

27 NCAC 01B .0133 CONFIDENTIALITY

(a) Allegations of Misconduct or Alleged Disability - Except as otherwise provided in this rule and G.S. 84-28(f), all information, documentation, and proceedings involving allegations of misconduct by or alleged disability of an attorney will remain confidential until:

- (1) a complaint against an attorney has been filed in the Disciplinary Hearing Commission after a finding by the Grievance Committee that there is probable cause to believe that the attorney engaged in misconduct justifying disciplinary action or is disabled;
- (2) the attorney requests that the matter be made public;
- (3) the investigation is predicated upon the attorney's conviction of a crime;
- (4) a petition or action is filed in the general courts of justice;
- (5) the attorney files an affidavit of surrender of license;
- (6) an attorney is transferred to disability inactive status pursuant to Rule .0122(a) or (b) of this Subchapter. In such an instance, the order transferring the attorney shall be public. Any other materials, including the evidence of disability supporting the order, shall be kept confidential unless and until the attorney petitions for reinstatement, unless otherwise provided in the order; or
- (7) a petition for noncompliance suspension has been filed in the Disciplinary Hearing Commission pursuant to Rule .0135 of this Subchapter.

(b) Disciplinary Complaints Filed Upon Refusal of Grievance Committee Disposition - The State Bar may disclose that it filed a complaint before the Disciplinary Hearing Commission pursuant to Rule .0113(j)(5) or .0113(l)(5) of this Subchapter upon the defendant's refusal of a disciplinary disposition offered by the Grievance Committee:

- (1) after the proceedings before the Disciplinary Hearing Commission have concluded; or
- (2) while proceedings are pending before the Disciplinary Hearing Commission, to address publicity not initiated by the State Bar.

(c) Letter of Warning; Admonition - A letter of warning issued to an attorney within the preceding three years may be revealed in any subsequent disciplinary proceeding. An admonition issued to an attorney may be revealed in any subsequent disciplinary proceeding.

(d) Attorney's Response to a Grievance - This provision will not be construed to prohibit the North Carolina State Bar from providing a copy of an attorney's response to a grievance to the complaining party when the attorney has not objected thereto in writing.

(e) Law Enforcement or Regulatory Agency - This provision will not be construed to prohibit the North Carolina State Bar from providing information or evidence to any law enforcement or regulatory agency.

(f) Chief Justice's Commission on Professionalism - This provision will not be construed to prohibit the North Carolina State Bar, with the approval of the chairperson of the Grievance Committee, from notifying the Chief Justice's Commission on Professionalism of alleged unprofessional conduct by an attorney.

(g) Lawyer Assistance Program - This provision will not be construed to prohibit the North Carolina State Bar from notifying the Lawyer Assistance Program of any circumstances that indicate an attorney may have a substance use or mental health issue.

(h) Other Jurisdictions - This provision will not be construed to prohibit the North Carolina State Bar, with the approval of the chairperson of the Grievance Committee, from providing information concerning the existence of a letter of caution, letter of warning, or admonition to any agency that regulates the legal profession in any other jurisdiction so long as the inquiring jurisdiction maintains the same level of confidentiality respecting the information as does the North Carolina State Bar.

(i) National Discipline Data Bank - The clerk of the Disciplinary Hearing Commission will transmit notice of all public discipline imposed and transfers to disability inactive status to the National Discipline Data Bank maintained by the American Bar Association.

(j) Client Security Fund Board of Trustees - The Counsel may provide information that is confidential under Paragraph (a) of this Rule to the Client Security Fund Board of Trustees to assist the Client Security Fund Board in determining losses caused by dishonest conduct of members of the North Carolina State Bar.

History Note: Authority G.S. 84-23;

Readopted Eff. December 8, 1994;

Amendments Approved by the Supreme Court: February 20, 1996, November 7, 1996, March 2002, October 9, 2008, September 22, 2016, March 18, 2026.