



## **RULES OF PROCEDURE OF THE ILLINOIS COURTS COMMISSION**

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AGENCY NOTE: These rules shall be effective November 18, 2024. This effective date has been established in accordance with Section 15(g) of Article VI of the Illinois Constitution, as amended. (1970 Ill. Const., art. VI, sec. 15(g)). This stipulation will apply to any future amendment.

## **ARTICLE I            GENERAL PROVISIONS**

### **Rule 101        Preamble**

The Commission has adopted these Rules to ensure that all proceedings before the Commission are fair and appropriate. It is the Commission's role to adjudicate Complaints brought by the Judicial Inquiry Board, while balancing the rights of the Respondents and the interests of the courts, the public, and the bar.

It is the policy of the Commission that all proceedings before the Commission shall be conducted as expeditiously as possible, with due regard to the right of the Respondent to have adequate time to prepare a defense. The courts, the public, the bar, and the Respondents have a vital interest in an early determination of any charge which bears upon the fitness of a judicial officer in this state. Implementation of this objective is one of the principal purposes of the following rules.

### **Rule 102        Authority; Scope; Amendments**

- (a) These rules are established pursuant to Article VI, section 15(g) of the 1970 Illinois Constitution. (1970 Ill. Const., Art., VI, sec. 15(g)). These rules set forth the procedure by which all proceedings before the Illinois Courts Commission shall be governed.
- (b) These rules may only be amended by the affirmative vote of four Commission Members, after notice of the proposed amendment(s) to the Commission Members. Upon adoption by the Commission, they shall be made public and filed with the Secretary of State at least 30 days before becoming effective.

### **Rule 103        Definitions**

“Alternate” or “Alternate Member” is a Supreme Court judge selected by the Supreme Court, a Circuit Court judge selected by the Supreme Court, an Appellate Court judge selected by the Appellate Court, or a citizen selected by the Governor to act in place of a specific member of the Commission who is unable to participate for any reason.

“Assistant General Counsel/Administrator” is the person designated by the Commission to serve as deputy to the Executive Director and General Counsel.

“Board” means the Judicial Inquiry Board created by the Constitution.

“Case Manager” is the Commission member selected to manage a proceeding prior to a hearing.

“Chairperson” or “Chair” is a member of the Commission selected by the members to serve as Chairperson of the Commission for a two-year term.

“Charge” is an allegation of misconduct by a judge or associate judge.

“Citizen” is a non-judicial member of the Commission appointed by the Governor.

“Clerk” is the person designated by the Commission to receive, keep, and maintain the files, pleadings, records, documents, evidence, and other papers of the Commission.

“Code of Judicial Conduct” or “Code” is the Illinois Code of Judicial Conduct of 2023, effective January 1, 2023.

“Commission” means the Illinois Courts Commission created by the Constitution.

“Complaint” means a formal written charge filed by the Judicial Inquiry Board.

“Constitution” is the 1970 Constitution of the State of Illinois, as amended, effective November 3, 1998.

“Decision” is the order entered by the Commission disposing of a Complaint.

“Executive Director & General Counsel” is the person designated by the Commission to oversee all operations of the Commission, including legal, administrative, and financial operations.

“Judge” means a judge of the Supreme, Appellate, or Circuit Court, or an associate judge of the Circuit Court.

“Member” is the Supreme Court judge and the two Circuit Court judges selected by the Supreme Court, the two Appellate Court judges selected by the Appellate Court, and the two citizens selected by the Governor to serve on the Commission.

“Misconduct” means behavior of a judge or associate judge that violates the Code of Judicial Conduct.

“Respondent” is a judge or associate judge against whom the Judicial Inquiry Board filed a Complaint with the Commission.

## **Rule 104      Construction**

The masculine form of a word includes the feminine. Except for proper nouns, the singular form includes the plural and the plural the singular.

**Rule 105      Seal**

- (a) The Commission shall have a seal.
- (b) The Clerk shall be the custodian of the seal and is authorized to affix it to such documents as may be appropriate.

**Rule 106      Chair**

- (a) The Members shall select a Chair, who will hold a two-year term.
- (b) The Chair shall preside over all hearings and shall rule on any dispositive pleadings or motions. If the Chair is recused or disqualified from a proceeding, then the Alternate Member sitting on the panel in the Chair's place will perform the duties of Chair.

