

**BYLAWS**  
**OF THE CERTIFIED GRIEVANCE COMMITTEE**  
**OF THE AKRON BAR ASSOCIATION**

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ARTICLE 1

Definitions

Unless the context otherwise clearly indicates, words used in these Bylaws should be defined as follows:

- 1.01 “Assigned Attorney” shall mean a member of the Investigative Subcommittee assigned to conduct the initial investigation of a grievance and make a report back to the Investigative Subcommittee.
- 1.02 “Association” shall mean the Akron Bar Association.
- 1.03 “Attorney” shall mean an attorney against whom a grievance or inquiry is presented and any attorney who may reasonably be expected to become a respondent.
- 1.04 “Board of Commissioners” shall mean the Board of Commissioners on Grievances and Disciplines as established by Rule V for the Government of the Bar of the Supreme Court of Ohio or any successor Board having jurisdiction to hear complaints against attorneys on their merits.
- 1.05 “Bylaws” shall mean these Bylaws, as amended or regulations generally governing the affairs of the Committee.
- 1.06 “Committee” shall mean the Certified Grievance Committee of the Association.
- 1.07 “Grievant” shall mean any person presenting a grievance or inquiry.
- 1.08 “Disciplinary Rules” shall mean the rules of that title as set forth in the Code of Professional Responsibility adopted by the Supreme Court of Ohio, which state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action. The Disciplinary Rules were superseded and replaced by the Ohio Rules of Professional Conduct effective February 1, 2007.
- 1.09 “ORPC” shall mean the Ohio Rules of Professional Conduct governing the conduct of Ohio lawyers occurring on or after February 1, 2007.
- 1.10 “Grievance” shall mean a written allegation of mental illness or misconduct by an attorney violative of the Disciplinary Rules governing conduct until January 31,

2007, or the Ohio Rules of Professional Conduct effective February 1, 2007, and addressed to the Committee or the Association requesting the commencement of grievance procedures or an investigation as to the conduct of an attorney. A grievance shall be investigated by the Committee and shall constitute a complaint for computation of time under Gov. Bar Rule V(4)(D) and shall be assigned a docket number.

- 1.11 “Inquiry” shall mean the initial oral or written statement directed to the Association or the Committee which complains about the conduct of an attorney, whether or not on its face constituting an allegation of mental illness or misconduct by the attorney.
- 1.12 “Investigative Subcommittee” shall mean one or more committees appointed by the President to conduct an initial screening of grievances to determine if probable cause exists for an in-depth investigation by the Committee.
- 1.13 “Investigator” shall mean a member of the Grievance Committee assigned to investigate a grievance or review an appeal of a dismissal of a grievance.
- 1.14 “Panel” shall mean a panel of members of the Committee empowered to investigate a grievance, recommend dismissal or prosecution of a grievance as a formal complaint, and to prosecute disciplinary committee proceedings and formal complaints on behalf of the Association before the Board of Commissioners and the Supreme Court of Ohio.
- 1.15 “Party in Interest” shall mean any person presenting a grievance or inquiry or otherwise affected by the alleged misconduct of a Respondent, and any person who may reasonably be expected to become a complainant as a result of a grievance or formal complaint.
- 1.16 “President,” “Board of Trustees,” and “Executive Director,” shall mean the persons holding such offices from time to time in the Association.
- 1.17 “Rule V” shall mean Rule V of the Supreme Court Rules for the Government of the Bar of Ohio as it shall be amended from time to time, or such successor rule as may be provided for in the procedures for the discipline of attorneys.
- 1.18 “Bar Counsel” shall mean the attorney fulfilling the duties of the position created by vote of the Board of Trustees on December 23, 1997, whose duties are set forth in Article 3 below, and who shall advise and be a non-voting member of the Committee and the Investigative Subcommittee, and a non-voting member of the Board of Trustees.
- 1.19 “Disciplinary Counsel” shall mean the official appointed by the Board of Commissioners and approved by the Supreme Court as set forth in Gov. Bar R. V, Sec. 3(B).

