

MICHIGAN ATTORNEY DISCIPLINE BOARD INTERNAL OPERATING PROCEDURES - REVIEW PROCEEDINGS



Adopted 07/10/2025

Important Note on the Use of the Internal Operating Procedures

These Internal Operating Procedures (“IOPs”) are intended to memorialize the practices adopted by the Attorney Discipline Board to move appellate/review filings through the Board efficiently and in conformity with the Michigan Court Rules. By describing in these IOPs how the Board processes appeals, we hope that they will serve as useful guidelines to assist the public and Bar to better understand how to properly file documents with the Board.

These IOPs do not constitute legal advice, do not have the force of law, and are not officially sanctioned by the Michigan Supreme Court. The Michigan Court Rules, and the decisional law construing those rules, remain the authoritative, controlling law governing the procedural requirements of appellate practice.

Because the IOPs are derived from the Michigan Court Rules and the practical processing requirements they entail, the IOPs will be modified from time to time, without prior notice, to accommodate changes in the rules and the Board’s evolving internal practices. Accordingly, as the IOPs need to be updated from time to time to reflect the evolving practices of the Board, these IOPs may not reflect all recent changes in Board practices and cannot be considered binding on the Board.

We hope these IOPs will answer your basic procedural filing questions and aid you in preparing and filing your appellate documents. If you have an appellate filing question not addressed in the court rules or the IOPs, please contact the Attorney Discipline Board. However, we ask that you bear in mind that staff members are not authorized to give legal advice or to answer substantive legal questions. These IOPs are available electronically on the Board’s website.

ADB IOP 9.110(E) — Jurisdiction of the Board

Final orders. The Board has the authority to review a final order of discipline or dismissal by a hearing panel; respondent, the Grievance Administrator, or a complainant can file a petition for review. MCR 9.110(E)(4). The Board also has the authority to review orders granting or denying reinstatement. See MCR 9.118(A); MCR 9.124(E).

Nonfinal orders. The Board has the authority to grant leave to review a nonfinal order of a hearing panel. MCR 9.110(E)(5). In order to grant leave to review a nonfinal order, the Board typically requires a demonstration that the appellant would suffer substantial harm by awaiting final judgment before taking an appeal. *Grievance Administrator v Timothy A. Stoepker*, 13-32-GA (ADB 2014). However, the review of an application for leave to appeal necessarily entails some evaluation of the merits of the applicant's claims. See *Halbert v Michigan*, 545 US 605, 618 (2005).

ADB IOP 9.115(C) — Proof of Service

All original briefs and pleadings filed with the Board must be accompanied by a proof of service showing delivery of a copy to the opposing party.

ADB IOP 9.115(K) — Stay of Discipline

If a discipline order is a suspension of 179 days or less, a stay of the discipline order is automatic only if a petition for review *and* a petition for stay are timely filed.

If the discipline ordered is more severe than a 179-day suspension, the respondent may petition the board for a stay pending review. A request for a stay should address all relevant factors, including: the nature of the misconduct, the potential for harm to the public if the stay is granted, the possibility that respondent's arguments on review could prevail after briefing, oral argument, and fuller consideration by the Board, and whether respondent may suffer irreparable harm if the stay is not granted.

ADB IOP 9.118(A) — Form of Petition for Review, Time for Filing

Form. A petition for review provides notice to the parties of basic information from which they can act to protect their interests. A petition for review must set forth the reasons and the grounds on which review is sought; however, a petition for review is not a brief and should not include full arguments or citations to the record. **Petitions for review should be limited to 5 pages; petitions that are over 5 pages require prior written approval from the Board.**

Time for Filing. A petition for review must be filed with the Board within 21 days after the order is served; a cross-petition for review may be filed within 21 days after the petition for review is served on the cross-petitioner; a delayed petition for review should be filed within 12 months after the order of the hearing panel is entered.

ADB IOP 9.118(B)-1 — Briefing Schedule; Transcripts

If a petition for review is timely filed or a delayed petition for review is accepted for filing, the Board will issue an order to show cause, at a date and time specified, why the order of the hearing panel should not be affirmed. The order to show cause will also establish a briefing schedule for all parties. Failure to comply with the order to show cause, including the briefing schedule, may be grounds for dismissal of a petition for review.

Extensions. Extensions of time to file a review brief are allowed only by motion before the Board. Late briefs will not be accepted without prior Board approval.

Transcripts. A request for transcripts from the hearing panel proceedings may be requested through the office of the Attorney Discipline Board.

Motion Practice. There is no court rule that permits motion practice before the Board during the pendency of a review proceeding; as such, motion practice is extremely limited. Motions that will be accepted for filing by the Board in connection with a pending review proceeding include administrative motions, such as to exceed page limits, to adjourn, or to extend deadlines; motions to disqualify; or motions necessitated by the review proceedings, such as a petition for stay. *Seeking concurrence from opposing counsel prior to filing any of these motions is expected.* Motions to remand, to affirm, or for peremptory reversal will not be accepted for filing.

ADB IOP 9.118(B)-2 — Form and Length of Briefs

Practice Note: A party who has filed a petition for review or a cross-petition for review **MUST** file a supporting brief.

