

Rules of Procedure of the State Bar, Proposed Amendments

Rule 2409. Member's Response to Allegations

- (a) Prior to the filing of a Notice of Disciplinary Charges, the Office of the Chief Trial Counsel shall notify the member in writing of the allegations forming the basis for the complaint or investigation and shall provide the member with a period of not less than two weeks within which to submit a written explanation. ~~Upon request,~~ the Office of the Chief Trial Counsel shall grant the member an additional two weeks within which to submit the written explanation. Thereafter, any further ~~extension of time for submission of the member's~~An extension of time for submission of the member's written explanation shall be granted only upon written request to the Office of the Chief Trial Counsel and for good cause shown as to the specific constraints on the member's practice which are claimed to necessitate the additional time. This rule does not prohibit the Office of the Chief Trial Counsel from contacting a member by telephone for purposes of resolution of minor matters or investigation.

Rule 5. 30 Prefiling, Early Neutral Evaluation Conference

- (A) **Early Neutral Evaluation Conference.** ~~If~~Prior to the filing of disciplinary charges, the Office of the Chief Trial Counsel ~~and~~will notify the member ~~cannot agree on the resolution or disposition of a matter before disciplinary charges are filed, e~~in writing of the right to request an Early Neutral Evaluation Conference. Either party may request an Early Neutral Evaluation Conference. A party will have 10 days from the date of service of notice to request a conference. Failure to request a conference within that time is deemed a waiver of the right to request a conference. If proper notice is provided, failure to hold a conference will not be a basis for dismissal of a proceeding. A State Bar Court hearing judge ~~must~~will conduct the conference within 15 days of the request.
- (B) **Judicial Evaluation.** At the conference, the judge must give the parties an oral evaluation of the fact and charges and the potential for imposing discipline. If the parties then resolve the matter in a way that requires Court approval, the Office of the Chief Trial Counsel must document the resolution and submit it to the Evaluation judge for approval or rejection.

- (C) **Evidence.** The Office of the Chief Trial Counsel must submit a copy of the draft notice of disciplinary charges^[inserted text begin], a statement of the case, or other written summary^[inserted text end] to the judge prior to the conference. ^[inserted text begin] The document must include the rules and statutes alleged to have been violated by the member, a summary of the facts supporting each violation, and^[inserted text end] the Office of the Chief Trial ^[inserted text begin]Counsel's settlement position^[inserted text end]. Each party may submit documents and information to support its position.
- (D) **Confidentiality.** The conference is confidential. A party may designate any document it submits for in camera inspection only.
- (E) **Trial Judge.** Unless otherwise stipulated by the parties, the Early Neutral Evaluation judge cannot be the trial judge in a later proceeding involving the same facts.