

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its Two Hundred and Twentieth Report to the Supreme Court of Maryland, recommending proposed amendments to current Rules 1-333, 2-402, 2-416, 2-521, 2-536, 3-505, 3-536, 4-216.1, 4-326, 4-361, 5-803, 5-804, 6-153, 9-204.1, 9-205.3, 9-402, 9-403, 10-103, 10-113, 10-201, 10-205, 10-212, 10-301, 10-302, 14-207.1, 15-1303, 16-207 , 16-401, 16-405, 16-804, 16-809, 16-1001, 18-100.3, 18-100.4, 18-101.3, 18-102.11, 18-102.12, 18-103.4, 18-103.5, 18-103.7, 18-103.8, 18-103.10, 18-103.11, 18-103.14, 18-104.4, 18-201.3, 18-202.11, 18-202.12, 18-203.4, 18-203.5, 18-203.7, 18-203.8, 18-203.10, 18-203.11, 18-203.14, 18-204.4, 18-428, 18-504, 19-105, 19-201, 19-301.8, 19-301.17, 19-305.3, 19-308.2, 19-308.5, 19-701, 19-716, 19-717.1, 19-720, 19-740, 20-104, 20-105, and 21-105; Form 4-508.1; Title 10, Appendix (Maryland Guidelines for Attorneys Representing Minors and Alleged Disabled Persons in Guardianship Proceedings); Appendix 19-B (Ideals of Professionalism); and Appendix 19-D (Maryland Guidelines for Practice for Court-Appointed Attorneys Representing Children in Cases Involving Child Custody or Child Access).

The Committee's Two Hundred and Twentieth Report and the proposed Rules changes are set forth below.

Interested persons are asked to consider the Committee's Report and proposed Rules changes and to forward on or before January 16, 2024 any written comments they may wish to make to rules@mdcourts.gov or:

Sandra F. Haines, Esquire
Reporter, Rules Committee
Judiciary A-POD
580 Taylor Avenue
Annapolis, Maryland 21401

Gregory Hilton
Clerk
Supreme Court of Maryland

**THE SUPREME COURT OF MARYLAND
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

Hon. ALAN M. WILNER, Chair
Hon. DOUGLAS R.M. NAZARIAN, Vice Chair
SANDRA F. HAINES, Reporter
COLBY L. SCHMIDT, Deputy Reporter
HEATHER COBUN, Assistant Reporter
MEREDITH A. DRUMMOND, Assistant Reporter

Judiciary A-POD
580 Taylor Avenue
Annapolis, Maryland
21401
(410) 260-3630
EMAIL:
rules@mdcourts.gov

December 15, 2023

The Honorable Matthew J. Fader,
Chief Justice

The Honorable Shirley M. Watts
The Honorable Michele D. Hotten
The Honorable Brynja M. Booth
The Honorable Jonathan Biran
The Honorable Steven B. Gould
The Honorable Angela M. Eaves,
Justices

The Supreme Court of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its Two Hundred and Twentieth Report, and recommends that the Court adopt the amendments to the Rules submitted below with this Report. These are non-substantive gender-neutralizing changes to the following Rules, Forms, and Appendices designed to implement requests recommended by the Equal Justice Commission:

Rule 1-333	Rule 2-402	Rule 2-416	Rule 2-521
Rule 2-536	Rule 3-505	Rule 3-536	Rule 4-216.1
Rule 4-326	Rule 4-361	Rule 5-803	Rule 5-804
Rule 6-153	Rule 9-204.1	Rule 9-205.3	Rule 9-402
Rule 9-403	Rule 10-103	Rule 10-113	Rule 10-201
Rule 10-205	Rule 10-212	Rule 10-301	Rule 10-302
Rule 14-207.1	Rule 15-1303	Rule 16-207	Rule 16-401
Rule 16-405	Rule 16-804	Rule 16-809	Rule 16-1001
Rule 18-100.3	Rule 18-100.4	Rule 18-101.3	Rule 18-102.11
Rule 18-102.12	Rule 18-103.4	Rule 18-103.5	Rule 18-103.7
Rule 18-103.8	Rule 18-103.10	Rule 18-103.11	Rule 18-103.14
Rule 18-104.4	Rule 18-201.3	Rule 18-202.11	Rule 18-202.12
Rule 18-203.4	Rule 18-203.5	Rule 18-203.7	Rule 18-203.8
Rule 18-203.10	Rule 18-203.11	Rule 18-203.14	Rule 18-204.4

Rule 18-428	Rule 18-504	Rule 19-105	Rule 19-201
Rule 19-301.8	Rule 19-301.17	Rule 19-305.3	Rule 19-308.2
Rule 19-308.5	Rule 19-701	Rule 19-716	Rule 19-717.1
Rule 19-720	Rule 19-740	Rule 20-104	Rule 20-105
Rule 21-105			

and (1) Form 4-508.1 in the Title 4 Appendix of Forms (Order for Expungement of Records), (2) Appendix to Title 10 (Maryland Guidelines for Attorneys Representing Minors and Alleged Disabled Persons in Guardianship Proceedings), (3) Appendix 19-B (Ideals of Professionalism), and (4) Appendix 19-D (Maryland Guidelines for Practice for Court-Appointed Attorneys Representing Children in Cases Involving Child Custody or Child Access).