**Rule 107      Clerk of the Commission**

- (a) The Executive Director and General Counsel shall act as the Clerk in all proceedings before the Commission.
- (b) The Clerk is empowered to perform those duties ordinarily performed by a clerk of a court of record in this state and such other duties as may be delegated by the Commission. The Clerk shall be the custodian of records and docket of the Commission, which shall be preserved.
- (c) The Commission may designate another individual to act as Deputy Clerk when the Executive Director and General Counsel is unable to perform the duties of Clerk.

**Rule 108      Master File**

The electronic record is designated as the official record of proceedings. The Complaint and all subsequent pleadings and other documents shall be electronically filed with the Clerk. The Clerk shall maintain an electronic record of all such documents for each proceeding, which shall constitute the master file for each proceeding. The Clerk may dispose of paper versions of documents filed as part of an electronic record.

**Rule 109      Electronic Filing**

All pleadings, motions, briefs, and documents shall be electronically filed with the Clerk in accordance with Illinois Supreme Court Rules 9 and 10, and service of such pleadings, motions, briefs, and documents shall be made in accordance with Supreme Court Rules 11 and 12. For

purposes of these Rules, the word “filing” shall mean “electronic filing,” and parties are not required to file paper copies of any pleading, motion, brief, or document that is electronically filed.

### **Rule 110      Service of Process**

A person authorized to make service, as provided in Rule 111, below, shall cause a copy of the Complaint and a copy of these rules to be served on the Respondent:

- (a) In any manner authorized by the Illinois Code of Civil Procedure;
- (b) By Mail Service. If a person authorized to make service, as provided in Rule 109 below, files with the Clerk an affidavit that the Respondent on due inquiry cannot be found or is concealed so that process cannot be served upon him or her, the Board shall serve the Respondent by ordinary mail, postage fully prepaid: (1) to the Respondent’s chambers or (2) to the Respondent’s last known address. The Board’s certificate of mailing or delivery is sufficient proof of service.
- (c) By Agreement. A Respondent, or the Respondent’s counsel, may agree to a reliable method of service, including by electronic means. A member of the Board’s staff shall deliver, mail, e-mail, or otherwise transmit a copy using the agreed-upon method of service and shall file an affidavit attesting to the service. The action shall proceed as if a complaint had been served at the time of filing the affidavit, and no additional proof of service shall be required.
- (d) By Entry of Appearance. When an appearance is entered by, or on behalf of, a Respondent before service has been otherwise effectuated, the action shall proceed as if a complaint had been served at the time of the entry of appearance, and no proof of service shall be required.

### **Rule 111      Persons Authorized to Make Service**

Service may be made:

- (a) By a member of the Board’s staff; or
- (b) By any person who, by the laws or rules of court of the jurisdiction in which the Respondent is served, is authorized or appointed to serve process in judicial disciplinary proceedings or any other proceeding.

### **Rule 112      Right to Counsel**

- (a) The Respondent shall be entitled to retain counsel and to have the assistance of such counsel at every stage of proceedings before the Commission.

- (b) Counsel for the Respondent shall file an entry of appearance with the Clerk and shall serve a copy on the Board. The entry of appearance shall include counsel's name, address, phone number, email address, and ARDC number.

**Rule 113      Immunity**

Members of the Commission and the Commission's staff shall be absolutely immune from suit for all conduct while performing their official duties.

**Rule 114      Proceedings Before the Commission Generally**

- (a) The provisions of the Code of Civil Procedure, Illinois Supreme Court Rules, and the rules of evidence applicable in civil cases in Illinois shall govern Commission proceedings, except as otherwise provided by these rules or by law. The allegations of the Complaint must be proved by clear and convincing evidence.
- (b) The Commission shall have the right to take judicial notice of matters of which courts of record of this state may take judicial notice.
- (c) All testimony presented to the Commission shall be taken under oath or affirmation.
- (d) The Chair and each member of the Commission and any person otherwise authorized by law shall have the power to administer an oath or affirmation.
- (e) All proceedings of the Courts Commission and all orders entered by the Commission, except deliberations of the Commission or as otherwise noted herein, shall be matters of public record.
- (f) All orders of the Commission shall be in writing and shall be preserved by the Clerk in the permanent records of the Commission.

**Rule 115      Subpoenas**

The Clerk shall prepare and cause to be issued subpoenas returnable before the Illinois Courts Commission at the request of any party. Witnesses shall be entitled to witness fees and expenses as provided for in the Code of Civil Procedure.