## ARTICLE 2

### Organization

#### 2.01 Committee Membership

- (a) The Committee shall consist of no fewer than fifteen (15) attorneys admitted to the practice of law in Ohio and at least three members, or ten percent, whichever is greater, shall consist of persons who are not admitted to the practice of law in Ohio or any other state.
- (b) The President, upon recommendations from Bar Counsel, shall appoint the members of the Committee. Each term will be for one (1) year, commencing July 1st, and ending June 30th of the following year.
- (c) The Committee members, except non-attorney members, shall consist of lawyers who have at some time actively engaged in the practice of law in the State of Ohio for at least five (5) years and who are not judges or permanent full or part time referees or magistrates in the State of Ohio. No attorney member may become a member of the Committee who has not served at least one (1) year on an Investigative Subcommittee and attended an orientation seminar, or in the alternative, viewed a video tape of an orientation seminar.
- (d) Acceptance of an appointment as a member of the Committee shall constitute an agreement by the person accepting for the benefit of the Committee and of parties of interest, to adhere to the standards of responsibility and confidentiality set forth in these Bylaws, in Rule V, and in the Ohio Rules of Professional Conduct.

#### 2.02 Chair and Vice Chair

- (a) The President, upon recommendations of Bar Counsel, shall appoint the Vice Chair of the Committee and Investigative Subcommittee. Each term will be for one (1) year, commencing July 1st, and ending June 30th of the following year.
- (b) The Chair shall not serve as Chair for more than two consecutive years.
- (c) The Chair shall preside at the meetings of the Committee, implement decisions of the Committee and carry out such other duties as are required by that office.
- (b) The Vice Chair shall, in the Chair's absence, perform the duties of the Chair; and shall carry out such other duties as may be assigned by the Chair.

#### 2.03 Investigative Subcommittee Members

- (a) The Investigative Subcommittee shall consist of lawyers who have at some time actively engaged in the practice of law in the State of Ohio for

at least three (3) years and who are not judges or permanent full or part time referees or magistrates in the State of Ohio. No one may serve as a member who has not attended an orientation seminar, or in the alternative, viewed a video tape of an orientation seminar.

- (b) The Investigative Subcommittee shall consist of at least twenty-two (22) regular members including a Chair and Vice Chair.
- (c) The President, upon recommendations of Bar Counsel, shall appoint the members of the Investigative Subcommittee. Each term will be for one (1) year, commencing July 1st, and ending June 30th of the following year.
- (d) Acceptance of an appointment as a member of the Committee shall constitute an agreement by the person accepting for the benefit of the Committee and of parties of interest, to adhere to the standards of responsibility and confidentiality set forth in these Bylaws, in Rule V, and in the Ohio Rules of Professional Conduct.

#### 2.04 Term Limits

- (a) No later than July 1, 2012, the Committee shall adopt and implement procedures that provide for the appointment of members to specific terms of office, with the length of such terms to be subject to the ten-year limitation of consecutive service set forth in Rule V(D)(1)(a)(ii). The expiration dates of the initial terms of office shall be established to ensure that the terms of members expire in different years.
- (b) Beginning, January 16, 2016, no member of the Committee shall serve or have served on the Committee for more than ten consecutive years. A member's tenure on the Committee prior to January 1, 2016 shall be considered for purposes of determining the member's consecutive service on the Committee.
- (c) A member who served on the Committee for ten consecutive years may be reappointed to the Committee if two or more years have elapsed since the conclusion of the member's prior service.

#### 2.05 Conflict of Interest

A member of the Committee or the Investigative Subcommittee shall disqualify himself or herself, or the Chair may disqualify him or her from consideration of any matter, where his or her impartiality might reasonably be questioned. Any person who has been disqualified shall leave the room during discussions and voting on the matter for which he or she has been disqualified.

#### 2.06 Removal of Members

Bar Counsel may remove a member of the Committee or the Investigative Subcommittee for unexcused poor attendance at the proceedings of the Committee or Investigative Subcommittee (which may presumed to include absence for more than one-third of the meetings in a period of six months), failure

to complete investigations entrusted to the member in a timely manner, failure to return files and records to the Association, breach of confidentiality or other duties imposed by these Bylaws, physical or mental disability or other good cause shown.

