



**THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

**STANDARD GUIDANCE TO LAWYERS WHO HAVE BEEN TRANSFERRED TO DISABILITY INACTIVE
STATUS PURSUANT TO RULE 216 OR 301, Pa.R.D.E.**

1. Your transfer to disability inactive status is effective immediately and continues until further order of the Court.
 - (a) You are required to immediately give notice of your transfer to inactive status to all clients represented in pending matters, or in litigation or administrative proceedings, and the attorneys for each adverse party in such litigation or proceedings, by use of the Forms DB-23 and DB-24 provided to you. (Rule 217(b), Pa.R.D.E.)
 - (b) You are also required to notify the following of your transfer to inactive status: all persons or their agents or guardians, wards, heirs and beneficiaries to whom a fiduciary duty is or may be owed at any time after your suspension; all other persons to whom you may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that you continue as an attorney in good standing; and any other tribunal, court, agency or jurisdiction in which you are admitted to practice.
 - (c) Such notices are to be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. The notices may be delivered in person with you securing a signed receipt, electronic mailing with some form of acknowledgment from the client other than a "read receipt" and mailing by registered or certified mail return receipt requested. You are required to file copies of the notices with the Board Prothonotary and to serve copies on the Office of Disciplinary Counsel.
 - (d) Within 10 days after the date of the order, you are to file the "Statement of Compliance", Form DB-25 with the Board Prothonotary and serve a copy of that Form on Office of Disciplinary Counsel.
 - (e) Rule 217(d)(3) requires that you resign all appointments as personal representative, executor, administrator, guardian, conservator, receiver, trustee, agent under a power of attorney, or other fiduciary position. Throughout the term of your inactive status, you are precluded from accepting any new appointments or engagements as such. You are also required to maintain records and provide proof of compliance with this requirement at the time you file the Statement of Compliance.
 - (f) Rule 217(d)(3) requires that you also promptly: (1) close every IOLTA, Trust, client and fiduciary account; (2) properly disburse or otherwise transfer all client and fiduciary funds in your possession, custody or control; and (3) take all necessary steps to cancel or discontinue the next regular publication of all advertisements and telecommunication listings that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania. You are required to maintain records and provide proof of compliance with these actions at the time you file the Statement of Compliance
 - (g) If the various requirements of Rule 217 including the filing of the required Statement of Compliance and copies of notices to clients are not timely accomplished by you, the Office of Disciplinary Counsel will not hesitate to initiate action, in any court of competent jurisdiction, for such injunctive and other relief as may be appropriate to protect the interests of your former clients. (Rule 218(j)(2), Pa.R.D.E.)
2. From and after the entry of the order, you are not to accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

3. In addition to the steps that you must promptly take under the other provisions of Rule 217, Pa.R.D.E. to disengage from the practice of law, you shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar.

4. It is not envisioned that you will, or that you may, unilaterally proceed to dispose of, or transfer to another lawyer, any case, without having given the required notice to the client.

(a) Each client is to be put in a position to make an informed choice as to who is to represent him or her in connection with the legal matter in which you represented the client, and his or her expressed directions are to be observed by you.

(b) When a new attorney is selected by the client, you must promptly make the client's file available to the new attorney, without waiving any right to compensation you may have earned.

(c) You are not to share in any fee for legal services performed by any other attorney, following your transfer to inactive status, but you may be compensated for the reasonable value of your services rendered and disbursements incurred prior to the effective date thereof. In no event should the reasonable value of your services, and of those of the substituted attorney, exceed the amount the client would have had to pay, had no substitution of counsel been required.

5. A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the requirements of Rule 217(j), Pa.R.D.E. This Rule sets forth boundaries pertaining to law-related activities and specifies certain activities which are prohibited to formerly admitted attorneys. You should carefully review Rule 217(j).

6. In Pennsylvania, it is a misdemeanor of the third degree for a person, not currently admitted to practice law, to hold himself out to the public as being entitled to practice law, or use or advertise the title of lawyer, attorney at law, attorney and counselor at law, counselor, or the equivalent in any language, in such a manner as to convey the impression that he is a practitioner of the law of any jurisdiction. 42 Pa.C.S., Section 2524. No further guidance can or will be offered by the Disciplinary Board as to what constitutes the practice of law, within the meaning of that statute, or otherwise. In case you anticipate engaging in conduct which could reasonably raise question as to whether it constitutes the practice of law, it is urged that you formally seek prospective guidance in that regard, from appropriate local or state professional associations, whenever such question may arise.

Attachment: Pa.R.D.E. Rule 217

EXCERPT FROM PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Rule 217. Formerly admitted attorneys.

(a) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices).

