Item 10. Investigative Counsel Tanya Bernstein informed the Committee that the proposed amendments to Rule 18-407 (a)(2) clarify that all stages of the Commission's investigation prior to the filing of public charges are confidential. Subsection (b)(3) is also updated to clarify that the Commission will provide information to the Supreme Court as required by the Rules.

There being no motion to amend or reject the proposed amendments to Rule 18-407, the Rule was approved as presented.

Mr. Marcus presented Rule 18-434, Hearing on Case, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 – JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 5 –FILING OF CHARGES; PROCEEDINGS BEFORE COMMISSION

AMEND Rule 18-434 by adding new section (f) pertaining to the submission of exhibits to the Commission, and by making stylistic changes, as follows:

Rule 18-434. HEARING ON CASES

(a) Bifurcation

If the judge has been charged with both sanctionable conduct and disability or impairment, the hearing shall be bifurcated and the hearing on charges of disability or impairment shall proceed first.

(b) Subpoenas

Upon application by Investigative Counsel or the judge, the Commission shall issue subpoenas to compel the attendance of witnesses and the production of documents or other tangible things at the hearing in accordance with Rule 18-409.1(b).

(c) Non-Response or Absence of Judge

The Commission may proceed with the hearing whether or not the judge has filed a response or appears at the hearing.

(d) Motion for Recusal

Except for good cause shown, a motion for recusal of a member of the Commission shall be filed at least 30 days before the hearing. The motion shall specify with particularity the reasons for recusal.

(e) Role of Investigative Counsel

At the hearing, Investigative Counsel shall present evidence in support of the charges. If Investigative Counsel and any assistants appointed pursuant to Rule 18-411(e)(3) are recused from a proceeding before the Commission, the Commission shall appoint an attorney to handle the proceeding.

(f) Exhibits

(1) Definitions

(A) Redact

"Redact" means to exclude information from a document accessible to the public .

(B) Restricted Information

"Restricted information" means information that, by Rule, other law, or order, is not subject to public inspection or is prohibited from being included in a Commission or court record.

(2) Pre-Filing of Documentary Exhibits

Unless otherwise directed by the Commission, proposed exhibits shall be indexed, pre-numbered, and pre-filed electronically with the Commission through Executive Counsel at least five days prior to the first date of the scheduled hearing and served on the other parties.

(3) Exhibits Containing Restricted Information

Each exhibit filed under this Rule that contains restricted information, shall state prominently on the first page that it contains restricted information. In addition, if an exhibit contains restricted information, the filing party shall file both an unredacted version of the exhibit noting prominently in the title of the version that the version is "unredacted" and a redacted version of the exhibit excluding the restricted information. Exhibits containing restricted information are not otherwise disclosable to the public

except as determined by the Chair of the Commission or by order of the Supreme Court.

(4) Failure to Comply

If a filing party files exhibits that are not in compliance with this section, the Commission shall reject the submission without prejudice to refile compliant exhibits promptly.

~~(f)~~(g) Evidence

Title 5 of the Maryland Rules shall generally apply.

Committee note: Rulings on evidence shall be made by the Chair, who may take into consideration any views expressed by other members of the Commission. Whether expert testimony may be allowed in a Commission hearing is governed by Rules 5-701 through 5-706, with the Commission exercising the authority of a court.

~~(g)~~(h) Recording

The proceeding shall be recorded verbatim, either by electronic means or stenographically, as directed by the Chair of the Commission. Except as provided in Rule 18-435 (e), the Commission is not required to have a transcript prepared. The judge, at the judge's expense, may have the record of the proceeding transcribed.

~~(h)~~(i) Proposed Findings

The Chair of the Commission may invite the judge and Investigative Counsel to submit proposed findings of fact and conclusions of law within the time period set by the Chair.

Source: This Rule is new.

Rule 18-434 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes new section (f) be added to this Rule to clarify the procedures to be followed when exhibits are submitted to the Commission prior to a hearing. These procedures are substantially similar to the provisions contained in Rule 20-201.1.

Subsection (f)(1) contains definitions for "redact" and "restricted information" that apply to section (f). These definitions are based on the definitions in Rule 20-101.

Subsection (f)(2) requires that pre-marked exhibits be filed with the Commission at least 5 days prior to a hearing.

Subsection (f)(3) covers the procedure to be followed in the event that any exhibits to be filed contain restricted information. This is based on the provisions in Rule 20-201.1.

Subsection (f)(4) permits the Commission to reject an exhibit that does not comply with the provisions of section (f), without prejudice and with leave to re-file promptly.

