



In the
Indiana Supreme Court

IN THE MATTER OF PROCEDURE)
FOR RESOLVING CONFLICT)
ATTORNEY DISCIPLINE GRIEVANCES)

Cause No. 94500-1109-MS-563

ORDER FORMALIZING POLICY AND SETTING PROCEDURE FOR THE
INVESTIGATION AND PROSECUTION OF GRIEVANCES INVOLVING MEMBERS AND
STAFF OF THE INDIANA SUPREME COURT DISCIPLINARY COMMISSION AND
ATTORNEYS SERVING AS HEARING OFFICERS IN ATTORNEY DISCIPLINE CASES

Article 7, Section 4 of the Constitution of Indiana vests the Indiana Supreme Court with original jurisdiction of the discipline or disbarment of those admitted to the practice of law in Indiana. The Supreme Court has adopted Admission and Discipline Rule 23 to assist the Court in carrying out this constitutional duty. Admission and Discipline Rule 23 creates the Disciplinary Commission of the Supreme Court of Indiana, provides a procedure for the processing of grievances alleging unethical conduct by attorneys, and spells out the duties of the Disciplinary Commission and its Executive Secretary.

From time to time, the Disciplinary Commission receives grievances involving attorneys who are members and staff of the Disciplinary Commission and attorneys who serve as hearing officers in disciplinary cases, making it necessary for the Disciplinary Commission members and staff to disqualify and for this Court to empower others to act on the Court's behalf under Admis.

Disc. R. 23. These grievances shall hereafter be called “conflict grievances.” Since September, 2000, this Court has had in place a policy under which the Disciplinary Commission is directed to refer conflict grievances to the Executive Director of the Indiana Supreme Court Division of State Court Administration (“Division”) for a preliminary investigation and a report to the Chief Justice.

This Court now finds that it is advisable and helpful to the bar to formalize the Court’s policy and publish the procedure for the investigation and prosecution of conflict grievances. Accordingly, until this Court has an opportunity to study and promulgate a rule, this Order shall govern the processing of conflict grievances.

IT IS, THEREFORE, ORDERED THAT the Disciplinary Commission shall refer to the Executive Director of the Indiana Supreme Court Division of State Court Administration, grievances filed with the Disciplinary Commission involving members and staff of the Disciplinary Commission and attorneys serving as hearing officers in disciplinary cases. The Executive Director shall conduct a preliminary investigation of such grievances pursuant to Admis. Disc. R. 23, Section 10 (a).

If the grievance involves an attorney who, at the time of the grievance, is serving as a hearing officer in an attorney discipline case, the Executive Director shall determine whether the grievance raises a substantial question of misconduct. If the Executive Director determines that the grievance raises no substantial question of misconduct, the Executive Director shall make a report to the Chief Justice with a recommendation that the grievance be dismissed. If the Chief Justice, or a majority of the members of the Court if the Chief Justice in his sole discretion submits the grievance to the whole Court, determines that the grievance does not raise a substantial question of misconduct, he shall dismiss the grievance. If the grievance is not

dismissed at this stage or if the Executive Director determines that the grievance raises a substantial question of misconduct, the Executive Director shall direct in writing that the attorney withdraw as hearing officer in any disciplinary case in which the attorney is serving, and the Executive Director shall forward all information regarding the grievance, including any response, to the Disciplinary Commission for further processing pursuant to Admis. Disc. R. 23

If the grievance involves a member or staff of the Disciplinary Commission, the Executive Director shall make a report to the Chief Justice, advise whether or not the grievance raises a substantial question of misconduct, and recommend whether it should or should not be dismissed. If the Chief Justice, or a majority of the members of the Court if the Chief Justice in his sole discretion submits the grievance to the whole Court, determines that the grievance does not raise a substantial question of misconduct, he shall dismiss the grievance. If a grievance is not dismissed at this stage, the Executive Director shall refer the grievance to the Indiana Commission on Judicial Qualifications for further processing pursuant to Admis. Disc. R. 23.

Thereafter, the Commission on Judicial Qualifications shall serve as Acting Disciplinary Commission, the Executive Director shall serve as Acting Executive Secretary of the Disciplinary Commission, and they shall proceed under the provisions of Admis. Disc. R. 23. The Executive Director may assign appropriate Division staff and, with the approval of this Court, contract with others to carry out this duty.

The Court finds that it is appropriate for the Commission on Judicial Qualifications and the Executive Director to perform these responsibilities. The Commission on Judicial Qualifications is established by the Constitution of Indiana to investigate and prosecute complaints against Justices of the Indiana Supreme Court and Judges of the Indiana Court of Appeals. The Indiana Supreme Court has original jurisdiction of the discipline, removal and

retirement of all justices and judges of Indiana courts. In furtherance of this constitutional duty, this Court adopted Admission and Discipline Rule 25, which directs that the Commission on Judicial Qualifications shall receive and investigate complaints against all judicial officers. Pursuant to statute, the staff of the Indiana Supreme Court Division of State Court Administration serves as staff to the Commission on Judicial Qualifications pursuant to Indiana Code 33-27-2-7(c). Thus, the members and staff of the Commission on Judicial Qualifications have particular expertise in the substantive and procedural details of disciplinary matters involving judicial officers which expertise should serve them well in their capacity as acting Disciplinary Commission and Executive Secretary under Admis. Disc. R. 23.

IT IS FURTHER ORDERED THAT the Clerk of this Court shall send a copy of this Order to G. Michael Witte, Executive Secretary of the Disciplinary Commission, 30 South Meridian Street, Suite 850, Indianapolis, IN 46204, who is hereby directed to provide copies of this Order to each member of the Disciplinary Commission, and to Lilia Judson, Executive Director of the Division of State Court Administration, 30 South Meridian Street, Suite 500, Indianapolis, IN 46204, who is hereby directed to provide copies of this Order to each member of the Commission on Judicial Qualifications. The Clerk of this Court is further directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and

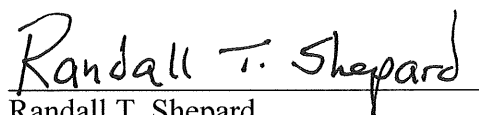
Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thompson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this 14th day of September, 2011.

For the Court


Randall T. Shepard
Chief Justice of Indiana

All Justices concur.