

**RULES GOVERNING LAWYER DISCIPLINE AND DISABILITY PROCEEDINGS,
PROTECTIVE APPOINTMENT OF COUNSEL, CONTINUING LEGAL AND JUDICIAL
EDUCATION, ATTORNEYS' FUND FOR CLIENT PROTECTION, AND LAWYER
ASSISTANCE PROGRAMS**

242.3, 242.4, 242.5, 242.6, 242.7, 242.11, 242.12, 242.13, 242.16, 242.17, 242.19, 242.22,
242.23, 242.30, 242.31, 242.32, 242.35, 242.36, 242.41, 242.42, and 242.43.

Part II. Entities Within the Legal Regulation System

Rule 242.3. Advisory Committee

(a) [NO CHANGE]

(b) Membership and Meeting Provisions.

(1) Members and Liaison Justices. Two supreme court justices serve as non-voting liaisons to the Advisory Committee. The Advisory Committee comprises up to 153 volunteer members, including a Chair and Vice-Chair. Members other than the Chair and Vice-Chair serve one term of up to seven years. The supreme court appoints the members. Diversity must be a consideration in making appointments. At least nine of the members must be lawyers admitted to practice in Colorado and at least two of the members must be nonlawyers. Members' terms should be staggered to provide, so far as possible, for the expiration each year of the term of at least one member. Members must include:

(A) - (D) [NO CHANGE]

(2) - (5) [NO CHANGE]

(c) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 242.4. Legal Regulation Committee

(a) [NO CHANGE]

(b) Membership and Meeting Provisions.

(1) - (3) [NO CHANGE]

(4) Quorum. ~~A majority of the members of the Regulation Committee constitutes a quorum, and the action of a majority of those present and comprising a quorum and not abstaining constitutes the official action of the Regulation Committee.~~ A majority of the members of the Regulation Committee constitutes a quorum. Once a quorum is established, the actions of a majority of those present and not abstaining constitutes the official action of the Regulation Committee.

(5) [NO CHANGE]

(c) - (e) [NO CHANGE]

COMMENT

When Regulation Committee members assess whether they must refrain from making determinations under C.R.C.P. 242.16 or otherwise from taking part in a disciplinary proceeding, they should consider binding and nonbinding authorities that a judge, similarly situated, would consult, including C.R.C.P. 97 and interpretive case law, applicable rules under the Code of Judicial Conduct, including Rules 1.2 and 2.11, and relevant advisory opinions issued by the Colorado Judicial Ethics Advisory Board.

Rule 242.5. Regulation Counsel

(a) Regulation Counsel. Pursuant to the supreme court's exercise of its exclusive jurisdiction to regulate the practice of law and to ensure the effective administration of policies, procedures, and programs in regulating the practice of law, ~~The~~ the supreme court appoints an Attorney Regulation Counsel (Regulation Counsel) who serves at the pleasure of the supreme court, ~~and~~ who represents the People of the State of Colorado in proceedings under this rule, and who performs duties set forth in the Rules Governing the Practice of Law.

(b) [NO CHANGE]

(c) Powers and Duties. The Regulation Counsel, under a budget approved by the supreme court, is authorized and empowered to act in accordance with this rule, including by:

(1) – (2) [NO CHANGE]

(3) Adopting practices needed to govern the internal operation of the Office of the Regulation Counsel, as well as taking such actions as reasonably necessary for efficient and effective operations and for compliance with applicable fiscal policies and requirements for fees collected pursuant to the Rules Governing the Practice of Law;

(4) - (13) [NO CHANGE]

(d) - (f) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 242.6. Presiding Disciplinary Judge

(a) - (b) [NO CHANGE]

(c) Powers and Duties of the Presiding Disciplinary Judge. The Presiding Disciplinary Judge, under a budget approved by the supreme court, is authorized and empowered to act in accordance with this rule, including by:

(1) [NO CHANGE]

(2) Hiring and supervising a staff, including a clerk, to carry out the duties of the Presiding Disciplinary Judge;

(3) - (7) [NO CHANGE]

(8) Where issuance of a subpoena for use in another jurisdiction's disciplinary or disability proceeding has been approved in that jurisdiction, issuing a subpoena governed by C.R.C.P. 45 to compel the attendance of a witness or the production of documents in the Colorado county where the witness resides, or is employed, or elsewhere as agreed by the witness; ~~and~~

(9) Recommending to the supreme court the removal of Hearing Board pool members, and communicating to Hearing Board pool members appointment and removal orders issued by the supreme court; and

~~(9)~~(10) Performing such other duties as the supreme court may direct.

(d) - (e) [NO CHANGE]

Rule 242.7. Hearing Boards

(a) [NO CHANGE]

(b) Membership Provisions.

(1) Members. The supreme court, with the assistance of the Advisory Committee, will appoint a diverse pool of Colorado lawyers and nonlawyers to the Hearing Board pool. Appointees serve terms of six years. Active and inactive lawyers appointed to the Hearing Board pool must be in good standing in each jurisdiction in which they are licensed. Terms should be staggered to provide, so far as possible, for the regular expiration of the terms of an equal number of members. Appointees may serve no more than two consecutive terms.

(2) Dismissal, Resignation, and Vacancy. Members of the Hearing Board pool serve at the pleasure of the supreme court, and the supreme court may dismiss them at any time. Members of the Hearing Board pool may resign at any time. The supreme court may fill any vacancies. The supreme court will remove from the Hearing Board pool any lawyer member who is actively serving a disciplinary sanction of disbarment. No lawyer member may serve as a Hearing Board member if they are subject to a disciplinary sanction of a served suspension, a stayed suspension, or probation, or if they are currently a party to a diversion agreement.

(3) [NO CHANGE]

(c) - (e) [NO CHANGE]

COMMENT

When Hearing Board members assess whether they must sua sponte refrain from taking part in a disciplinary proceeding, they should consider binding and nonbinding authorities that a judge, similarly situated, would consult, including C.R.C.P. 97 and interpretive case law, applicable rules under the Code of Judicial Conduct, including Rules 1.2 and 2.11, and relevant advisory opinions issued by the Colorado Judicial Ethics Advisory Board.

Part III. Scope

Rule 242.11. Duties to Report Misconduct and Convictions

(a) - (c) [NO CHANGE]

(d) Duty to Self-Report Discipline or Resignation in Another Jurisdiction. A lawyer subject to this rule who has been publicly disciplined in another jurisdiction, or who has resigned or otherwise voluntarily surrendered the lawyer's license to practice law in connection with a disciplinary proceeding in another jurisdiction, must notify the Regulation Counsel in writing of such action within 14 days of the order imposing public discipline or the resignation or surrender of the license.

