

**U.S. Court of Appeals for the Federal Circuit
Attorney Discipline Rules**

Rule 8. Contested Proceedings (Rev'd February 1, 2016)

- (a) **No Request for a Hearing.** If an attorney does not request a hearing in response to a show cause order, then the panel shall prepare the record consisting of the show cause order, the response, and any other documents obtained by the panel. If the record includes documents in addition to the show cause order and the response, then an attorney shall be given notice that he or she may inspect and copy the record at his or her expense and may file a supplemental response. Information will be withheld from an attorney only in extraordinary circumstances, e.g., for national security or criminal investigation reasons. Any supplemental response shall be due within 14 days of the date of the notice concerning inspection and copying.
- (b) **Request for Hearing.** On request by an attorney, except in cases of reciprocal discipline under Rule 2(b) or resignation under Rule 2(c) where the hearing shall be at the discretion of the panel, the panel shall schedule a hearing. A hearing scheduled by a merits or motions panel will be an oral hearing. If a merits or motions panel determines that an evidentiary hearing is necessary, that panel shall refer the matter to the Standing Panel. In matters that have not been referred by a merits or motions panel, the Standing Panel shall determine whether a hearing is oral or evidentiary. An attorney shall be given at least 30 days' notice of the time, date, and place of a hearing.
 - (1) The record consists of the show cause order, the response, and any other documents obtained by the panel. If the record includes documents in addition to the show cause order and the response, then an attorney shall be given notice that he or she may inspect and copy the record at his or her expense. Information will be withheld from an attorney only in extraordinary circumstances, e.g., for national security or criminal investigation reasons.
 - (2) The Standing Panel may compel by subpoena the attendance of witnesses, including the attorney subject to the proceeding, and the production of documents.
 - (3) During an evidentiary hearing, an attorney shall be afforded an opportunity to cross-examine any witnesses called by the Standing Panel and to introduce evidence in defense or mitigation.
 - (4) A hearing shall be recorded on tape unless an attorney arranges to have a reporting service present at his or her own expense.
- (c) **Reciprocal Disciplinary Matter.** Notification that an attorney has been disbarred or suspended by another court or agency shall establish that the conduct in fact occurred and that the discipline was appropriate unless an attorney shows that:
 - (1) the procedure was so lacking in notice or opportunity to be heard that it constituted a deprivation of due process; or
 - (2) there was such an infirmity of proof establishing the misconduct that it gave rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on the matter; or
 - (3) the imposition of the same discipline by this court would result in grave injustice; or
 - (4) the misconduct established is deemed by this court to warrant substantially different discipline.
- (d) **Conviction of a Serious Crime.** Notification of a conviction of a serious crime shall be conclusive evidence of the commission of that crime for purposes of these disciplinary proceedings. If an attorney notifies the court that a conviction has been vacated or reversed, the Standing Panel shall promptly review the matter.