

**VIRGINIA:**

**IN THE SUPREME COURT OF VIRGINIA  
AT RICHMOND**

**IN THE MATTER OF  
SUPREME COURT RULES  
PART 6, § IV  
PARAGRAPH 13-6.D**

**PETITION OF THE VIRGINIA STATE BAR**

Brian L. Buniva, President  
Karen A. Gould, Executive Director  
Cameron M. Rountree, Deputy Executive Director  
Virginia State Bar  
1111 East Main Street  
Suite 700  
Richmond, VA 23219-3565  
Phone (804) 775-0500  
Fax (804) 775-0501

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TO THE HONORABLE CHIEF JUSTICE AND THE JUSTICES OF THE  
SUPREME COURT OF VIRGINIA:

NOW COMES the Virginia State Bar (VSB), by its president and executive director, pursuant to Part 6, § IV of the Rules of this Court, and requests review and approval of the proposed amendments to Paragraph 13-6.D of Part 6, § IV of the Rules of Court governing the Organization and Government of the VSB, as set forth below. The proposed amendments were approved by unanimous vote of the Council of the VSB on October 23, 2020.

**I. Overview of the Issue**

The VSB proposes amending Paragraph 13-6.D of Part 6, § IV of the Rules of the Supreme Court of Virginia to facilitate the Disciplinary Board's expeditious consideration of a proffered Agreed Disposition by Bar Counsel and Respondent/Respondent's Counsel, via telecommunication means, without having to physically assemble a quorum of the Disciplinary Board in one location.

This amendment is sought for several salient reasons affecting the efficient

procedure and administration of the disciplinary system. First, this proposed amendment clarifies and explicitly replicates for the Disciplinary Board the currently existing authority found at Paragraph 13-7.C of the District Committees to act in a meeting through any means of communication by which a quorum may simultaneously hear each other. While the authority of the District Committees to act in conducting their business is unconstrained, this amendment would allow the Disciplinary Board to meet via telecommunication only in order to consider a proffered Agreed Disposition.

Second, from a financial and practical perspective, this amendment will preserve bar resources by obviating the need for volunteer Disciplinary Board members to travel from varying parts of the Commonwealth for an in-person Agreed Disposition hearing in Richmond at times when they are not otherwise scheduled to be in Richmond. Currently, only five of the 20 Disciplinary Board members work or live in the Richmond metro area.

Third, this amendment preserves bar resources by removing disciplinary hearings from the monthly docket, minimizing the number of volunteer Disciplinary Board members needed to travel to Richmond for monthly in-person misconduct hearings.

Lastly, the proposal is consistent with the confidential nature of Agreed Disposition deliberations as specified in Paragraph 13-30.A(7) & (8).

The proposed revisions are included below in Section III.

## **II. Publication and Comments**

Notice of the proposed Paragraph 13-6.D amendment was published on the VSB's website on July 30, 2020 and distributed in the VSB's E-News on August 3, 2020. The comment period for the amendment closed on September 4, 2020.

There were no comments received from the public. At the Council meeting on October 23rd, one question was asked by Bretta Lewis, a Council Member representing the 2<sup>nd</sup> Judicial Circuit, about the related issue of the use of telecommunications to conduct misconduct hearings and whether they were effective. Council was advised in response to this inquiry that the hearings had proceeded well over several months, with minor technical glitches, and that Respondents always had the option to virtually appear before the Disciplinary Board from the bar's office.

The motion to adopt the amendment passed unanimously.

## **III. Proposed Changes**

The text of the proposed amendment is as follows with additions underlined (there are no deletions):

13-6.D. Meetings and Quorum. The Board shall meet on reasonable notice by the Chair or a Vice Chair. A Panel of five members shall constitute a quorum, and the action of a majority of a Panel shall constitute action of the Board. For the exclusive purposes of considering an Agreed Disposition, pursuant to subparagraph 13-6.H, a Panel may act in a meeting in person or through any means of communication by which all five members participating may simultaneously hear each other during the meeting. One of the five persons assigned to any Panel shall

be a present or former nonlawyer member unless the scheduled nonlawyer is unable to attend and an alternate nonlawyer member or former member is not reasonably available. In such event, participation by a nonlawyer shall not be required in any proceeding if a quorum is otherwise present.

#### **IV. Conclusion**

“The Supreme Court may promulgate rules and regulations organizing and governing the Virginia State Bar.” Va. Code § 54.1-3910. Pursuant to this statutory authority, the Court has promulgated such rules. After notice to the VSB membership and a comment period publicized through VSB publications, the proposed amendments were then unanimously approved by the Executive Committee and Council on October 22 and 23, 2020, respectively.

THEREFORE, the Virginia State Bar, by its president and executive director, respectfully requests the Court to adopt the foregoing amendments to Part 6, § IV, Paragraph 13-6.D for the reasons set forth above.

Respectfully submitted,  
VIRGINIA STATE BAR



By: Brian L. Buniva, President



By: Karen A. Gould, Executive Director

Dated this 30th day of October 2020.