COMMENT [NO CHANGE]

Rule 242.12. Rule of Limitation

~~Disciplinary sanctions or diversions may not be based on conduct reported more than five years after the date the conduct is discovered or reasonably should have been discovered. But there is no rule of limitation where the allegations involve fraud, conversion, or conviction of a serious crime, or where the lawyer is alleged to have concealed the conduct.~~

(a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

(b) Rule of Limitation in Reciprocal Discipline. If the Regulation Counsel receives written notice of a final adjudication imposing public discipline on a lawyer in another jurisdiction as well as a copy of the disciplinary order entered in the other jurisdiction, and if the notice is given by either the lawyer subject to discipline in the other jurisdiction or the jurisdiction that imposed the discipline, the Regulation Counsel must file a complaint under C.R.C.P. 242.21(b)(1) or a stipulation to reciprocal discipline under C.R.C.P. 242.19, if at all, within one year of receiving such notice, unless the Regulation Counsel and the lawyer stipulate to a longer period of time. If a person other than the lawyer or the disciplining jurisdiction reports the lawyer's public discipline to the Regulation Counsel, the Regulation Counsel must file a complaint under C.R.C.P. 242.21(b)(1) or a stipulation to reciprocal discipline under C.R.C.P. 242.19, if at all, within five years of such report.

(c) Burden of Proof. A lawyer who asserts that the rule of limitation bars the Regulation Counsel from prosecuting a disciplinary action bears the burden of proving by clear and convincing evidence the affirmative defense of the rule of limitation set forth in this section.

Part IV. Investigation and Pre-Complaint Resolutions

Rule 242.13. Request for Investigation

(a) Requesting an Investigation. Requests for investigation, which cannot be made anonymously, may be made:

(1) - (2) [NO CHANGE]

(3) By the Regulation Committee on its own motion and directed to the Regulation Counsel;~~or~~

(4) [NO CHANGE]

(5) By the Regulation Counsel upon receiving a trust account notification from a financial institution;

(6) By the Regulation Counsel upon receiving notice from another jurisdiction or from the ABA National Lawyer Regulatory Data Bank of a final adjudication of misconduct in another jurisdiction;

(7) By the Regulation Counsel upon receiving notice from a lawyer through an attorney registration statement that the lawyer is not in compliance with a child support order; or

(8) By the Regulation Counsel upon learning that a lawyer has been charged or convicted of a serious crime.

(b) [NO CHANGE]

Rule 242.16. Determination by Regulation Committee

(a) Action By Regulation Committee. On receiving a request from the Regulation Counsel under C.R.C.P. 242.15 or a recommendation from another investigator under C.R.C.P. 242.14(d), the Regulation Committee must determine whether there is reasonable cause to believe that grounds for discipline exist and, using its discretion and evaluating the considerations listed in subsection (b) below, will take one of the following actions:

(1) - (5) [NO CHANGE]

(6) Dismiss the matter, with or without educational language. A dismissal letter is not a form of discipline under C.R.C.P. 242.10.

(b) [NO CHANGE]

(c) Private Admonition by Regulation Committee.

(1) - (2) [NO CHANGE]

(3) Rejection by Respondent Challenges. To ~~challenge-reject~~ a private admonition by the Regulation Committee, a respondent must, within 21 days after notice of the admonition, submit to the Regulation Counsel a written rejection of the private admonition. On receiving the written rejection, the private admonition is deemed ~~demand that the Regulation Committee vacate the admonition. When the admonition is vacated,~~ then The Regulation Counsel may then file a complaint against the lawyer. If a complaint is filed, a public disciplinary proceeding will go forward as otherwise provided in this rule.

(d) - (f) [NO CHANGE]

Part V. Diversion, Probation, Stipulations, Resignation, and Reciprocal Discipline

Rule 242.17. Diversion

(a) - (b) [NO CHANGE]

(c) Diversion Agreement.

(1) - (2) [NO CHANGE]

(3) Effect of Diversion. When a diversion agreement is approved, the underlying disciplinary proceeding is placed in abeyance pending ~~successful~~ completion of the diversion program.

(d) [NO CHANGE]

(e) Effect of ~~Successful~~ Completion of Diversion.

(1) Pre-complaint Matters. If the Regulation Counsel finds that the respondent ~~successfully~~ completed a diversion program in a matter in which a complaint was not filed, the Regulation Counsel must dismiss the matter and expunge the files and records thereof under C.R.C.P. 242.43.

(2) Post-complaint Matters. If the Regulation Counsel finds that the respondent ~~successfully~~ completed a diversion program in a matter in which a complaint was filed, the Regulation Counsel must promptly notify the Presiding Disciplinary Judge of the ~~successful~~ completion. The Presiding Disciplinary Judge will dismiss the matter. The files and records of the matter will not be expunged.

(f) Breach of Diversion Agreement. Whether a diversion agreement has been breached is determined as follows:

(1) [NO CHANGE]

(2) Diversion Agreement Approved by Regulation Committee. If the Regulation Counsel believes that a respondent breached a diversion agreement that was approved by the Regulation Committee under C.R.C.P. 242.16(a)(3), the Regulation Counsel ~~may~~ust notify the Regulation Committee of the alleged breach and request relief. In that case, ~~T~~the Regulation Counsel must also notify the respondent, who must be afforded an opportunity to respond. Either party may request a hearing before the Presiding Disciplinary Judge.

(A) - (C) [NO CHANGE]

(3) Diversion Agreement Approved by Presiding Disciplinary Judge. If the Regulation Counsel believes that a respondent breached a diversion agreement that was approved by the Presiding Disciplinary Judge under C.R.C.P. 242.17(c)(2)(D), the Regulation Counsel ~~must~~may notify the Presiding Disciplinary Judge of the alleged breach and request relief. In that case, ~~T~~the

Regulation Counsel must also notify the respondent, who must be afforded an opportunity to respond. Either party may request a hearing before the Presiding Disciplinary Judge.

(A) - (B) [NO CHANGE]

(g) Confidentiality.

(1) Files and Records.

(A) [NO CHANGE]

(B) Post-complaint Matters. Files and records relating to a matter in which diversion is entered after a complaint is filed, including an order dismissing the underlying case, are available to the public. But the following are not available to the public: the diversion agreement itself; and any order approving the diversion agreement; a notice of completion of diversion; records or decisions regarding allegations that a respondent breached a diversion agreement; and any other reference in records to the approved diversion agreement ~~are not available to the public.~~

(C) [NO CHANGE]

(2) Admissions of Misconduct. A diversion agreement may provide that a practice monitor's communications with a respondent who has entered a diversion agreement are confidential, but the diversion agreement may not prohibit a practice monitor from disclosing a respondent's commission of a serious crime, knowing conversion of a client's property or funds, or conduct that must otherwise be reported under Colo. RPC 8.3. ~~lawyer's admissions of misconduct to a treatment provider or a practice monitor while in a diversion program are confidential, but only if the misconduct occurred before the lawyer entered the diversion program.~~

(h) Discretion. The Regulation Counsel has discretion to decline to pursue a breach of a diversion agreement, to decline to request a modification of a diversion agreement, and to pursue all options available to the Regulation Counsel under this rule.