For the further guidance of the Court and the public, following the proposed amendments to each Rule is a Reporter's note describing in further detail the reasons for the proposals. We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully Submitted,

/ s /

Alan M. Wilner
Chair

AMW:sdm

cc: Gregory Hilton, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 1 – GENERAL PROVISIONS

CHAPTER 300 – GENERAL PROVISIONS

AMEND Rule 1-333 by replacing gendered pronouns with non-gender specific language in subsection (a)(2), as follows:

Rule 1-333. COURT INTERPRETERS

(a) Definitions

In this Rule, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(1) Certified Interpreter

“Certified Interpreter” means an interpreter who is certified by:

(A) the Maryland Administrative Office of the Courts;

(B) any member of the Council for Language Access Coordinators, provided that, if the interpreter was not approved by the Maryland member of the Council, the interpreter has successfully completed the orientation program required by the Maryland member of the Council;

Committee note: The Council for Language Access Coordinators is a unit of the National Center for State Courts.

(C) the Administrative Office of the United States Courts; or

(D) if the interpreter is a sign language interpreter, the Registry of Interpreters for the Deaf or the National Association of the Deaf.

(2) Individual Who Needs an Interpreter

“Individual who needs an interpreter” means a party, attorney, witness, or victim who is deaf or unable adequately to understand or ~~express himself or herself~~ communicate in spoken or written English and a juror or prospective juror who is deaf.

...

Source: This Rule is derived from former Rule 16-819 (2014).

REPORTER’S NOTE

In March 2023, the Judicial Council approved for dissemination the Report and Recommendations of the Committee on Equal Justice Rules Review Subcommittee (hereinafter “the EJC Report”). One recommendation contained in the EJC Report was for the Rules Committee to remove gendered pronouns from the Rules. To implement the recommendation of the EJC Report, each instance of gendered pronouns identified in the Rules is proposed to be removed and replaced with non-gender specific language.

MARYLAND RULES OF PROCEDURE
TITLE 2 – CIVIL PROCEDURE — CIRCUIT COURT
CHAPTER 400 – DISCOVERY

AMEND Rule 2-402 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (g)(1)(A), as follows:

Rule 2-402. SCOPE OF DISCOVERY

Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

...

(g) Trial Preparation—Experts

(1) Expected to be Called at Trial

(A) Generally

Subject to subsection (g)(1)(C) of this Rule, a party by interrogatories may require any other party to identify each person, other than a party, whom the other party expects to call as an expert witness at trial; to state the subject matter on which the expert is expected to testify; to state the substance of the findings and the opinions to which the expert is expected to testify and a summary of the grounds for each opinion; and to produce any written report made by the expert concerning those findings and opinions. A party also may take the deposition of the expert.

Committee note: This subsection requires a party to disclose the name and address of any witness who may give an expert opinion at trial, whether or not

that person was retained in anticipation of litigation or for trial. Cf. *Dorsey v. Nold*, 362 Md. 241 (2001). See Rule 104.10 of the Rules of the U.S. District Court for the District of Maryland. The subsection does not require, however, that a party ~~name himself or herself~~ self-designate as an expert. See *Turgut v. Levin*, 79 Md. App. 279 (1989).

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 2 – CIVIL PROCEDURE—CIRCUIT COURT
CHAPTER 400 – DISCOVERY

AMEND Rule 2-416 by replacing gendered pronouns with non-gender specific language in section (f), as follows:

Rule 2-416. DEPOSITION--AUDIO AND AUDIO-VIDEO RECORDINGS

...

(f) Procedure

The deposition shall begin by the operator stating on camera or on the electronic audio or audio-video recording: (1) the operator's name and address, (2) the name and address of the operator's employer, (3) the date, time, and place of the deposition, (4) the caption of the case, (5) the name of the deponent, and (6) the name of the party giving notice of the deposition. The officer before whom the deposition is taken shall ~~identify himself or herself~~ state the officer's identity and swear the deponent on camera or on the electronic audio or audio-video recording. At the conclusion of the deposition, the operator shall state on camera or on the electronic audio or audio-video recording that the deposition is concluded. When more than one tape, disk or similar electronic data unit of recording is used, the operator shall announce the end of each unit and the beginning of the next unit of audio or audio-video recording. A deposition recorded under this subsection shall be timed by a

clock or indicator that shall show on camera or on the recording whenever possible each hour, minute, and second of the deposition.

...