2.07 Quorum

The presence at a duly-scheduled meeting of at least twenty (20) members of the Committee shall constitute a quorum for all purposes.

2.08 Persons in Attendance

All meetings of the Committee or Investigative Subcommittee shall be closed and no person other than the members, the Executive Director, the Grievance Director or other designated Bar staff shall be permitted to attend meetings of the Committee or the Investigative Subcommittee, except upon written request of the Chair of the Committee or Investigative Subcommittee. Any person appearing before the Committee or Investigative Subcommittee or a Panel may be represented by an attorney.

2.09 Ex Officio Members

The President may from time to time appoint ex-officio members to the Committee or an Investigative Subcommittee including in those instances where a member's term has expired and the member has been assigned as the Assigned Attorney, Investigator, or member of a Panel responsible for a pending inquiry or grievance. Ex-officio members shall be governed by, and serve in compliance with, these Bylaws.

ARTICLE 3

Procedure – Investigation of Grievance

3.01 Receipt of Inquiry

- (a) All inquiries shall be initially reviewed by Bar Counsel to determine if they constitute a grievance. Bar Counsel shall determine one of the following courses of action:
  - i. Dismissal On Intake (DOI) of those inquiries which do not state a violation of the Ohio Rules of Professional Conduct on their face. Such dismissals are not considered a grievance against the attorney. Bar Counsel shall draft an appropriate letter of dismissal to the complainant and provide a copy of both the complaint and the dismissal letter to the attorney. Matters that are referred by Bar Counsel to the Fee Arbitration Committee, or other appropriate

alternate dispute resolution (ADR) proceedings, are considered to be DOI.

- ii. Initial investigation: In which case Bar Counsel will assign the matter to a member of the Investigative Subcommittee for investigation. Bar Counsel shall advise the investigating attorney and the Subcommittee of the relevant Ohio Rules of Professional Conduct as well as supervise the investigation. Bar Counsel may forward the grievance directly to the Grievance Committee at any time or stage of the investigation when, in the opinion of Bar Counsel, it is necessary to do so or there is another related matter already being investigated at the Grievance Committee level.
  - iii. Bar Counsel may refer the matter directly to Disciplinary Counsel when there is a conflict of interest, a potential conflict of interest, or for other reasons the Bar Counsel deems appropriate.
  - iv. The Committee does not have the authority to investigate allegations against a judge who hold office in the geographic area served by the Committee and Bar Counsel shall refer those allegations to the Disciplinary Counsel
- (b) If it is determined by Bar Counsel that the inquiry alleges or may allege a violation of the Ohio Rules of Professional Conduct, there shall be an investigation in accordance with these Bylaws. If it is determined by Bar Counsel that the inquiry does not allege a violation of the Ohio Rules of Professional Conduct, or if Bar Counsel resolves the matter without an investigation, it shall not be treated as a grievance, and it shall not be docketed by the Association as a grievance. The Grievant shall be notified that the inquiry has been received and of the determination that it does not state grounds for an investigation of misconduct or mental illness of an attorney.
- (c) In order to minimize expense to both Grievant and Respondent, and in order to provide for the expeditious and timely resolution of matters in issue, it shall be the policy of the Committee to process all grievances, unless the Bar Counsel determines that a conflict of interest would prejudice the Grievant, the Respondent, or the Association, and that, therefore, the matter should be referred to Disciplinary Counsel.

### 3.02 Investigative Subcommittee

- (a) If an inquiry constitutes a grievance, unless forwarded to Disciplinary Counsel, it shall be referred to an Assigned Attorney for an investigation. The Respondent shall be notified of the grievance and sent a copy thereof

at his or her last known address listed on the Ohio Supreme Court's Office of Attorney Services.