Rule 242.19. Stipulation to Discipline

(a) [NO CHANGE]

(b) Contents. A stipulation to discipline must be sworn or affirmed by the respondent ~~and notarized~~ and must contain:

(1) - (5) [NO CHANGE]

(c) [NO CHANGE]

(d) Rejected Stipulation. If a stipulation to discipline is rejected, the stipulation and any related motions, briefs, [records of hearings on the stipulation](#), and orders will not be available to the public and will not be admissible in any disciplinary proceeding.

Part VI. Interim and Nondisciplinary Suspension

Rule 242.22. Interim Suspension for Alleged Serious Disciplinary Violations

(a) - (b) [NO CHANGE]

(c) Procedure.

(1) Initiation. To initiate an interim suspension proceeding under this section 242.22, the Regulation Counsel must file a petition with the Presiding Disciplinary Judge. The petition must be supported by an affidavit setting forth facts giving rise to reasonable cause to believe that the alleged conduct occurred. The Regulation Counsel must serve a copy of the petition and affidavit on the respondent. The Regulation Counsel must promptly file with the Presiding Disciplinary Judge proof of service of the petition and affidavit.

(2) Order to Show Cause. On receiving a properly supported petition for interim suspension, and on finding that the supporting affidavit sets forth facts giving rise to reasonable cause to believe that the alleged conduct occurred, the Presiding Disciplinary Judge will order the respondent to show cause within 14 days why the petition should not be granted.

(3) - (6) [NO CHANGE]

(d) - (e) [NO CHANGE]

(f) Access to Information. Pre-complaint proceedings under this section 242.22 are confidential unless and until:

(1) The Presiding Disciplinary Judge issues a recommendation that the respondent's license should be suspended under this section; or, if the supreme court has not yet issued a final decision under this section or if the supreme court does not impose an interim suspension. But the files and records of the matter become public if

(2) The supreme court suspends a respondent's license under this section; or

(3) if a complaint is filed alleging the same misconduct; or, or

(4) if C.R.C.P. 242.41 otherwise so provides.

(g) [NO CHANGE]

Rule 242.23. Nondisciplinary Suspension for Noncompliance with Child Support or Paternity Orders

(a) - (b) [NO CHANGE]

(c) Procedure.

(1) Initiation. To initiate a proceeding under this section 242.23, the Regulation Counsel must file a petition for suspension with the Presiding Disciplinary Judge. The petition must be supported by an affidavit setting forth facts giving rise to reasonable cause to believe that one or more of the circumstances set forth in subsection (b) above exists. The Regulation Counsel must serve a copy of the petition and affidavit on the lawyer. The Regulation Counsel must promptly file with the Presiding Disciplinary Judge proof of service of the petition and affidavit.

(2) - (5) [NO CHANGE]

(d) - (g) [NO CHANGE]

Part VII. Procedure for Formal Disciplinary Proceedings

Rule 242.30. Disciplinary Hearings

(a) [NO CHANGE]

(b) Standards Governing Hearings.

(1) [NO CHANGE]

(2) Evidence. ~~Except as otherwise provided in this rule, h~~Hearings must be conducted in accordance with the Colorado Rules of Evidence. ~~Except as otherwise provided in this rule, that~~ orders entered by ~~another~~tribunals are presumptively admissible as a record of what occurred in the other tribunal.~~but do not serve as conclusive proof of any disputed fact.~~

(3) - (4) [NO CHANGE]

(5) Adverse Inferences.

(A) [NO CHANGE]

(B) Failure to Produce Records Subject to Colo. RPC 1.15D. If, in response to a written request or formal request in discovery for records that are required to be kept under Colo. RPC 1.15D, a respondent does not produce such records~~that are required to be kept under Colo. RPC 1.15D,~~ an adverse inference in favor of the Regulation Counsel may be drawn as to disciplinary claims related to those records.

(c) - (d) [NO CHANGE]

Rule 242.31. Findings of Fact and Decision

(a) Opinion of the Hearing Board.

(1) - (5) [NO CHANGE]

(6) Effective Date. Disciplinary sanctions take effect upon entry of an order and notice of discipline, which generally enters 35 days after issuance of the opinion, unless applicable rules provide otherwise. But the Presiding Disciplinary Judge may, except for good cause shown, exercise discretion to order that the sanction take effect 14 days after issuance of the opinion if default has entered under C.R.C.P. 242.27 and if the respondent is subject to a sanction of disbarment.

(7) Post-hearing Relief. Within 14 days after the opinion issues, a party may move the Hearing Board for post-hearing relief under C.R.C.P. 59. If all of the Hearing Board members consent, one Hearing Board member~~the Presiding Disciplinary Judge~~ may sign the order ruling on post-hearing relief on the other members' behalf.

(8) [NO CHANGE]

(b) Opinion of the Presiding Disciplinary Judge. The provisions governing a Hearing Board's opinion in subsection (a) above also govern an opinion or other final decision, whether issued in writing or orally, entered by the Presiding Disciplinary Judge without a Hearing Board.

COMMENT [NO CHANGE]

**Rule 242.32. Lawyer's Required Actions After Disbarment, Disciplinary or
Nondisciplinary Suspension, or Resignation**

(a) - (e) [NO CHANGE]

(f) Affidavit ~~Filed With the Presiding Disciplinary Judge~~ and Notices of Wind Up. Unless otherwise ordered, within 14 days after the date the sanction takes effect the lawyer must ~~file an affidavit with the Presiding Disciplinary Judge and provide a copy to the Regulation Counsel. The lawyer must file an affidavit even if the lawyer does not have an active practice. The affidavit must list all pending matters in which the lawyer serves as counsel, list all clients notified under subsection (c) above, attach a copy of each such notice, and~~ submit to the Regulation Counsel a list of all pending matters in which the lawyer serves as counsel. The lawyer must also submit to the Regulation Counsel a list of all clients notified under subsection (c) above and attach to the list a copy of each such notice. Also within 14 days after the date the sanction takes effect, the lawyer must file an affidavit with the Presiding Disciplinary Judge and provide a copy to the Regulation Counsel. The lawyer must file an affidavit even if the lawyer does not have an active practice. In the affidavit, the lawyer must:

(1) - (3) [NO CHANGE]

(g) Registration Statements and Fees During Suspension. Lawyers subject to a final decision imposing a sanction of suspension unless fully stayed, an order approving a stipulation to suspension unless fully stayed, or an order imposing an interim or a nondisciplinary suspension under C.R.C.P. 242.22 through C.R.C.P. 242.24 must file a registration statement under C.R.C.P. 227 for five years after the date the sanction takes effect, or until the lawyer is reinstated. The statement must provide the lawyer's mailing address and any email address to which communications may be sent. During the same period, a lawyer subject to this subsection is under a continuing duty to file supplemental statements of change under C.R.C.P. 227(A)(2)(b). But the lawyer need not pay the annual registration fee unless and until the lawyer is reinstated.