Note: Notice may be accomplished, for example, by delivery in person with the lawyer securing a signed receipt, electronic mailing with some form of acknowledgement from the client other than a "read receipt," and mailing by registered or certified mail, return receipt requested.

(b) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

(c) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status:

(1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status;

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing; and

(3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status.

(d) (1) Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(2) In addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar.

(3) In cases of disbarment, suspension for a period exceeding one year, temporary suspension under Enforcement Rule 208(f) or 213(g), or disability inactive status under Enforcement Rule 216 or 301, a formerly admitted attorney shall also promptly:

- (i) resign all appointments as personal representative, executor, administrator, guardian, conservator, receiver, trustee, agent under a power of attorney, or other fiduciary position;
- (ii) close every IOLTA, Trust, client and fiduciary account;
- (iii) properly disburse or otherwise transfer all client and fiduciary funds in his or her possession, custody or control; and
- (iv) take all necessary steps to cancel or discontinue the next regular publication of all advertisements and telecommunication listings that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania.

The formerly admitted attorney shall maintain records to demonstrate compliance with the provisions of paragraphs (2) and (3) and shall provide proof of compliance at the time the formerly admitted attorney files the verified statement required by subdivision (e)(1) of this Rule.

Note: Paragraph (d)(3)(i) does not preclude a respondent-attorney who voluntarily assumes inactive or retired status, is placed on administrative suspension, is temporarily suspended under Enforcement Rule 214, or is suspended for one year or less, from completing existing appointments and accepting new appointments of the nature identified in paragraph (d)(3)(i). Nonetheless, in order to comply with subdivisions (a), (b) and (c) of this Rule, the formerly admitted attorney who desires to complete existing appointments or accept future appointments must give written notice of the formerly admitted attorney's registration status or change in that status to appointing and supervising judges and courts, wards, heirs, beneficiaries, interested third parties, and other recipients of the formerly admitted attorney's fiduciary services, as notice of the formerly admitted attorney's other-than-active status gives all interested parties an opportunity to consider replacing the formerly admitted attorney or enlisting a person other than the formerly admitted attorney to serve as the fiduciary in the first instance. Although the formerly admitted attorney would not be precluded by paragraph (d)(3)(ii) from continuing to use a fiduciary account registered with the bank as an IOLTA or Trust Account, paragraph (2) of subdivision (d) and paragraph (4)(iv) of subdivision (j) of this Rule prohibit the formerly admitted attorney from using or continuing to use account checks and deposit slips that contain the word "IOLTA," "attorney," "lawyer," "esquire," or similar appellation that could convey eligibility to practice in the state courts of Pennsylvania. Notwithstanding the specific prohibitions of subdivision (j) of this Rule, the formerly admitted attorney is authorized to perform those services necessary to carry out the appointment with the exception of any service that would constitute the unauthorized practice of law if engaged in by a nonlawyer. In relation to formerly admitted attorneys who are disbarred, suspended for a period exceeding one year, temporarily suspended under Enforcement Rule 208(f) or 213(g), or transferred to disability inactive status, the requirements of paragraph (d)(3) continue throughout the term of the disbarment, suspension, temporary suspension, or disability inactive status, thereby precluding any new appointment or engagement.

(e) (1) Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Secretary of the Board a verified statement and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall:

- (i) aver that the provisions of the order and these rules have been fully complied with;
- (ii) list all other state, federal and administrative jurisdictions to which the formerly admitted attorney is admitted to practice, aver that he or she has fully complied with the notice requirements of paragraph (3) of subdivision (c) of this Rule, and aver that he or she has attached copies of the notices and proofs of receipt required by (c)(3); or, in the alternative, aver that he or she was not admitted to practice in any other tribunal, court, agency or jurisdiction;
- (iii) aver that he or she has attached copies of the notices required by subdivisions (a), (b), and (c)(1) and (c)(2) of this Rule and proofs of receipt, or, in the alternative, aver that he or she has no clients, third persons to whom a fiduciary duty is owed, or persons with whom the formerly admitted attorney has professional contacts, to so notify;

(iv) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration certificate for the current year, certificate of admission, any certificate of good standing issued by the Prothonotary, and any other certificate required by subdivision (h) of this Rule to be surrendered; or, in the alternative, aver that he or she has attached all such documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered;

(v) aver that he or she has complied with the requirements of paragraph (2) of subdivision (d) of this Rule, and aver that he or she has, to the extent practicable, attached proof of compliance, including evidence of the destruction, removal, or abandonment of indicia of Pennsylvania practice; or, in the alternative, aver that he or she neither had nor employed any indicia of Pennsylvania practice;