- (b) The Assigned Attorney's findings and recommendation shall be presented to the Investigative Subcommittee which shall screen all grievances to determine if there is probable cause of misconduct or mental illness justifying a more thorough investigation by the Committee.
- (c) A majority vote of an Investigative subcommittee shall be required on all recommendations by the Assigned Attorney. In the event of a tie vote, the Chair shall cast a vote breaking the tie. Recommendations for further investigation by the Committee shall be given to Bar Counsel. The Bar Counsel shall appoint a Panel to further investigate the grievance. All recommendations for dismissal shall be made by the Chair or Vice Chair of the Investigative Subcommittee at the next regularly scheduled meeting of the Committee.

### 3.03 Practice and Procedure Relevant to All Investigations

- (a) All matters concerning grievances are confidential. No member shall disclose any information concerning the grievance to anyone not directly involved in the investigation. No member shall give copies of any documents obtained in the course of the investigation to anyone without the prior consent of Bar Counsel or the Chair of the Committee.
- (b) Members shall not offer legal advice to the grievant.
- (c) Members shall not offer an opinion to the grievant or Attorney as to the merits of the grievance or any prediction as to the outcome of the investigation. All parties will be notified by Bar Counsel of the action taken by the Committee.
- (d) An investigation is not limited to matters specifically raised in the grievance. If additional allegations of misconduct or mental illness not contained within the grievance are raised, the attorney against whom the allegation has been raised will be notified of the additional allegations, by the Assigned Attorney or the Panel, as the case may be, and given an opportunity to respond.
- (e) Members shall not send copies of the completed investigation reports to the complainant or the attorney. Members shall not retain any files after the investigation has been completed. All files and documents must be returned to the Grievance Director.
- (f) Unless otherwise specified in writing by the Attorney, a copy of the Attorney's response to the grievance shall be furnished to the Grievant,

without waiving any other right to privacy or confidentiality provided by Gov. Bar R. V, Section 11(E). The Attorney shall be so notified and provided a form to elect non-disclosure with the initial notification of the grievance.

- (g) If the Attorney or the Grievant is uncooperative, e.g., fails to return calls or keep appointments, the Member shall complete the investigation to the best of his or her ability, noting the lack of cooperation.
- (h) All correspondence, including reports, shall be mailed in envelopes clearly marked PERSONAL AND CONFIDENTIAL.

### 3.04 Guidelines for Investigating a Complaint at the Investigative Subcommittee Level

- (a) Bar Staff shall follow up with attorney to make sure that the attorney submits a timely response.
- (b) The Assigned Attorney shall contact the Grievant and review the principal allegations of the complaint. Usually, a telephone call will suffice. This contact serves a dual function: it lets the complainant know that the complaint is being investigated and also makes sure that the assigned attorney understands the nature and substance of the allegations. All attempts to contact the complainant shall be documented in the file.
- (c) The Assigned Attorney shall contact the attorney and discuss the allegation(s) of the complainant reflected in the complaint itself and any discussion had with the complainant. Investigations are to be of a screening nature to determine if there is probable cause for the Committee to investigate in detail.
- (d) Whenever possible, the investigation should be completed within 30 days of the receipt of the complaint. Bar Counsel or the Chair may remove the investigation from the Subcommittee and assign it to a panel of the Committee when there is undue delay in the investigation or for good cause.
- (e) The Assigned Attorney may recommend that the grievance be dismissed due to lack of probable cause that the attorney has violated the Ohio Rules of Professional Conduct or that the grievance be investigated by the Committee due to probable cause to believe that the attorney has violated the Ohio Rules of Professional Conduct. All reports shall be typed and must indicate in detail the conclusions with respect to each potential violation. Whether there is a recommendation for prosecution or dismissal, the report shall state the specific reason with respect to each Rule. The

entire file generated by the investigation shall be given to the Grievance Director.

