

NOTICE OF COMMENT PERIOD

Proposed amendments to Neb. Ct. R. § 3-310(V), “Procedure for Reinstatement,” were submitted to the Nebraska Supreme Court by the Nebraska Supreme Court Staff Attorney’s Office. Before consideration, the Nebraska Supreme Court directed that the proposed amendments be published for a period of public comment.

The Nebraska Supreme Court invites interested persons to comment on the proposed amendments. Anyone desiring to comment on the proposed amendments should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via email to wendy.wussow@nejudicial.gov, with the rule number listed in the subject line, no later than November 1, 2023.

The full text of the proposed amendments is available below, or a paper copy may be obtained by telephoning the office of the Clerk of the Supreme Court and Court of Appeals at (402) 471-3731.

CHAPTER 3: ATTORNEYS AND THE PRACTICE OF LAW

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Article 3: Discipline Procedures for Lawyers.

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§ 3-310. Procedure: Nebraska Supreme Court.

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(V) Procedure for reinstatement.

(1) Applications for reinstatement shall be completed by the member seeking reinstatement and shall be on a form(s) supplied by the Attorney Services Division. The application shall be filed in the Supreme Court in the case number of the disciplinary proceeding by the Administrator of Attorney Services.

(2) Copies of every such application shall be served on the Counsel for Discipline, the current Chairperson of the Committee on Inquiry for the District which exercised original jurisdiction, and the Chairperson of the Disciplinary Review Board, any one or more of whom may appear and resist such application. Any other persons may likewise appear upon obtaining leave of the Court and make such resistance.

(3) Within 20 days after filing the application for reinstatement, the Counsel for Discipline and the District Committee on Inquiry, by its Chairperson, shall each file a

written statement recommending the application be granted or denied and the reasons therefor. The Court may deny such application without a hearing if justice and equity require it.

(4) If the application is allowed to proceed, the Court shall direct the matter to the Nebraska State Bar Commission for a character and fitness evaluation as provided for in Neb. Ct. R. § 3-803(F). Upon completion of the character and fitness evaluation, the Commission shall make a recommendation to the Supreme Court concerning the member's character and fitness to practice law. If the Commission believes that conditional reinstatement is necessary for the protection of the public, it may recommend conditions for reinstatement, including, but not limited to, temporary monitoring. At the time of the submission to the Court, the applicant shall be notified of the Commission's recommendation.

~~(5) If the application or the showing in resistance thereto shall require the taking of evidence, the matter may be referred to a referee and the proceedings shall be the same as in the case of original disciplinary proceedings.~~

(5) The Court will consider written objections that are filed by any party within fourteen (14) days of the Commission's recommendations being submitted to the Court, and there shall be no hearing on written objections. After review of the Commission's recommendations and any written objections, in its discretion, the Court may:

(a) Grant the applicant's request for reinstatement without condition;

(b) Deny the applicant's request for reinstatement;

(c) Grant conditional reinstatement when the Court determines that the protection of the public requires reinstatement subject to conditions. Such conditions may include any, all, or none of the conditions recommended by the Commission, and such additional or different conditions deemed necessary by the Court.

(6) Unless otherwise provided, the Court will not consider any motions not authorized by this subsection.

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