Kendra Jolivet, Executive Counsel for the Commission, informed the Committee that proposed new section (f) of Rule 18-434 governs submission of exhibits. She explained that when cases involve public charges and a hearing before the Commission, the parties submit their exhibits to her to manage at the hearing. At the conclusion of the hearing, she compiles and transmits the record of the proceedings to the Supreme Court on behalf of the Commission. This record is filed in MDEC, and she must comply with Rule 20-201.1 (Restricted Information).

Ms. Jolivet explained that this process places a burden on the Commission because restricted information in filings made by both Investigative Counsel and the respondent judge must be redacted. The Commission requested that, if documents submitted during proceedings are not under seal and will become part of the record later filed in MDEC pursuant to Rule 20-201, parties should be required to comply with Rule 20-201.1. Ms. Jolivet informed the Committee that the Commission requested a Rule change that requires compliance with Rule 20-201.1. The proposed amendment being discussed today largely takes the provisions of Rule 20-201.1 and places them in the Rule in new section (f).

Mr. Marcus said that the Committee received comments from the Maryland Circuit Judges Association (Appendix 1) and Montgomery County Circuit Judge John Maloney (Appendix 2) expressing concern with the proposal as written. Mr. Marcus said that he called Kevin Collins, counsel for the Circuit Judges Association, who was unable to attend the meeting. Mr. Marcus said that the judges want more clarity on how exhibits are to be filed with Executive Counsel. He added that Mr. Collins said that the Association would be satisfied with a reference to compliance with Rule 20-201.1. Assistant Reporter Cobun commented that the Attorneys and Judges Subcommittee discussed this option but was reluctant to require compliance

with an MDEC filing Rule for documents that are not initially filed into MDEC. Ms. Jolivet pointed out that she files in MDEC later when the case is transmitted to the Supreme Court. The Deputy Reporter said that the proposed new section (f) was modeled after the requirements of Rule 20-201.1 but does not require compliance with a Title 20 Rule when the filings are not occurring pursuant to Title 20.

The Chair asked the Commission representatives whether this issue is an emergency or if it can wait until the next Rules Committee meeting to allow the judges to be heard. Ms. Jolivet replied that it is important when there are public proceedings. Judge Nazarian asked whether there were any pending public proceedings at this time. Ms. Bernstein replied that there are not. Judge Nazarian moved to table consideration of Rule 18-434 until the next meeting of the Rules Committee for further discussion. The motion was seconded and approved by consensus.

Mr. Marcus presented Rule 18-436, Consent to Disposition, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 – JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 5 –FILING OF CHARGES; PROCEEDINGS BEFORE COMMISSION

AMEND Rule 18-436 by adding new subsection (a)(2) clarifying that the Commission must approve consent dispositions; by adding the word "proposed" to subsection (b)(1), by adding a provision to subsection (b)(1)(A) to clarify that the Commission must also approve the proposed consent disposition; and by making stylistic changes, as follows:

Rule 18-436. CONSENT TO DISPOSITION

(a) Generally

(1) After Completion of Investigation

At any time after completion of an investigation by Investigative Counsel, a judge may consent to:

~~(1)~~(A) a conditional diversion agreement pursuant to Rule 18-426;

~~(2)~~(B) a reprimand pursuant to 18-427;

~~(3)~~(C) suspension or removal from judicial office; or

~~(4)~~(D) retirement from judicial office pursuant to Rule 18-428.

(2) Commission Approval Required

All proposed consent dispositions are subject to the approval of the Commission.

(b) Form of Consent

(1) Generally

A proposed consent shall be in the form of a written agreement between (A) the judge and Investigative Counsel, with the approval of the Commission, if charges were not yet directed to be filed, or (B) the judge and the Commission if charges have been directed to be filed.

(2) If Charges Directed to Be Filed

If the agreement is executed after charges have been directed to be filed, it shall contain:

(A) an admission by the judge to all or part of the charges or an acknowledgment that there is sufficient

evidence from which the Commission could find all or part of the charges sustained;

(B) as to the charges admitted, an admission by the judge to the truth of all facts constituting the sanctionable conduct, impairment, or disability as set forth in the agreement;

(C) an agreement by the judge to take any corrective or remedial action provided for in the agreement;

(D) a consent by the judge to the stated sanction;

(E) a statement that the consent is freely and voluntarily given; and

(F) a waiver by the judge of the right to further proceedings before the Commission and, unless the Court orders otherwise, to participate in subsequent proceedings before the Supreme Court.

Committee note: If the agreement is entered into after charges were filed and the agreed disposition is one that only the Supreme Court can make, the agreement must be submitted to the Court for approval under section (c) of this Rule, under that section, the waiver is deemed withdrawn if the Court rejects the agreement. It is possible that the Court will want to have argument on the question of whether to approve the agreement, and, if it does so, the waiver should not prevent the judge from participating in that argument.