3.05 Procedure for Investigating a Complaint at the Grievance Committee Level

- (a) The Panel appointed by Bar Counsel shall meet to discuss the file. The file will include all the documents generated at the Investigative Subcommittee level.
- (b) A complete, factual and timely investigation shall be conducted. The investigation shall include interviewing the complainant and the attorney. The entire Panel should meet with both the complainant and attorney and necessary witnesses or court personnel. When many witnesses must be interviewed, Bar Counsel and the Grievance Director may provide assistance.
- (c) The Panel shall make its recommendation to the entire Grievance Committee and complete the report of investigation form. The Panel may recommend that the grievance be dismissed; referred to the Fee Arbitration Committee or other ADR as appropriate; or that a formal complaint be filed with the Secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio charging a violation of the Ohio Rules of Professional Conduct. All reports shall be typed.
- (d) The Panel shall bring the completed report of investigation form and the entire file generated by the investigation to the meeting at which the report is to be presented to the Committee. All members of the Panel should attend that meeting if possible.
- (e) If the Grievance Committee approves the filing of a complaint by a majority vote, the Panel will prepare the complaint with the assistance of Bar Counsel. Bar Counsel shall review the final draft of the complaint and advise the Panel or trial attorneys on the form, content, number of counts and the specific allegations of misconduct to be charged. Bar Counsel shall have final authority to determine the content, number of counts and the specific allegations of misconduct to be charged. The Grievance Director shall submit the complaint to the Secretary of the Board of Commissioners for filing after it has been approved by Bar Counsel.

3.06 Consideration of Complaints by Committee

- (a) Recommendations of Investigative Subcommittee. At each meeting of the Grievance Committee, written reports and pertinent minutes of the Investigative Subcommittee or Committees recommending dismissal will be available for review and discussion. A majority vote of the members

present and voting, a quorum being present, shall be sufficient to sustain a recommendation to dismiss. In the event the recommendation is not sustained, Bar Counsel shall appoint a Panel to investigate the grievance.

- (b) Recommendation of Panels. Recommendations of Panels shall be upon motion duly seconded. A majority vote of the members present and voting, a quorum being present, shall be sufficient to sustain a motion. In the event of a tie vote, the Chair shall cast a vote breaking the tie.
- (c) Request to Review. Request to review actions of other Certified Grievance Committees or Disciplinary Counsel shall be assigned by Bar Counsel to one or more Investigators. The recommendation of the reviewing investigator(s) shall be upon motion duly seconded. A majority vote of the members present and voting, a quorum being present, shall be sufficient to sustain a motion. In the event of a tie vote, the Chair shall cast a vote breaking the tie.
- (d) Ethics Opinions. The Committee shall not issue formal ethics opinions. Bar Counsel may issue formal or informal ethics opinions.
- (e) Formal Complaint. Motions to file formal complaints against attorneys shall be based upon probable cause, which means substantial, credible evidence that misconduct has been committed. The Committee shall also find the evidence is available to it as such that it is probable that misconduct can be established by clear and convincing evidence.
- (f) Review of Documents. All reports or summaries of investigations, formal complaints, and files which are forwarded to the Secretary of the Board of Commissioners, a Probable Cause Panel, or Disciplinary Counsel for review, shall be first reviewed by Bar Counsel to determine their completeness.

### 3.07 Finding Probable Cause/The Complaint

- (a) Upon determination by the Committee of probable cause to find a disciplinary violation, the Panel shall prepare a complaint setting forth the Ohio Rules of Professional Conduct violated and the allegations showing reason to believe said violation occurred. Bar Counsel, based upon current case law, shall advise the Panel and the Committee on the recommended sanction against the Respondent. The Complaint must be prepared in the proper format required by The Board of Commissioners.
- (b) The proposed complaint and investigative file shall be reviewed by Bar Counsel for approval or revision. Once approved, the Respondent who is the subject of the grievance or investigation shall be given a Notice of

Intent To File pursuant to Rule V Section 4(I)(2) of the Supreme Court Rules for the Government of the Bar. This requirement may be satisfied by providing the Respondent with a copy of the proposed complaint and a reasonable opportunity to respond or provide additional information to be forwarded to the Board of Commissioners along with the complaint. The complaint and the report of investigation or summary of the Committee investigation along with other necessary documents shall be transmitted by the Grievance Director to the Secretary of the Board of Commissioners for filing.