## **ARTICLE II            PROCEEDINGS BEFORE THE COMMISSION**

### **Rule 201            Filing of Complaint; Docketing**

- (a) Formal disciplinary proceedings respecting any Respondent shall be commenced by the filing of a Complaint by the Judicial Inquiry Board with the Clerk and concurrent service of the Complaint on the Respondent. The Complaint shall specify in plain and concise language the charges against the Respondent and the allegations of fact upon which such charges are based, and it shall advise the Respondent of his or her right to file responsive pleadings to the charges within twenty-one (21) days after service of notice upon the Respondent. No other process or summons shall be necessary to institute said proceedings.
  
- (b) The Clerk shall assign each Complaint a case number and shall record that information in the Commission's docket.

### **Rule 202            Appointment of Alternate Members**

- (a) If a Member is absent or unable to participate in a given proceeding or is disqualified from participation in any proceeding pursuant to sub-paragraph (h) of Section 15 of Article VI of the Constitution, an Alternate Member shall replace him or her.
  
- (b) When a Member who is an appellate court judge is absent or unable to participate in a proceeding or is disqualified from participating, an Alternate appellate court judge shall replace him or her. Alternate appellate court judges shall serve on a rotating basis. The ascending numerical order of the Judicial Districts from which the Alternates were selected (1 through 5) shall determine the order of the Alternates' rotation. If an Alternate is also disqualified, absent, or unable to participate, the next Alternate shall serve. Any Alternate who is disqualified, absent, or unable to participate shall be placed at the end of the rotation.
  
- (c) When a member who is a circuit judge is absent or unable to participate in a proceeding or is disqualified from participating, an Alternate circuit judge shall replace him or her. Alternate circuit judges shall serve on a rotating basis. The ascending numerical order of the Judicial Districts from which the Alternates were selected (1 through 5) shall determine the order of the Alternates' rotation. If an Alternate Member is also disqualified, absent, or unable to participate, the next Alternate shall serve. Any Alternate who is disqualified, absent, or unable to participate shall be placed at the end of the rotation.
  
- (d) If a Member selected by the Governor is absent or unable to participate in a proceeding or is disqualified from participating, an Alternate Member selected by the Governor shall replace him or her.



**Rule 203      Appointment of Case Manager**

- (a) Within 21 days of the filing of a Complaint, if no Member has volunteered to serve as Case Manager, the Chair shall enter an order appointing a Member to serve as Case Manager.
- (b) The Case Manager shall be responsible for ensuring the case is conducted as expeditiously as possible. The Case Manager shall:
  - 1. Schedule and conduct pre-hearing conferences
  - 2. Dispose of all non-dispositive pre-trial motions
  - 3. Upon disposition of all pre-hearing matters, notify the Chair that the case is ready for hearing.
- (c) The Clerk shall serve a file-stamped copy of the order appointing the Case Manager to the counsel of record.

**Rule 204      Answer and Responsive Pleadings**

- (a) The Respondent shall file responsive pleadings not more than twenty-one (21) days following the service of the Complaint upon him or her. For good cause shown, the Commission may extend the time for filing such pleadings. Responsive pleadings shall be in clear and concise language designed to fairly respond to the charges brought against the Respondent.
- (b) The answer shall specifically admit or deny each allegation of the Complaint. Every allegation not specifically denied is deemed admitted unless the answer states the reason the Respondent is unable to make a specific denial.
- (c) If a Respondent fails to answer the Complaint, upon motion by the Board and notice to the Respondent, all factual allegations and disciplinary charges shall be deemed admitted, and no further proof shall be required. A Respondent who has failed to answer timely may seek leave of the Commission to vacate an order of default and file an answer upon a showing that his failure to answer was a result of mistake, inadvertence, surprise, or excusable neglect. At any hearing in which the allegations of the Complaint have been deemed admitted, the Respondent and the Board shall be limited to presenting evidence of aggravating and mitigating factors and arguments regarding the form and amount of discipline to be imposed. No hearing shall be conducted within twenty-eight (28) days of the entry of an order vacating an order of default.

**Rule 205      Other Pleadings**

All pleadings and other filings subsequent to the Complaint shall be filed with the Clerk. A copy of any pleading filed shall be served in the manner prescribed for the service of papers by the rules of the Illinois Supreme Court.

**Rule 206      Motions**

- (a) All motions shall be made in writing prior to hearing. Rulings on non-dispositive motions shall be made by the Case Manager or in a manner as the Chair shall determine. Except for motions made pursuant to Rule 212, the non-movant may submit a written response to a motion within 14 days after service of the motion. The movant may submit a reply within 7 days after service of the non-movant's response.