(3) If Charges Not Yet Directed to Be Filed

Unless the consent is to a dismissal accompanied by a letter of cautionary advice or a reprimand, if the agreement is executed before charges have been directed to be filed, it shall contain a statement by the Commission of the charges that would have been filed but for the agreement and the consents and admissions required in subsection (b)(2) of this Rule shall relate to that statement.

(c) Submission to Supreme Court

An agreement for a disposition that can be made only by the Supreme Court shall be submitted to the Court, which shall either approve or reject the agreement. Until approved by the Supreme Court, the

agreement is confidential and privileged. If the Court approves the agreement and enters the stated disposition, the Commission shall notify the complainant and the agreement shall be made public, except that any portion of the agreement and stated disposition that relates to charges of disability or impairment shall be confidential. If the Court rejects the stated disposition, the proceeding shall resume as if no consent had been given, and all admissions and waivers contained in the agreement are withdrawn and may not be admitted into evidence.

Committee note: Because the Commission has the authority, on its own, to dismiss a complaint accompanied by a letter of cautionary advice, to issue a reprimand, and to enter into a conditional diversion agreement, a consent to those dispositions need not be submitted to the Supreme Court for approval. See, however, Rule 18-407 (b)(3).

Source: This Rule is derived in part from former Rule 18-407(l) (2018) and is in part new.

Rule 18-436 was accompanied by the following Reporter's note:

The Attorneys and Judges Subcommittee proposes that Rule 18-436 be amended by adding new subsection (a)(2). This new provision clarifies that the Commission must approve consent dispositions. Subsection (b)(1) is also amended to reiterate that a consent agreement is only a provisional consent agreement until it is approved by the Commission.

Ms. Bernstein explained that the proposed amendment to Rule 18-436 clarifies that a consent disposition must be approved by the Commission. She said that the Commission has sole authority to recommend discipline. There being no motion to amend or

reject the proposed amendments to Rule 18-436, the Rule was approved as presented.

Mr. Marcus presented Rule 18-441, Cases of Alleged or Apparent Disability or Impairment, for consideration.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 – JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 6 –SPECIAL PROCEEDINGS

AMEND Rule 18-441 by adding a reference to the provisions contained in subsection (b)(3)(C) of Rule 18-407 to section (e) of this Rule, by adding a provision to subsection (f)(1) establishing that a judge's failure to respond to allegations of disability constitutes a waiver, and by making stylistic changes, as follows:

Rule 18-441. CASES OF ALLEGED OR APPARENT DISABILITY OR IMPAIRMENT

(a) In General

Except as otherwise provided in this Rule, proceedings involving an alleged disability or impairment of a judge shall be in accordance with the other Rules in this Chapter.

(b) Initiation

A proceeding involving alleged or apparent disability or impairment may be initiated:

(1) by a complaint alleging that the judge is disabled or impaired, or by an inquiry into such a status commenced by Investigative Counsel pursuant to Rule 18-421(f);

(2) by a claim of disability or impairment made by the judge in response to a complaint alleging sanctionable conduct;

(3) upon direction of the Commission pursuant to Rule 18-431;

(4) pursuant to a voluntary commitment or an order of involuntary commitment of the judge to a mental health facility; or

(5) pursuant to the appointment of a guardian of the person or property of the judge based on a finding that the judge is a disabled person as defined in Code, Estates and Trusts Article, § 13-101.

(c) Confidentiality

All proceedings involving a judge's alleged or apparent disability or impairment shall be confidential.

(d) Inability to Defend

Upon a credible allegation by the judge or other evidence that the judge, by reason of physical or mental disability or impairment, is unable to assist in a defense to a complaint of sanctionable conduct, disability, or impairment, the Commission may appoint (1) an attorney for the judge if the judge is not otherwise represented by an attorney, (2) a guardian ad litem, or (3) both.

(e) Interim Measure

If a disability or impairment proceeding is initiated pursuant to section (b) of this Rule, the Commission immediately shall, pursuant to Rule 18-407 (b)(3)(C), notify the Supreme Court which, after an opportunity for a hearing, may place the judge on temporary administrative leave pending further order of the Court and further proceedings pursuant to the Rules in this Chapter.

(f) Waiver of Medical Privilege; Medical or Psychological Examination

(1) The assertion by a judge of the existence of a mental or physical condition or an addiction, as a defense to or in mitigation of an investigation or a charge of sanctionable conduct, ~~or~~ the assertion by a

judge of the nonexistence of a mental or physical condition or an addiction, as a defense to an investigation or a charge that the judge has a disability or impairment, or the judge's failure to respond to an investigation or charge involving an allegation that the judge has a mental or physical condition or addiction constitutes a waiver of the judge's medical privilege and permits:

(A) the Board or the Commission to authorize Investigative Counsel to obtain, by subpoena or other legitimate means, medical and psychological records of the judge relevant to issues presented in the case; and

(B) upon a motion by Investigative Counsel, the Board or the Commission to order the judge to submit to a physical or mental examination by a licensed physician or psychologist designated by Investigative Counsel and direct the physician or psychologist to render a written report to Investigative Counsel. If the judge has asserted the existence of a mental or physical condition or an addiction as a defense to or in mitigation of an investigation or a charge of sanctionable conduct, the cost of the examination and report shall be paid by the judge. Otherwise, it shall be paid by the Commission.