(h) - (i) [NO CHANGE]

Part VIII. Appeals to Supreme Court

Rule 242.35. Stay Pending Appeal

(a) [NO CHANGE]

(b) Applicability. It is within the discretion of the Hearing Board or the Presiding Disciplinary Judge, as applicable, to grant a motion for stay pending appeal. The Hearing Board or the Presiding Disciplinary Judge, as applicable, must make findings of fact and determine whether to grant the stay, with or without conditions. In making the findings and determination, the Hearing Board or the Presiding Disciplinary Judge, as applicable, will consider the parties' submissions, the final decision's findings of fact, and evidence adduced at any applicable hearing. In a matter in which a Hearing Board issued an opinion, one Hearing Board member may, if all of the Hearing Board members consent, sign on the other members' behalf the order ruling on a motion for stay pending appeal. A respondent subject to disbarment is ~~presumed~~ ineligible for a stay unless the parties stipulate otherwise and the Hearing Board grants the stipulation, or unless the supreme court grants the stay. A respondent who is required to petition for reinstatement under C.R.C.P. 242.39 will not be granted a stay unless the Hearing Board or the Presiding Disciplinary Judge, as applicable, finds that the respondent's practice of law during the appeal is unlikely to harm the public and that the granting of a stay would not undermine public confidence in the legal system. A respondent who is not required to petition for reinstatement under C.R.C.P. 242.39 will be granted a stay unless the Regulation Counsel establishes that the respondent's practice of law during the appeal would pose an unreasonable risk of harm to the public.

(c) - (d) [NO CHANGE]

Rule 242.36. Record on Appeal

(a) - (b) [NO CHANGE]

(c) Transmission.

(1) Complete Record. The clerk of the Presiding Disciplinary Judge must transmit the record to the clerk of the supreme court when the record is complete. If the record will include any transcripts, the clerk of the Presiding Disciplinary Judge will not transmit the record until transcripts are available, unless the supreme court orders otherwise.

(2) [NO CHANGE]

(A) - (C) [NO CHANGE]

(3) - (4) [NO CHANGE]

(d) Designation of Transcripts.

(1) Timing. If the appellant intends to include hearing transcripts in the record on appeal, the appellant must file a designation of transcripts with the clerk of the Presiding Disciplinary Judge and an advisory copy with the supreme court and the reporter who reported the proceeding within 7 days of the date of filing the appellant's notice of appeal.

(2) - (3) [NO CHANGE]

(e) - (h) [NO CHANGE]

Part XI. Information, Expungement, and General Provisions

Rule 242.41. Access to Information

(a) Public Information. Unless otherwise provided in this section, ~~all the~~ files and records of the Regulation Counsel, the Presiding Disciplinary Judge, and the supreme court are available to the public if those files or records relate to allegations made in a disciplinary proceeding in which one of the six events set forth in this subsection (a) has occurred: ~~that relate to any phase of a disciplinary proceeding are available to the public after:~~

(1) – (2) [NO CHANGE]

(3) A petition for reinstatement or readmission under C.R.C.P. 242.39 is filed with the Presiding Disciplinary Judge;

(4) The Presiding Disciplinary Judge approves a stipulation to reinstatement that is submitted before the filing of a petition; ~~or~~

(5) An interim or a nondisciplinary suspension is imposed before the filing of a complaint; or

(6) In a proceeding under C.R.C.P. 242.22, the Presiding Disciplinary Judge issues a recommendation to suspend the respondent's license on an interim basis.

(b) Confidential Information. The following types of information are confidential and are not available to the public:

(1) Files and records of a proceeding in which none of the ~~five-six~~ events set forth in subsection (a) above has occurred, unless the respondent has waived confidentiality;

(2) - (5) [NO CHANGE]

(6) Information subject to a protective order under subsection (e) below or subject to a protective order or protected status within any tribunal's records system; and

(7) Information otherwise made confidential under this rule or other law.

(c) - (d) [NO CHANGE]

(e) Protective Orders. On motion of any person and on a showing of good cause, the Presiding Disciplinary Judge may enter a protective order restricting the disclosure of specific information to protect a complaining witness, another witness, a third party, a respondent, or a petitioner from annoyance, embarrassment, oppression, or undue burden or expense. A protective order may direct that a proceeding, including a hearing, be conducted so as to preserve the confidentiality of certain information. The Presiding Disciplinary Judge has authority to enter a protective order at any time after a request for investigation is filed, including after issuance of a final decision or entry of final judgment.

(f) [NO CHANGE]

(g) Request for Confidential Information.

(1) Release With Notice.

(A) The Regulation Counsel may, on request, release information that is confidential under subsection (b) above to the following types of agencies:

(i) [NO CHANGE]

(ii) An agency authorized to investigate the qualifications of persons or conduct background reviews for government employment or for security clearances;

(iii) A lawyer or judicial discipline enforcement agency;

(iv) An agency authorized to investigate criminal conduct, consumer protection violations, or civil regulatory violations; or

(v) [NO CHANGE]

(B) [NO CHANGE]

(2) [NO CHANGE]

(A) - (B) [NO CHANGE]

(h) [NO CHANGE]

(i) Response to False or Misleading Statement and Defense to Civil Suit. The Regulation Counsel may disclose ~~any~~ information reasonably necessary either to correct false or misleading public statements made during-related to a ~~disciplinary~~ proceeding or to defend against litigation in which the Regulation Counsel is a named defendant.

(j) - (o) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 242.42. General Provisions

(a) Notice. Except as otherwise provided in this rule, notice must be in writing. Notice must be sent to the last-known mailing address or email address of the recipient using the information provided by the lawyer to the Regulation Counsel under C.R.C.P. 227 or otherwise~~unless the recipient consents to receiving notice by email~~. Notice is deemed effective the date notice is placed in the mail; placed in the custody of a delivery service; or emailed,~~if the recipient has consented to notice by email~~.

(b) - (d) [NO CHANGE]

(e) Related Litigation.

(1) Substantially Similar Criminal Cases. A disciplinary proceeding that involves material allegations substantially similar to the material allegations of a criminal prosecution pending against the respondent may, in the discretion of the Regulation Committee or the Presiding Disciplinary Judge, as applicable, be ~~placed~~held in abeyance until the criminal prosecution concludes before the trial court, unless good cause exists for continuing the abeyance pending appeal.

(2) Substantially Similar Civil Cases. A disciplinary proceeding that involves material allegations substantially similar to the material allegations made against the respondent in pending civil litigation may, in the discretion of the Regulation Committee or the Presiding Disciplinary Judge, as applicable, be ~~placed~~held in abeyance until the civil litigation concludes before the trial court, unless good cause exists for continuing the abeyance pending appeal. If the disciplinary proceeding is placed in abeyance and the respondent fails to make all reasonable efforts to obtain a prompt trial and final disposition of the pending litigation, the Regulation Counsel may request that the Regulation Committee or the Presiding Disciplinary Judge, as applicable, promptly resume the disciplinary proceeding.