**Rule 207      Discovery**

- (a) Except as provided herein, discovery shall be in accordance with the Code of Civil Procedure and the Rules of the Supreme Court. Discovery shall be completed within 60 days of service of the Complaint upon the Respondent.
- (b) The Board and the Respondent shall exchange:
  - 1. Non-privileged evidence related to the charges in the Complaint, documents intended to be presented at the hearing, and statements of witnesses who will be called to testify; and
  - 2. Other material, in the Case Manager's discretion, upon cause shown.
- (c) Upon the filing of a Complaint, the Board shall provide the Respondent with any exculpatory evidence relevant to the charges contained in the Complaint.
- (d) The Board and the Respondent have a continuing duty to supplement information required to be exchanged or disclosed under this rule until the hearing is concluded and the record is closed.
- (e) Disputes concerning discovery shall be determined by the Case Manager.
- (f) If at any time during the course of the proceedings it is brought to the attention of the Case Manager that a party has failed to comply with these Rules regarding discovery, the Case Manager may order compliance, grant a continuance, prohibit the party from introducing the evidence not disclosed, or the Case Manager may enter any other order as is just.

**Rule 208      Disclosure of Witnesses**

- (a) Within 28 days of service of the Complaint upon the Respondent, or upon a request for an extension for good cause shown, the Board and the Respondent shall file a report disclosing the name, address, telephone number, and email address of persons who have knowledge of facts which are the subject of the proceeding and identifying the subject matter of their knowledge. The Board and the Respondent have a duty to seasonably supplement or amend any prior report whenever new or additional information subsequently becomes known to that

party. The Board and the Respondent shall disclose to all parties of record any reports about the case received from an expert witness who will testify at hearing within a reasonable time after receipt of the report.

- (b) The Commission shall not allow the Board or the Respondent to offer the testimony of any person whose identity and location is not disclosed in a report pursuant to this rule, but the Commission shall not bar testimony of a witness based upon the adequacy of the disclosure of the subjects of the witness' testimony, absent a showing of substantial prejudice by the party seeking to bar the testimony. The Commission shall not allow the Board or the Respondent to offer the testimony of any expert witness who provided a report to the party calling that expert witness, if that report has not been timely disclosed to all other parties.

### **Rule 209      Pre-Hearing Conferences**

- (a) As soon as practicable after a Case Manager is appointed, the Case Manager shall schedule and preside over a pre-hearing conference. Counsel for the Board and the Respondent or the Respondent's counsel must appear at all pre-hearing conferences, unless excused by the Case Manager.
- (b) All pre-hearing conferences shall be open to the public and will take place remotely, by video conference. The Clerk shall publicly post the date, time, and video conference credentials for each pre-hearing conference that is scheduled. The Case Manager may hold *in camera* conferences with the parties as necessary.
- (c) During a pre-hearing conference, the Case Manager shall consider and take action regarding:
  - 1. the clarification of the issues;
  - 2. the elimination of frivolous charges or defenses;
  - 3. amendments to the pleadings;
  - 4. stipulations regarding undisputed evidence and obtaining pre-hearing rulings on the admissibility of evidence;
  - 5. the identification and limitation of witnesses, including character or expert witnesses;
  - 6. discovery disputes;
  - 7. scheduling of the hearing; and
  - 8. any other matters which may aid in the disposition of the case.
- (d) The Case Manager may schedule additional pre-hearing conferences as necessary.
- (e) The Case Manager shall, in addition to any other sanctions authorized by Supreme Court Rule or Commission Rule, make and enforce all rules and orders necessary to compel compliance with this rule.

- (f) At the conclusion of each pre-hearing conference, the Case Manager shall enter an order stating the agreements and objections made by the parties and any rulings made by the Case Manager. The order shall control subsequent proceedings before the Commission, unless modified by the Case Manager.
- (g) The Clerk shall serve a file-stamped copy of the order scheduling the first pre-hearing conference and any subsequent order entered after a pre-hearing conference to the counsel of record.

**Rule 210      Hearings**

- (a) The Commission shall conduct public hearings at such place or places in the state as it shall determine will best serve the public interest.
- (b) Notice of the date, time, and place of the hearing shall be served upon the Respondent or the Respondent's counsel not less than twenty-one (21) days prior to the date upon which the hearing is set.
- (c) Notwithstanding the failure of any Respondent to file responsive pleadings or to appear at the hearing set by the Commission, the Commission may proceed with the hearing, provided that all evidence in support of the Complaint shall be heard by the Commission in a public hearing.
- (d) Upon motion of either party, the Commission may exclude witnesses from the hearing.