(vi) in cases of disbarment, suspension for a period exceeding one year, temporary suspension under Enforcement Rule 208(f) or 213(g), or disability inactive status under Enforcement Rule 216 or 301, aver that he or she has complied with the requirements of paragraph (3) of subdivision (d) of this Rule, and aver that he or she has attached proof of compliance, including resignation notices, evidence of the closing of accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary funds, and requests to cancel advertisements and telecommunication listings; or, in the alternative, aver that he or she has no applicable appointments, accounts, funds, advertisements, or telecommunication listings;

(vii) aver that he or she has served a copy of the verified statement and its attachments on the Office of Disciplinary Counsel;

(viii) set forth the residence or other address where communications to such person may thereafter be directed; and

(ix) sign the statement.

The statement shall contain an averment that all statements contained therein are true and correct to the best of the formerly admitted attorney's knowledge, information and belief, and are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Note: A respondent-attorney who is placed on temporary suspension is required to comply with subdivision (e)(1) and file a verified statement. Upon the entry of a final order of suspension or disbarment, the respondent-attorney must file a supplemental verified statement containing the information and documentation not applicable at the time of the filing of the initial statement, or all of the information and documentation required by subdivision (e)(1) if the respondent-attorney has failed to file the initial statement. Although the grant of retroactivity is always discretionary, a respondent-attorney who fails to file a verified statement at the time of temporary suspension should not expect a final order to include a reference to retroactivity.

(2) A formerly admitted attorney shall cooperate with Disciplinary Counsel and respond completely to questions by Disciplinary Counsel regarding compliance with the provisions of this Rule.

(3) After the entry of an order of disbarment or suspension for a period exceeding one year, the waiting period for eligibility to apply for reinstatement to the practice of law shall not begin until the formerly admitted attorney files the verified statement required by subdivision (e)(1) of this Rule. If the order of disbarment or suspension contains a provision that makes the discipline retroactive to an earlier date, the waiting period will be deemed to have begun on that earlier date.

Note: This subdivision (e)(3) and the corresponding provisions in subdivision (b) of Enforcement Rule 218 apply only to orders entered on or after February 28, 2015, the effective date of this subdivision and the corresponding Enforcement Rule 218 provisions.

(f) The Board shall cause a notice of the suspension, disbarment, administrative suspension or transfer to inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced. The cost of publication shall be assessed against the formerly admitted attorney.

(g) The Board shall promptly transmit a certified copy of the order of suspension, disbarment, administrative suspension or transfer to inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced. The president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the Attorney Registration Office under Rule 219(e) (relating to annual registration of attorneys) for the current year, along with any certificate of good standing issued under

Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys). The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

(i) A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension, administrative suspension or transfer to inactive status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

(j) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements:

(1) All law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the firm or organization as the supervising attorney for purposes of this subdivision.

(2) For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following:

(i) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;

(ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and

(iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

(3) A formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

(4) Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis;

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

(iv) representing himself or herself as a lawyer or person of similar status;

(v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);

(vi) rendering legal consultation or advice to a client;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;

- (viii) appearing as a representative of the client at a deposition or other discovery matter;
- (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction;
- (x) receiving, disbursing or otherwise handling client funds.

(5) The supervising attorney and the formerly admitted attorney shall file with the Disciplinary Board a notice of engagement, identifying the supervising attorney and certifying that the formerly admitted attorney's activities will be monitored for compliance with this subdivision (j). The supervising attorney and the formerly admitted attorney shall file a notice with the Disciplinary Board immediately upon the termination of the engagement between the formerly admitted attorney and the supervising attorney.

(6) The supervising attorney shall be subject to disciplinary action for any failure by either the formerly admitted attorney or the supervising attorney to comply with the provisions of this subdivision (j).

Note: Subdivision (j) was adopted by the Court to limit and regulate the law-related activities performed by formerly admitted attorneys regardless of whether those formerly admitted attorneys are engaged as employees, independent contractors or in any other capacity. Subdivision (j) requires that a notice be filed with the Disciplinary Board when any law-related activities are performed by a formerly admitted attorney and when the engagement is terminated. Subdivision (j) is addressed only to the special circumstance of formerly admitted attorneys engaging in law-related activities and should not be read more broadly to define the permissible activities that may be conducted by a paralegal, law clerk, investigator, etc. who is not a formerly admitted attorney. Subdivision (j) is also not intended to establish a standard for what constitutes the unauthorized practice of law. Finally, subdivision (j) is not intended to prohibit a formerly admitted attorney from performing services that are not unique to law offices, such as physical plant or equipment maintenance, courier or delivery services, catering, typing or transcription or other similar general office support activities.