(3) [NO CHANGE]

Rule 242.43. Expungement of Records

(a) Records Subject to Expungement. Except for records of proceedings that have become public under C.R.C.P. 242.41, all records of proceedings that were dismissed must be expunged from the files of the Regulation Committee and the Regulation Counsel five years after the end of the calendar year in which the dismissal occurred. When a respondent ~~successfully~~ completes a diversion agreement in a disciplinary proceeding that did not result in the filing of a complaint, all files and records from that proceeding must be expunged five years after the end of the calendar year in which the diversion was completed. But if a new request for investigation is filed against the respondent before an existing diversion file is expunged, the Regulation Counsel may wait to expunge the file until the new proceeding has been resolved. Files and records that notify the Regulation Counsel of a lawyer's conviction of a crime need not be expunged.

(b) - (c) [NO CHANGE]

COMMENT [NO CHANGE]

Part II. Entities Within the Legal Regulation System

Rule 242.3. Advisory Committee

(a) [NO CHANGE]

(b) Membership and Meeting Provisions.

(1) Members and Liaison Justices. Two supreme court justices serve as non-voting liaisons to the Advisory Committee. The Advisory Committee comprises up to 15 volunteer members, including a Chair and Vice-Chair. Members other than the Chair and Vice-Chair serve one term of up to seven years. The supreme court appoints the members. Diversity must be a consideration in making appointments. At least nine of the members must be lawyers admitted to practice in Colorado and at least two of the members must be nonlawyers. Members' terms should be staggered to provide, so far as possible, for the expiration each year of the term of at least one member. Members must include:

(A) - (D) [NO CHANGE]

(2) - (5) [NO CHANGE]

(c) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 242.4. Legal Regulation Committee

(a) [NO CHANGE]

(b) Membership and Meeting Provisions.

(1) - (3) [NO CHANGE]

(4) Quorum. A majority of the members of the Regulation Committee constitutes a quorum. Once a quorum is established, the actions of a majority of those present and not abstaining constitutes the official action of the Regulation Committee.

(5) [NO CHANGE]

(c) - (e) [NO CHANGE]

COMMENT

When Regulation Committee members assess whether they must refrain from making determinations under C.R.C.P. 242.16 or otherwise from taking part in a disciplinary proceeding, they should consider binding and nonbinding authorities that a judge, similarly situated, would consult, including C.R.C.P. 97 and interpretive case law, applicable rules under the Code of Judicial Conduct, including Rules 1.2 and 2.11, and relevant advisory opinions issued by the Colorado Judicial Ethics Advisory Board.

Rule 242.5. Regulation Counsel

(a) Regulation Counsel. Pursuant to the supreme court's exercise of its exclusive jurisdiction to regulate the practice of law and to ensure the effective administration of policies, procedures, and programs in regulating the practice of law, the supreme court appoints an Attorney Regulation Counsel (Regulation Counsel) who serves at the pleasure of the supreme court, who represents the People of the State of Colorado in proceedings under this rule, and who performs duties set forth in the Rules Governing the Practice of Law.

(b) [NO CHANGE]

(c) Powers and Duties. The Regulation Counsel, under a budget approved by the supreme court, is authorized and empowered to act in accordance with this rule, including by:

(1) – (2) [NO CHANGE]

(3) Adopting practices needed to govern the internal operation of the Office of the Regulation Counsel, as well as taking such actions as reasonably necessary for efficient and effective operations and for compliance with applicable fiscal policies and requirements for fees collected pursuant to the Rules Governing the Practice of Law;

(4) - (13) [NO CHANGE]

(d) - (f) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 242.6. Presiding Disciplinary Judge

(a) - (b) [NO CHANGE]

(c) Powers and Duties of the Presiding Disciplinary Judge. The Presiding Disciplinary Judge, under a budget approved by the supreme court, is authorized and empowered to act in accordance with this rule, including by:

(1) [NO CHANGE]

(2) Hiring and supervising a staff, including a clerk, to carry out the duties of the Presiding Disciplinary Judge;

(3) - (7) [NO CHANGE]

(8) Where issuance of a subpoena for use in another jurisdiction's disciplinary or disability proceeding has been approved in that jurisdiction, issuing a subpoena governed by C.R.C.P. 45 to compel the attendance of a witness or the production of documents in the Colorado county where the witness resides, or is employed, or elsewhere as agreed by the witness;

(9) Recommending to the supreme court the removal of Hearing Board pool members, and communicating to Hearing Board pool members appointment and removal orders issued by the supreme court; and

(10) Performing such other duties as the supreme court may direct.

(d) - (e) [NO CHANGE]

Rule 242.7. Hearing Boards

(a) [NO CHANGE]

(b) Membership Provisions.

(1) Members. The supreme court, with the assistance of the Advisory Committee, will appoint a diverse pool of Colorado lawyers and nonlawyers to the Hearing Board pool. Appointees serve terms of six years. Active and inactive lawyers appointed to the Hearing Board pool must be in good standing in each jurisdiction in which they are licensed. Terms should be staggered to provide, so far as possible, for the regular expiration of the terms of an equal number of members. Appointees may serve no more than two consecutive terms.

(2) Dismissal, Resignation, and Vacancy. Members of the Hearing Board pool serve at the pleasure of the supreme court, and the supreme court may dismiss them at any time. Members of the Hearing Board pool may resign at any time. The supreme court may fill any vacancies. The supreme court will remove from the Hearing Board pool any lawyer member who is actively serving a disciplinary sanction of disbarment. No lawyer member may serve as a Hearing Board member if they are subject to a disciplinary sanction of a served suspension, a stayed suspension, or probation, or if they are currently a party to a diversion agreement.

(3) [NO CHANGE]

(c) - (e) [NO CHANGE]

COMMENT

When Hearing Board members assess whether they must sua sponte refrain from taking part in a disciplinary proceeding, they should consider binding and nonbinding authorities that a judge, similarly situated, would consult, including C.R.C.P. 97 and interpretive case law, applicable rules under the Code of Judicial Conduct, including Rules 1.2 and 2.11, and relevant advisory opinions issued by the Colorado Judicial Ethics Advisory Board.

Part III. Scope

Rule 242.11. Duties to Report Misconduct and Convictions

(a) - (c) [NO CHANGE]

(d) Duty to Self-Report Discipline or Resignation in Another Jurisdiction. A lawyer subject to this rule who has been publicly disciplined in another jurisdiction, or who has resigned or otherwise voluntarily surrendered the lawyer's license to practice law in connection with a disciplinary proceeding in another jurisdiction, must notify the Regulation Counsel in writing of such action within 14 days of the order imposing public discipline or the resignation or surrender of the license.

