

VIRGINIA:

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

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

**PETITION OF THE VIRGINIA STATE BAR
VSB 21-3**

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VIRGINIA:

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PETITION

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

COMES NOW 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 amendment to Paragraph 13-6.H. of Part 6, § IV of the Rules of Court governing the VSB's Procedure for Disciplining, Suspending, and Disbarring Attorneys.

I. Proposed Amendment

The Virginia State Bar Disciplinary Board ("Board"), through its Chairs, requested that the Standing Committee on Lawyer Discipline ("COLD") revise Para. 13-6.H., which addresses agreed dispositions of disciplinary proceedings before the Board. The proposed new language is underlined:

Paragraph 13-6. Disciplinary Board

...

H. Agreed Disposition. Whenever Bar Counsel and Respondent are in agreement as to the disposition of a Disciplinary Proceeding, the parties may submit a proposed Agreed Disposition to five members of the Board selected by the Chair. The five members so selected will constitute a Panel. If the proposed Agreed Disposition is accepted by

a majority of the Panel so selected, the Agreed Disposition will be adopted by order of the Board. No appeal will lie from any sanction to which Respondent has agreed. If the Agreed Disposition is not accepted by the Panel, the Disciplinary Proceeding will then be set for hearing before another Panel of the Board at the earliest possible date. No member of the Panel which considered the proposed Agreed Disposition shall be assigned to the Panel which hears the Disciplinary Proceeding. In the event the Panel rejects the proposed Agreed Disposition, the Panel may advise Bar Counsel and Respondent as to the reason for the rejection. Bar Counsel and Respondent may then meet privately and determine whether to revise the proposed Agreed Disposition and the Panel may reconsider any revised proposed Agreed Disposition within a timeframe determined by the Panel.

The proposed revision comports with existing practice and provides the Board express, specific authority (1) to give feedback to bar counsel and the respondent so that the parties may re-evaluate the proposed agreed disposition and (2) to reconsider a revised agreed disposition. The comments of the Board are made on the record in a public proceeding. The revision encourages agreed dispositions and ensures the disciplinary procedure best reflects actual practice.

On June 11, 2021, COLD unanimously approved the amendment to Para. 13-6.H. On June 22, 2021, the VSB published the amendment for comment. The comment period closed July 23, 2021. The VSB received one comment, attached, in support of the revision. At its meeting on October 28, 2021, the VSB Executive Committee unanimously approved the amendment. At its meeting on October 29, 2021, the VSB Council unanimously approved the amendment for submission to this Court.

II. Conclusion

The Virginia State Bar, by its president and executive director, respectfully requests the Court to adopt the foregoing amendment to Part 6, § IV, Paragraph 13-6.H. for the reasons stated above.

Respectfully submitted,

VIRGINIA STATE BAR

Handwritten signature of Jay B. Myerson in cursive script.

Jay B. Myerson, President

Handwritten signature of Karen A. Gould in cursive script.

Karen A. Gould, Executive Director

Dated: November 3, 2021

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VIA EMAIL ONLY TO PUBLICCOMMENT@vsb.org

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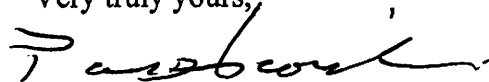
Re: Proposed Rule Change to Pt. 6, Sec. IV, Para 13-6 H

Dear Ms. Gould:

As a former Assistant Bar Counsel and now as Respondent's counsel, I write in support of this commonsense and practical change to the Board's authority in considering and guiding Agreed Dispositions. Currently, some Board panels take an expansive view of their inherent authority and provide guidance to the parties while others refrain from doing so.

I have always found it extremely helpful to receive guidance as to fashioning an acceptable outcome. Once the parties commit to settling a case, it is frustrating to encounter Sphinx-like silence in receiving a rejection of a proposed Agreed Disposition. The proposed Rule change will avoid needless expenditures of resources in taking cases to full hearings which includes the time of the Board volunteers, and facilitate prompt and certain outcomes fair to the parties and protective of the public.

Very truly yours,



Paul D. Georgiadis

PDG/ms