- (c) A copy of the complaint shall be sent by certified mail to the attorney when the original is mailed to the Secretary of the Board and he or she will be advised that they may respond directly to the Secretary of the Board of Commissioners.
- (d) Complaints based upon a conviction of a felony or equivalent offense are to be in accordance with Rule V(5) of the Supreme Court Rules for The Government of the Bar of Ohio.
- (e) Complaints sent to the Secretary of the Board of Commissioners shall be signed by one or more member(s) of the Bar of Ohio in good standing, who shall be counsel for the Relator and shall be supported by a certificate in writing, signed by Bar Counsel or the Chair of the Committee indicating counsel is duly authorized to represent the Akron Bar Association as Relator in the case. Filing of the Complaint shall comply with the requirements of Rule V(I) of the Supreme Court Rules for The Government of the Bar of Ohio. Counsel generally will be the attorneys who were assigned by Bar Counsel to investigate the complaint at the Committee level and constituted the Panel. The representation continues for all aspects of the case including prosecution, reviews, appeals, and other hearings. Bar Counsel shall substitute counsel should counsel be unable to continue or when necessary for the efficient administration of the case.
- (f) The prosecution of the complaint shall proceed in accordance with Rule V of the Supreme Court Rules for The Government of the Bar of Ohio and The Rules and Regulations Governing Procedure on Complaints and Hearings before the Board of Commissioners on Grievances and Discipline of the Supreme Court.

## ARTICLE 4

### Miscellaneous Provisions

#### 4.01 Oath

Each member of the Committee and the Investigative Subcommittee shall take the following oath administered by the President, President-Elect, or Bar Counsel at the first meeting held at the start of each fiscal year.

“I do solemnly swear or affirm I will responsibly serve as a member of the (Grievance Committee of the Akron Bar Association) or (Investigative Subcommittee of the Akron Bar Association). I will uphold the Ohio Rules of Professional Conduct, the Rules for the Government of the Bar of Ohio, and the Bylaws of the Grievance Committee. I will promptly and fairly investigate and report on all matters brought before me and I will maintain and preserve inviolate the confidences entrusted to me as a member of this Committee of which I may gain knowledge by reason of my membership in this Committee.”

#### 4.02 Retention of Records

Files and records of proceedings, in paper or electronic format, will be maintained in accordance with the following schedule:

- (a) Records of the proceedings of the Committee and files related to any matter in which the Committee filed a formal complaint shall be retained permanently.
- (b) Files related to any matter in which the Committee initiated an investigation shall be retained for ten years.
- (c) Files related to any matter that the Committee dismissed without investigation shall be retained for two years.

#### 4.03 Evaluations

Bar Counsel and the Chairs of the Committee and Investigative Subcommittee shall evaluate annually each member of the Committee and Investigative Subcommittee and recommend to the President of the Bar Association whether the member should be retained on the Committee or Investigative Subcommittee, qualifies for membership on the Committee, or should not be re-appointed. In making the recommendations, consideration should be given to, attendance, promptness in making investigations, and analysis and thoroughness of the report. All evaluations should be confidential and destroyed after use.

#### 4.04 Authorization to Incur Expenses

Except upon authorization of the Board of Trustees, neither the Chair nor any member of the Committee or Investigative Subcommittee shall have the authority to obligate the

Committee or the Association to pay any fees or costs incident to investigations or other actions by the Committee or any of its Panels. Bar Counsel or the Chair may at his/her discretion or at the direction of a majority of a quorum of the Committee, make such arrangements as may be appropriate with Disciplinary Counsel or the Secretary of the Board of Commissioners for authorization for expenditures for expenses as may be authorized by the applicable rules for the government of the Bar.

4.05 Additional Duties of Bar Counsel

In addition to those duties set forth in Article 3 hereinabove, Bar Counsel may, when appropriate, make recommendations to the Board of Trustees and the Chair regarding procedures, policies, forms, and other relevant issues.

4.06 Amendment of Bylaws

These Bylaws may be amended by a vote of the majority of the Board of Trustees, in accordance with the Bylaws of the Association.