

# EMERGENCY RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF JUDICIAL CONDUCT

## Rule 1: Meetings

### Sec. 1. Time and Place of Meeting

The Board shall meet at 10:00 o'clock a.m. on the fourth (4<sup>th</sup>) Tuesday in February and the fourth (4<sup>th</sup>) Tuesday in July in the conference room of the Administrative Office of the Courts and at such other times and places as the chairperson, or a majority of the members of the Board, may deem necessary. Members finding it more convenient may also attend the meeting by video or phone conference.

### Sec. 2. Notice of Meeting

The chairperson of the Board shall give a minimum of ten (10) days' notice of the time and place of meetings to all members of the Board.

### Sec. 3. Quorum

Nine (9) members of the Board, whether meeting in person or by video or phone conference, shall constitute a quorum.

## Rule 2: Chairperson of the Board

### Sec. 1. Chairperson

The Board, at its meeting on the fourth (4<sup>th</sup>) Tuesday in July of each year, shall elect a chairperson to serve for a period of one (1) year. The chairperson shall be elected from the members of the Board by a majority present and voting. The chairperson may be removed by a two-thirds vote of the members of the Board, with or without cause.

## Sec. 2. Vice-chair

The Board, at its meeting on the fourth (4<sup>th</sup>) Tuesday in July of each year, shall elect a vice-chair to serve for a period of one (1) year. The vice-chair shall be elected from the members of the Board by a majority present and voting. The vice-chair may be removed by a two-thirds vote of the members of the Board, with or without cause. If at any meeting the chairperson is not present, the vice-chair shall preside. If the chairperson is recused with respect to a matter, the vice-chair shall act as chairperson with the respect to such matter.

## Sec. 3. Chairperson – Duties.

In addition to the duties and responsibilities set forth in Tenn. Code Ann. § 17, chapter 5, the chairperson shall preside at all meetings of the Board and at trials. The chairperson shall rule upon the admission or exclusion of evidence. However, the chairperson's ruling upon the admission or exclusion of evidence may be appealed to the full hearing panel. The chairperson and only the chairperson shall be the spokesperson for all matters pending before the Board, except that if the chairperson is recused with respect to a matter pending before the Board, the vice-chair and only the vice-chair shall be the spokesperson for the Board with respect to such matter. After the trial of any matter the chairperson shall write or shall designate a member of the hearing panel that heard the matter to write the majority opinion. Any member of the hearing panel that heard the matter may write a concurring or dissenting opinion. The chairperson shall have such other duties and responsibilities as are necessary in fulfilling the office.

## **Rule 3: Confidentiality**

Except for hearings conducted pursuant to Tenn. Code Ann. § 17-5-308 or sanctions required to be public, matters that come before the Board are confidential. Individual members of the Board will not discuss any matter pending before the Board, except with other members of the Board and with Disciplinary Counsel. However, nothing in the Rule shall prohibit the complainant, respondent-judge, or any witness from disclosing the existence or substance of a complaint, matter, investigation, or proceeding under these Rules or from disclosing any documents or correspondence filed by, served on, or provided to that person. In addition, if it becomes apparent that allegations of misconduct by a judge have become a matter of public record independent of

any action by the Board and that continued silence by the Board may be detrimental to the public interest, may lead to bringing the judiciary into public disrepute or may adversely affect the administration of justice, the chairperson in his or her discretion may 1) confirm that an investigation is in progress, 2) clarify the procedural aspect of any proceedings, and 3) explain the rights of the subject of the investigation to a fair hearing without prejudgment.

#### Rule 4: Records Retention Policy

When a complaint is received from an outside source or is created internally, both a physical and an electronic file shall be created. The physical file shall contain the complaint and all relevant documentation and correspondence pertaining to the complaint. Relevant portions of all complaints and documentation, including correspondence, shall be scanned and maintained in the electronic file. Correspondence generated by the office to either the complainant or the subject judge shall also be maintained in an electronic file copying to the electronic file the correspondence in word processing format without the necessity of scanning the printed letterhead document. Voluminous public records such as transcripts, court dockets or pleadings filed in any court which are retrievable by other means need not be scanned into the electronic file. Disciplinary Counsel shall maintain a backup copy of all electronic files that shall be backed up daily and kept on storage media apart from the computer internal hard drive. A physical file may be destroyed by an appropriately secure method such as commercial shredding no sooner than one (1) year after the closing and final action taken on that file, but the electronic file shall never be destroyed, regardless of the disposition of the case.