COMMENT [NO CHANGE]

Rule 242.12. Rule of Limitation

(a) Rule of Limitation in Discipline. A request for investigation against a lawyer must be filed with the Regulation Counsel within five years of the time that the person or entity making the request for investigation under C.R.C.P. 242.13(a) discovers or reasonably should have discovered the misconduct. For crimes other than serious crimes, the Regulation Counsel may not initiate an investigation under C.R.C.P. 242.13 more than five years after the Regulation Counsel receives notice of the conviction. But there is no rule of limitation where the allegations involve fraud, conversion, or conviction of a serious crime, or where the lawyer is alleged to have concealed the misconduct.

(b) Rule of Limitation in Reciprocal Discipline. If the Regulation Counsel receives written notice of a final adjudication imposing public discipline on a lawyer in another jurisdiction as well as a copy of the disciplinary order entered in the other jurisdiction, and if the notice is given by either the lawyer subject to discipline in the other jurisdiction or the jurisdiction that imposed the discipline, the Regulation Counsel must file a complaint under C.R.C.P. 242.21(b)(1) or a stipulation to reciprocal discipline under C.R.C.P. 242.19, if at all, within one year of receiving such notice, unless the Regulation Counsel and the lawyer stipulate to a longer period of time. If a person other than the lawyer or the disciplining jurisdiction reports the lawyer's public discipline to the Regulation Counsel, the Regulation Counsel must file a complaint under C.R.C.P. 242.21(b)(1) or a stipulation to reciprocal discipline under C.R.C.P. 242.19, if at all, within five years of such report.

(c) Burden of Proof. A lawyer who asserts that the rule of limitation bars the Regulation Counsel from prosecuting a disciplinary action bears the burden of proving by clear and convincing evidence the affirmative defense of the rule of limitation set forth in this section.

Part IV. Investigation and Pre-Complaint Resolutions

Rule 242.13. Request for Investigation

(a) Requesting an Investigation. Requests for investigation, which cannot be made anonymously, may be made:

(1) - (2) [NO CHANGE]

(3) By the Regulation Committee on its own motion and directed to the Regulation Counsel;

(4) [NO CHANGE]

(5) By the Regulation Counsel upon receiving a trust account notification from a financial institution;

(6) By the Regulation Counsel upon receiving notice from another jurisdiction or from the ABA National Lawyer Regulatory Data Bank of a final adjudication of misconduct in another jurisdiction;

(7) By the Regulation Counsel upon receiving notice from a lawyer through an attorney registration statement that the lawyer is not in compliance with a child support order; or

(8) By the Regulation Counsel upon learning that a lawyer has been charged or convicted of a serious crime.(b) [NO CHANGE]

Rule 242.16. Determination by Regulation Committee

(a) Action By Regulation Committee. On receiving a request from the Regulation Counsel under C.R.C.P. 242.15 or a recommendation from another investigator under C.R.C.P. 242.14(d), the Regulation Committee must determine whether there is reasonable cause to believe that grounds for discipline exist and, using its discretion and evaluating the considerations listed in subsection (b) below, will take one of the following actions:

(1) - (5) [NO CHANGE]

(6) Dismiss the matter, with or without educational language. A dismissal letter is not a form of discipline under C.R.C.P. 242.10.

(b) [NO CHANGE]

(c) Private Admonition by Regulation Committee.

(1) - (2) [NO CHANGE]

(3) Rejection by Respondent. To reject a private admonition by the Regulation Committee, a respondent must, within 21 days after notice of the admonition, submit to the Regulation Counsel

a written rejection of the private admonition. On receiving the written rejection, the private admonition is deemed vacated. The Regulation Counsel may then file a complaint against the lawyer. If a complaint is filed, a public disciplinary proceeding will go forward as otherwise provided in this rule.

(d) - (f) [NO CHANGE]

Part V. Diversion, Probation, Stipulations, Resignation, and Reciprocal Discipline

Rule 242.17. Diversion

(a) - (b) [NO CHANGE]

(c) Diversion Agreement.

(1) - (2) [NO CHANGE]

(3) Effect of Diversion. When a diversion agreement is approved, the underlying disciplinary proceeding is placed in abeyance pending completion of the diversion program.

(d) [NO CHANGE]

(e) Effect of Completion of Diversion.

(1) Pre-complaint Matters. If the Regulation Counsel finds that the respondent completed a diversion program in a matter in which a complaint was not filed, the Regulation Counsel must dismiss the matter and expunge the files and records thereof under C.R.C.P. 242.43.

(2) Post-complaint Matters. If the Regulation Counsel finds that the respondent completed a diversion program in a matter in which a complaint was filed, the Regulation Counsel must promptly notify the Presiding Disciplinary Judge of the completion. The Presiding Disciplinary Judge will dismiss the matter. The files and records of the matter will not be expunged.

(f) Breach of Diversion Agreement. Whether a diversion agreement has been breached is determined as follows:

(1) [NO CHANGE]

(2) Diversion Agreement Approved by Regulation Committee. If the Regulation Counsel believes that a respondent breached a diversion agreement that was approved by the Regulation Committee under C.R.C.P. 242.16(a)(3), the Regulation Counsel may notify the Regulation Committee of the alleged breach and request relief. In that case, the Regulation Counsel must also notify the respondent, who must be afforded an opportunity to respond. Either party may request a hearing before the Presiding Disciplinary Judge.

(A) - (C) [NO CHANGE]

(3) Diversion Agreement Approved by Presiding Disciplinary Judge. If the Regulation Counsel believes that a respondent breached a diversion agreement that was approved by the Presiding Disciplinary Judge under C.R.C.P. 242.17(c)(2)(D), the Regulation Counsel may notify the Presiding Disciplinary Judge of the alleged breach and request relief. In that case, the Regulation Counsel must also notify the respondent, who must be afforded an opportunity to respond. Either party may request a hearing before the Presiding Disciplinary Judge.

(A) - (B) [NO CHANGE]

(g) Confidentiality.

(1) Files and Records.

(A) [NO CHANGE]

(B) Post-complaint Matters. Files and records relating to a matter in which diversion is entered after a complaint is filed, including an order dismissing the underlying case, are available to the public. But the following are not available to the public: the diversion agreement itself; an order approving the diversion agreement; a notice of completion of diversion; records or decisions regarding allegations that a respondent breached a diversion agreement; and any other reference in records to the approved diversion agreement.

(C) [NO CHANGE]

(2) Admissions of Misconduct. A diversion agreement may provide that a practice monitor's communications with a respondent who has entered a diversion agreement are confidential, but the diversion agreement may not prohibit a practice monitor from disclosing a respondent's commission of a serious crime, knowing conversion of a client's property or funds, or conduct that must otherwise be reported under Colo. RPC 8.3.