(2) Failure or refusal of the judge to submit to a medical or psychological examination ordered by the Board or the Commission shall preclude the judge from presenting evidence of the results of medical examinations done on the judge's behalf, and the Commission may consider such a failure or refusal as evidence that the judge has or does not have a disability or impairment.

Source: This Rule is new. It is derived, in part, from ABA Model Rules for Judicial Disciplinary Enforcement, Rule 27.

Rule 18-441 was accompanied by the following Reporter's note:

The Commission on Judicial Disabilities (JDC) has informed the Attorneys and Judges Subcommittee

that in some instances where an allegation is made that a judge may be suffering from a disability or substance abuse issue, the judge does not respond to this allegation in the judge's answer. Rule 18-441, as it is currently drafted, does not appear to permit the JDC to enforce the provisions of this Rule if the judge does not respond to an allegation of disability or substance abuse or does not raise disability or substance abuse as a defense to the allegations against the judge. As a result, the Attorneys and Judges Subcommittee proposes that subsection (f)(1) of this Rule be amended so that the judge's failure to respond to these allegations will also be construed as a waiver and will permit the JDC to require the judge to submit to evaluations pursuant to this Rule.

In addition, a reference to Rule 18-407 is proposed to be added to section (e) of this Rule to conform this Rule to the proposed amendments to Rule 18-407.

Ms. Bernstein explained that Rule 18-441 is amended to address certain circumstances in cases involving an alleged disability or substance abuse issue where the Commission wishes to compel the judge to submit to certain evaluations. The amendments extend this Rule to situations where the judge fails to respond to an allegation of disability or substance abuse. She informed the Committee that this scenario has occurred and leaves the Commission unable to obtain further information on the judge's state.

There being no motion to amend or reject the proposed amendments to Rule 18-441, the Rule was approved as presented.

Mr. Marcus informed the Committee that there is an additional housekeeping amendment to a Title 18 Rule which was circulated to the Committee by email. Mr. Marcus presented a handout of Rule 18-305, Duties, for consideration.

HANDOUT

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 300 – JUDICIAL ETHICS COMMITTEE

AMEND Rule 18-305 by replacing incorrect references in section (c) to Rule 18-703 and Rule 18-704 with references to Rule 18-603 and Rule 18-604, and by replacing incorrect references in section (d) to Rule 18-703 (e) and 18-704 (e) with references to Rule 18-603 (e) and Rule 18-604 (e), as follows:

Rule 18-305. DUTIES

In addition to its other duties imposed by law, the Committee:

(a) shall give advice, as provided in this Rule, with respect to the application or interpretation of the Maryland Code of Judicial Conduct and the Maryland Code of Conduct for Judicial Appointees;

(b) is designated as the body to give advice with respect to the application or interpretation of any provision of Code, General Provisions Article, § 5-501 et seq. and § 5-601 et seq., to a State official in the Judicial Branch;

(c) shall review timely appeals from the State Court Administrator's decision not to extend, under Rule ~~18-703~~ 18-603 or ~~18-704~~ 18-604, the period for filing a financial disclosure statement;

(d) shall determine, under ~~Rule 18-703 (e)~~ Rule 18-603 (e) or ~~Rule 18-704 (e)~~ Rule 18-604 (e), whether to allow a judge or judicial appointee to correct a deficiency as to a financial disclosure statement or to refer the matter, as to a judge, to the Commission on Judicial Disabilities or, as to a judicial appointee, to the State Ethics Commission; and

(e) shall submit to the Rules Committee recommendations for necessary or desirable changes in any ethics provision.

Source: This Rule is derived from section (i) of former Rule 16-812.1 (2016).

Rule 18-305 was accompanied by the following Reporter's note:

Housekeeping amendments are proposed to sections (c) and (d) of this Rule to replace incorrect references to Rule 18-703 and Rule 18-704 with the correct references to Rule 18-603 and Rule 18-604.

Mr. Marcus explained that the housekeeping amendment is to correct internal references and typographical errors brought to staff's attention recently. He said that the changes were deemed ministerial and were not reviewed by a subcommittee, so they will require a motion to approve. A motion to approve Rule 18-305 as presented was made, seconded, and approved by consensus.

There being no further business before the Committee, the Chair adjourned the meeting.