Line Spacing, Margins, Typeface. Briefs must be on 8½" x 11" paper and have at least one-inch page margins, 12-point font, and double-spaced text, except quotations, headings, and footnotes may be single-spaced. Page numbers may be placed in the margins, but no text may appear there.

Page Limitation. Briefs in support of, or in opposition to, a petition for review shall not exceed 15 pages. A motion requesting to file a brief exceeding 15 pages must be submitted in writing, with a copy to the opposing party, prior to the filing of the brief. Such motions are disfavored and will be granted only for extraordinary and compelling reasons. Unless prior approval has been granted by the Board, a brief exceeding 15 pages (exclusive of table of contents and index of authorities), will not be accepted for filing.

Practice Note: Any statement of facts or arguments contained in an attachment to a brief, or contained in another brief, that is incorporated by reference into the body of the brief, will be counted toward the page limit.

ADB IOP 9.118(B)-3 — Content of Briefs

Principal Briefs. Briefs filed in support of a petition for review or in opposition to a petition for review should include the following:

1. Table of Contents
2. Index of Authorities
3. Statement of Questions Involved
4. Statement or Counter-Statement of Facts: The statement or counter statement of facts must be clear, concise and chronological narrative. All material facts, both favorable and unfavorable, must be fairly stated without argument or bias. The statement must contain, with specific page references to the record, a summary of the evidence, hearing panel decisions, and other such matters necessary to an understanding of the controversy and the questions involved.
5. Applicable Standard of Review
6. Legal Arguments: Each section must be prefaced by the principal point stated in capital letters. If an argument is supported by citation to opinions by a federal court or a court or disciplinary tribunal other than the Michigan Supreme Court, Michigan Court of Appeals or Michigan Attorney Discipline Board, you may be requested to provide copies of this material in an addendum to the brief.
7. Concise Statement of Relief Requested

Practice Note: No separate appendix is required and will not be accepted for filing.

Reply Briefs. There is no court rule that permits the filing of a reply brief by either party. Consequently, a request for leave to file a reply brief must be submitted in writing, with a copy to the opposing party, prior to the filing of the reply brief. In the event that a reply brief is allowed, it shall not exceed 5 pages, and must be filed within the time prescribed by the order granting leave to file a reply brief.

Non-Conforming Briefs. The Board has the authority to strike a non-conforming brief without prior notification to the party.

ADB IOP 9.118(C) — Review Hearings

Appearance of Respondent. The respondent must appear personally at the review hearing unless excused by the Board. MCR 9.118(C)(1). Failure to appear may result in denial of any relief sought by the respondent, or any other action allowable under MCR 9.118(D).

Adjournment Requests. ALL requests for adjournments of a scheduled review hearing MUST be in writing and MUST be accompanied by a proof of service showing delivery of a copy to the opposing party.

Location. The Board has authorized its staff to notice and hold review hearings either remotely via Zoom videoconferencing, in-person at the Board's hearing room located in Detroit, Michigan, using a hybrid of both remote and in-person, or at any other location deemed sufficient and necessary by the Board. When determining the location of a review hearing, the Board will weigh various factors, including, but not limited to: whether the hearing will be in-person, remote or a hybrid of both; security; the availability and suitability of other locations and the time and other resources needed to arrange for them; the ability to facilitate interaction with the Board Members during deliberations; and the convenience of the participants.

Oral Argument. Ordinarily, each party is allowed 15 minutes to present his or her oral argument, either in propria persona or through one attorney of record; up to 5 minutes may be reserved for rebuttal by the party petitioning for review. Generally, when the Board is hearing a cross-petition for review in addition to a petition for review, both the direct petitioner and the cross-petitioner may reserve rebuttal time. The Chairperson (or other member presiding at the oral argument) shall have the discretion to vary the foregoing general rules, and the parties may move for modified or special oral argument procedures and limits, or the Chairperson may direct the order and length of the presentations on his or her own.

ADB IOP 9.118(E) — Motion for Reconsideration

Time to File. A motion for reconsideration of a Board opinion or order must be filed before the Board's order takes effect, which is typically 28 days after it is served on the respondent. See MCR 9.118(D).

Form of Motion for Reconsideration. A motion for reconsideration should be limited to 10 pages, and must be a single document including all facts, arguments, and citations to authorities. Unless prior approval has been granted by the Board, a motion for reconsideration exceeding 10 pages will not be accepted for filing.

Standard. A motion for reconsideration which merely presents the same issues previously ruled on by the Board, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the Board and the parties have been misled and show that a different disposition of the motion must result from correction of the error. See MCR 2.119(F); *Grievance Administrator v William G. Shanaberger*, 18-33-MZ (ADB 2018).

Answer. An answer to a motion for reconsideration may be filed, and should be limited to 10 pages. Unless prior approval has been granted by the Board, an answer to a motion for reconsideration exceeding 10 pages will not be accepted for filing.

Stay. For suspensions of 179 days or less, a stay of discipline will automatically issue upon the timely filing of a motion for reconsideration. If the discipline is greater than a 179-day suspension, the respondent may petition for a stay; if the Board grants a stay, the stay remains effective for 28 days after the Board enters an order granting or denying reconsideration.