(h) Discretion. The Regulation Counsel has discretion to decline to pursue a breach of a diversion agreement, to decline to request a modification of a diversion agreement, and to pursue all options available to the Regulation Counsel under this rule.

Rule 242.19. Stipulation to Discipline

(a) [NO CHANGE]

(b) Contents. A stipulation to discipline must be sworn or affirmed by the respondent and must contain:

(1) - (5) [NO CHANGE]

(c) [NO CHANGE]

(d) Rejected Stipulation. If a stipulation to discipline is rejected, the stipulation and any related motions, briefs, records of hearings on the stipulation, and orders will not be available to the public and will not be admissible in any disciplinary proceeding.

Part VI. Interim and Nondisciplinary Suspension

Rule 242.22. Interim Suspension for Alleged Serious Disciplinary Violations

(a) - (b) [NO CHANGE]

(c) Procedure.

(1) Initiation. To initiate an interim suspension proceeding under this section 242.22, the Regulation Counsel must file a petition with the Presiding Disciplinary Judge. The petition must be supported by an affidavit setting forth facts giving rise to reasonable cause to believe that the alleged conduct occurred. The Regulation Counsel must serve a copy of the petition and affidavit on the respondent. The Regulation Counsel must promptly file with the Presiding Disciplinary Judge proof of service of the petition and affidavit.

(2) Order to Show Cause. On receiving a properly supported petition for interim suspension, and on finding that the supporting affidavit sets forth facts giving rise to reasonable cause to believe that the alleged conduct occurred, the Presiding Disciplinary Judge will order the respondent to show cause within 14 days why the petition should not be granted.

(3) - (6) [NO CHANGE]

(d) - (e) [NO CHANGE]

(f) Access to Information. Pre-complaint proceedings under this section 242.22 are confidential unless and until:

(1) The Presiding Disciplinary Judge issues a recommendation that the respondent's license should be suspended under this section; or

(2) The supreme court suspends a respondent's license under this section; or

(3) A complaint is filed alleging the same misconduct; or

(4) C.R.C.P. 242.41 otherwise so provides.

(g) [NO CHANGE]

Rule 242.23. Nondisciplinary Suspension for Noncompliance with Child Support or Paternity Orders

(a) - (b) [NO CHANGE]

(c) Procedure.

(1) Initiation. To initiate a proceeding under this section 242.23, the Regulation Counsel must file a petition for suspension with the Presiding Disciplinary Judge. The petition must be

supported by an affidavit setting forth facts giving rise to reasonable cause to believe that one or more of the circumstances set forth in subsection (b) above exists. The Regulation Counsel must serve a copy of the petition and affidavit on the lawyer. The Regulation Counsel must promptly file with the Presiding Disciplinary Judge proof of service of the petition and affidavit.

(2) - (5) [NO CHANGE]

(d) - (g) [NO CHANGE]

Part VII. Procedure for Formal Disciplinary Proceedings

Rule 242.30. Disciplinary Hearings

(a) [NO CHANGE]

(b) Standards Governing Hearings.

(1) [NO CHANGE]

(2) Evidence. Hearings must be conducted in accordance with the Colorado Rules of Evidence, except that orders entered by another tribunal are presumptively admissible as a record of what occurred in the other tribunal.

(3) - (4) [NO CHANGE]

(5) Adverse Inferences.

(A) [NO CHANGE]

(B) Failure to Produce Records Subject to Colo. RPC 1.15D. If, in response to a written request or formal request in discovery for records that are required to be kept under Colo. RPC 1.15D, a respondent does not produce such records, an adverse inference in favor of the Regulation Counsel may be drawn as to disciplinary claims related to those records.

(c) - (d) [NO CHANGE]

Rule 242.31. Findings of Fact and Decision

(a) Opinion of the Hearing Board.

(1) - (5) [NO CHANGE]

(6) Effective Date. Disciplinary sanctions take effect upon entry of an order and notice of discipline, which generally enters 35 days after issuance of the opinion, unless applicable rules provide otherwise. But the Presiding Disciplinary Judge may, except for good cause shown, exercise discretion to order that the sanction take effect 14 days after issuance of the opinion if default has entered under C.R.C.P. 242.27 and if the respondent is subject to a sanction of disbarment.

(7) Post-hearing Relief. Within 14 days after the opinion issues, a party may move the Hearing Board for post-hearing relief under C.R.C.P. 59. If all of the Hearing Board members consent, one Hearing Board member may sign the order ruling on post-hearing relief on the other members' behalf.

(8) [NO CHANGE]

(b) Opinion of the Presiding Disciplinary Judge. The provisions governing a Hearing Board's opinion in subsection (a) above also govern an opinion or other final decision, whether issued in writing or orally, entered by the Presiding Disciplinary Judge without a Hearing Board.

COMMENT [NO CHANGE]

**Rule 242.32. Lawyer's Required Actions After Disbarment, Disciplinary or
Nondisciplinary Suspension, or Resignation**

(a) - (e) [NO CHANGE]

(f) Affidavit and Notices of Wind Up. Unless otherwise ordered, within 14 days after the date the sanction takes effect the lawyer must submit to the Regulation Counsel a list of all pending matters in which the lawyer serves as counsel. The lawyer must also submit to the Regulation Counsel a list of all clients notified under subsection (c) above and attach to the list a copy of each such notice. Also within 14 days after the date the sanction takes effect, the lawyer must file an affidavit with the Presiding Disciplinary Judge and provide a copy to the Regulation Counsel. The lawyer must file an affidavit even if the lawyer does not have an active practice. In the affidavit, the lawyer must:

(1) - (3) [NO CHANGE]

(g) Registration Statements and Fees During Suspension. Lawyers subject to a final decision imposing a sanction of suspension unless fully stayed, an order approving a stipulation to suspension unless fully stayed, or an order imposing an interim or a nondisciplinary suspension under C.R.C.P. 242.22 through C.R.C.P. 242.24 must file a registration statement under C.R.C.P. 227 for five years after the date the sanction takes effect, or until the lawyer is reinstated. The statement must provide the lawyer's mailing address and any email address to which communications may be sent. During the same period, a lawyer subject to this subsection is under a continuing duty to file supplemental statements of change under C.R.C.P. 227(A)(2)(b). But the lawyer need not pay the annual registration fee unless and until the lawyer is reinstated.