**Rule 211      Witness' Right to Representation**

Any witness at any hearing of the Commission shall, upon leave of the Commission, have the right to retain counsel, but such counsel shall not participate in the hearing, or cross-examine witnesses, except by permission of the Commission. The examination of all witnesses shall be conducted by counsel for the parties and may also be conducted by any member of the Commission.

**Rule 212      Continuances**

- (a) The Case Manager may continue a pre-hearing conference or hearing at his or her discretion.
- (b) A request for a continuance shall be made by filing a motion with the Clerk and serving a copy of the motion on the opposing party. The opposing party shall file its response to the motion within 7 days of service of the motion. The motion shall be decided by the Case Manager, who may grant the motion, but only for good cause shown.

**Rule 213      Stipulations of Fact**

- (a) In lieu of a hearing, the parties may submit to the Commission stipulations as to all facts necessary to a decision of the issues in the proceeding. The stipulations shall be binding upon the parties and may be adopted by the Commission as the facts of the proceeding upon which a Decision shall be rendered. When submitted, the stipulations shall be accompanied by a signed waiver of any right to a hearing granted under the Constitution and these rules.
- (b) The parties may submit stipulations as to issues of fact, but which do not resolve all relevant issues in the proceeding. In this case, the parties shall be bound by the stipulations and the Commission may adopt them and proceed to hearing on all remaining factual issues.

**Rule 214      Exhibits**

Each party must appear at hearing with all documentary exhibits prepared in the following manner:

- (a) The first page of each exhibit or group exhibit shall be labeled as Board's Exhibit (Bd. Ex.) or Respondent's Exhibit (Resp. Ex.), with the appropriate number of the exhibit.
- (b) Any exhibit that contains more than one page shall be bound, stapled or otherwise fastened permanently, and shall have all pages of that exhibit consecutively numbered.
- (c) Prior to the start of the hearing, each party shall tender to the Chair, on a form provided by the Clerk, a table of the exhibits the party plans to offer. A copy of the table shall be served upon opposing counsel.
- (d) At the close of evidence and before the hearing is adjourned, it shall be the duty of each party to assure that all exhibits that were admitted into evidence for that party and all exhibits that were the subject of an offer of proof by that party during the hearing have been delivered to the Chair in a form consistent with this rule.

**Rule 215      Decisions**

- (a) At the conclusion of a hearing, the Commission shall, within a reasonable time, enter a Decision, exercising the authority vested in it by sub-paragraph (e) of Section 15 of Article VI of the Constitution. The concurrence of at least four members of the Commission shall be necessary for a Decision. The Decision of the Commission shall be final.
- (b) The Decision shall be filed with the Clerk. The Clerk shall serve a copy upon the Board and the Respondent or the Respondent's counsel.

**Rule 216      Transcript of Proceedings**

A transcript of proceedings shall be made and kept whenever the Commission meets as a body to receive evidence, hear testimony, or hear the arguments of counsel regarding matters pending before the Commission. However, a transcript will not be made and kept regarding pre-hearing conferences unless a party or the Commission requests a transcript of such conferences.

**ARTICLE III              PUBLICATION AND CITATIONS**

**Rule 301      Publication of Decisions**

- (a) Electronic Publication. In order to make available to the public all orders of the Commission, the Clerk shall transmit an electronic copy of each Decision to the Commission’s website within a reasonable amount of time after it is filed.
- (b) Public-Domain Designators. A Decision entered on or after November 18, 2024 must be assigned a public-domain case designator and internal paragraph numbers.
  - 1. The Clerk shall assign a public-domain case designator to those Decisions filed on or after November 18, 2024 and any Commission Decision not published in the Official Illinois Courts Commission Reports prior to that date. The designator number for a Decision must be unique to that Decision and shall include the year of the Decision, the Commission abbreviation, and an identifier number comprised of the final two digits of the docket number, or the final three digits of the initial docket number in a consolidated appeal, without use of a hyphen. The public-domain identifier shall appear at the top of the first page of a Decision and shall be in the following form:

[year] IL Cts Com [no.]

**Rule 302      Citation of Decisions**

- (a) Citation of Commission Decisions filed before November 18, 2024 and published in the Official Illinois Courts Commission Reports shall be to the Official Illinois Courts Commission Reports. For Commission Decisions filed on or after November 18, 2024, and for any Commission Decision not published in the Official Illinois Courts Commission Reports prior to that date and for which a public-domain citation has been assigned, the public-domain citation shall be given and, where appropriate, pinpoint citations to paragraph numbers shall be given.