(h) - (i) [NO CHANGE]

Part VIII. Appeals to Supreme Court

Rule 242.35. Stay Pending Appeal

(a) [NO CHANGE]

(b) Applicability. It is within the discretion of the Hearing Board or the Presiding Disciplinary Judge, as applicable, to grant a motion for stay pending appeal. The Hearing Board or the Presiding Disciplinary Judge, as applicable, must make findings of fact and determine whether to grant the stay, with or without conditions. In making the findings and determination, the Hearing Board or the Presiding Disciplinary Judge, as applicable, will consider the parties' submissions, the final decision's findings of fact, and evidence adduced at any applicable hearing. In a matter in which a Hearing Board issued an opinion, one Hearing Board member may, if all of the Hearing Board members consent, sign on the other members' behalf the order ruling on a motion for stay pending appeal. A respondent subject to disbarment is ineligible for a stay unless the parties stipulate otherwise and the Hearing Board grants the stipulation, or unless the supreme court grants the stay. A respondent who is required to petition for reinstatement under C.R.C.P. 242.39 will not be granted a stay unless the Hearing Board or the Presiding Disciplinary Judge, as applicable, finds that the respondent's practice of law during the appeal is unlikely to harm the public and that the granting of a stay would not undermine public confidence in the legal system. A respondent who is not required to petition for reinstatement under C.R.C.P. 242.39 will be granted a stay unless the Regulation Counsel establishes that the respondent's practice of law during the appeal would pose an unreasonable risk of harm to the public.

(c) - (d) [NO CHANGE]

Rule 242.36. Record on Appeal

(a) - (b) [NO CHANGE]

(c) Transmission.

(1) Complete Record. The clerk of the Presiding Disciplinary Judge must transmit the record to the clerk of the supreme court when the record is complete. If the record will include any transcripts, the clerk of the Presiding Disciplinary Judge will not transmit the record until transcripts are available, unless the supreme court orders otherwise.

(2) [NO CHANGE]

(A) - (C) [NO CHANGE]

(3) - (4) [NO CHANGE]

(d) Designation of Transcripts.

(1) Timing. If the appellant intends to include hearing transcripts in the record on appeal, the appellant must file a designation of transcripts with the clerk of the Presiding Disciplinary Judge and an advisory copy with the supreme court and the reporter who reported the proceeding within 7 days of the date of filing the appellant's notice of appeal.

(2) - (3) [NO CHANGE]

(e) - (h) [NO CHANGE]

Part XI. Information, Expungement, and General Provisions

Rule 242.41. Access to Information

(a) Public Information. Unless otherwise provided in this section, the files and records of the Regulation Counsel, the Presiding Disciplinary Judge, and the supreme court are available to the public if those files or records relate to allegations made in a disciplinary proceeding in which one of the six events set forth in this subsection (a) has occurred:

(1) – (2) [NO CHANGE]

(3) A petition for reinstatement or readmission under C.R.C.P. 242.39 is filed with the Presiding Disciplinary Judge;

(4) The Presiding Disciplinary Judge approves a stipulation to reinstatement that is submitted before the filing of a petition;

(5) An interim or a nondisciplinary suspension is imposed before the filing of a complaint; or

(6) In a proceeding under C.R.C.P. 242.22, the Presiding Disciplinary Judge issues a recommendation to suspend the respondent's license on an interim basis.

(b) Confidential Information. The following types of information are confidential and are not available to the public:

(1) Files and records of a proceeding in which none of the six events set forth in subsection (a) above has occurred, unless the respondent has waived confidentiality;

(2) - (5) [NO CHANGE]

(6) Information subject to a protective order under subsection (e) below or subject to a protective order or protected status within any tribunal's records system; and

(7) Information otherwise made confidential under this rule or other law.

(c) - (d) [NO CHANGE]

(e) Protective Orders. On motion of any person and on a showing of good cause, the Presiding Disciplinary Judge may enter a protective order restricting the disclosure of specific information to protect a complaining witness, another witness, a third party, a respondent, or a petitioner from annoyance, embarrassment, oppression, or undue burden or expense. A protective order may direct that a proceeding, including a hearing, be conducted so as to preserve the confidentiality of certain information. The Presiding Disciplinary Judge has authority to enter a protective order at any time after a request for investigation is filed, including after issuance of a final decision or entry of final judgment.

(f) [NO CHANGE]

(g) Request for Confidential Information.

(1) Release With Notice.

(A) The Regulation Counsel may, on request, release information that is confidential under subsection (b) above to the following types of agencies:

(i) [NO CHANGE]

(ii) An agency authorized to investigate the qualifications of persons or conduct background reviews for government employment or for security clearances;

(iii) A lawyer or judicial discipline enforcement agency;

(iv) An agency authorized to investigate criminal conduct, consumer protection violations, or civil regulatory violations; or

(v) [NO CHANGE]

(B) [NO CHANGE]

(2) [NO CHANGE]

(A) - (B) [NO CHANGE]

(h) [NO CHANGE]

(i) Response to False or Misleading Statement and Defense to Civil Suit. The Regulation Counsel may disclose information reasonably necessary either to correct false or misleading public statements made related to a proceeding or to defend against litigation in which the Regulation Counsel is a named defendant.

(j) - (o) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 242.42. General Provisions

(a) Notice. Except as otherwise provided in this rule, notice must be in writing. Notice must be sent to the last-known mailing address or email address of the recipient using the information provided by the lawyer to the Regulation Counsel under C.R.C.P. 227 or otherwise. Notice is deemed effective the date notice is placed in the mail; placed in the custody of a delivery service; or emailed.

(b) - (d) [NO CHANGE]

(e) Related Litigation.

(1) Substantially Similar Criminal Cases. A disciplinary proceeding that involves material allegations substantially similar to the material allegations of a criminal prosecution pending against the respondent may, in the discretion of the Regulation Committee or the Presiding Disciplinary Judge, as applicable, be held in abeyance until the criminal prosecution concludes before the trial court, unless good cause exists for continuing the abeyance pending appeal.

(2) Substantially Similar Civil Cases. A disciplinary proceeding that involves material allegations substantially similar to the material allegations made against the respondent in pending civil litigation may, in the discretion of the Regulation Committee or the Presiding Disciplinary Judge, as applicable, be held in abeyance until the civil litigation concludes before the trial court, unless good cause exists for continuing the abeyance pending appeal. If the disciplinary proceeding is placed in abeyance and the respondent fails to make all reasonable efforts to obtain a prompt trial and final disposition of the pending litigation, the Regulation Counsel may request that the Regulation Committee or the Presiding Disciplinary Judge, as applicable, promptly resume the disciplinary proceeding.

(3) [NO CHANGE]

Rule 242.43. Expungement of Records

(a) Records Subject to Expungement. Except for records of proceedings that have become public under C.R.C.P. 242.41, all records of proceedings that were dismissed must be expunged from the files of the Regulation Committee and the Regulation Counsel five years after the end of the calendar year in which the dismissal occurred. When a respondent completes a diversion agreement in a disciplinary proceeding that did not result in the filing of a complaint, all files and records from that proceeding must be expunged five years after the end of the calendar year in which the diversion was completed. But if a new request for investigation is filed against the respondent before an existing diversion file is expunged, the Regulation Counsel may wait to expunge the file until the new proceeding has been resolved. Files and records that notify the Regulation Counsel of a lawyer's conviction of a crime need not be expunged.

(b) - (c) [NO CHANGE]

COMMENT [NO CHANGE]