Source: This Rule is derived from former Rule 410 with the exception of section (g), which is derived from former Rule 409 c 2 and 413 c.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 2 – CIVIL PROCEDURE—CIRCUIT COURT
CHAPTER 500 – TRIAL

AMEND Rule 2-521 by replacing gendered pronouns with non-gender specific language in subsection (d)(2)(B), as follows:

Rule 2-521. JURY--REVIEW OF EVIDENCE--COMMUNICATIONS

...

(d) Communications With Jury

(1) Instruction to Use Juror Number

The judge shall instruct the jury, in any preliminary instructions and in instructions given prior to jury deliberations that, in any written communication from a juror, the juror shall be identified only by juror number.

(2) Notification of Judge; Duty of Judge

(A) A court official or employee who receives any written or oral communication from the jury or a juror shall immediately notify the presiding judge of the communication.

(B) The judge shall determine whether the communication pertains to the action. If the judge determines that the communication does not pertain to the action, the judge may respond as ~~he or she~~ the judge deems appropriate.

Committee note: Whether a communication pertains to the action is defined by case law. See, for example, *Harris v. State*, 428 Md. 700 (2012) and *Grade v. State*, 431 Md. 85 (2013).

...

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former Rules 558 a, b and d and 758 b.

Section (c) is derived from former Rule 758 c.

Section (d) is derived in part from former Rule 758 d and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 2 – CIVIL PROCEDURE—CIRCUIT COURT
CHAPTER 500 – TRIAL

AMEND Rule 2-536 by replacing gendered pronouns with non-gender specific language, as follows:

Rule 2-536. DISABILITY OF JUDGE

If, by reason of termination of office, absence, death, sickness, or other inability to act, a judge is unable to perform an act or duty in an action, any other judge authorized to act in that court may perform the act or duty if satisfied that ~~he or she~~ the other judge can properly do so. Otherwise, the other judge shall grant a new trial or such other relief as justice requires.

Source: This Rule is derived from former Rule 528.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 3 – CIVIL PROCEDURE—DISTRICT COURT
CHAPTER 500 – TRIAL

AMEND Rule 3-505 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 3-505. DISQUALIFICATION OF JUDGE

(a) Request for Recusal

A party who believes that a fair and impartial trial cannot be had before the judge to whom the action has been assigned may request ~~the assigned judge to disqualify himself or herself~~ that judge's recusal. If the judge grants the request, the action shall be reassigned by the administrative judge of the district or a person designated by the administrative judge.

...

Source: This Rule is derived from former M.D.R. 542.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 3 – CIVIL PROCEDURE—DISTRICT COURT
CHAPTER 500 – TRIAL

AMEND Rule 3-536 by replacing gendered pronouns with non-gender specific language, as follows:

Rule 3-536. DISABILITY OF JUDGE

If, by reason of termination of office, absence, death, sickness, or other inability to act, a judge is unable to perform an act or duty in an action, any other judge authorized to act in that court may perform the act or duty if satisfied that ~~he or she~~ the other judge can properly do so. Otherwise, the other judge shall grant a new trial or such other relief as justice requires.

Source: This Rule is derived from former Rule 528.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 4 – CRIMINAL CAUSES
CHAPTER 200 – PRETRIAL PROCEDURES

AMEND Rule 4-216.1 by replacing gendered pronouns with non-gender specific language in subsection (f)(2)(I), as follows:

Rule 4-216.1. PRETRIAL RELEASE--STANDARDS GOVERNING

...

(f) Consideration of Factors

...

(2) Other Factors

...

(I) the danger of the defendant to ~~himself or herself~~ the defendant's self;
and

(J) any other factor bearing on the risk of a willful failure to appear and the safety of each alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 300 – TRIAL AND SENTENCING

AMEND Rule 4-326 by replacing gendered pronouns with non-gender specific language in subsection (d)(2)(B), as follows:

Rule 4-326. JURY--REVIEW OF EVIDENCE--COMMUNICATIONS

...

(d) Communications With Jury

(1) Instruction to Use Juror Number

The judge shall instruct the jury, in any preliminary instructions and in instructions given prior to jury deliberations that, in any written communication from a juror, the juror shall be identified only by juror number.

(2) Notification of Judge; Duty of Judge

(A) A court official or employee who receives any written or oral communication from the jury or a juror shall immediately notify the presiding judge of the communication.

(B) The judge shall determine whether the communication pertains to the action. If the judge determines that the communication does not pertain to the action, the judge may respond as ~~he or she~~ the judge deems appropriate.

Committee note: Whether a communication pertains to the action is defined by case law. See, for example, *Harris v. State*, 428 Md. 700 (2012) and *Grade v. State*, 431 Md. 85 (2013).

(C) If the judge determines that the communication pertains to the action, the judge shall promptly, and before responding to the communication, direct that the parties be notified of the communication and invite and consider, on the record, the parties' position on any response. The judge may respond to the communication in writing or orally in open court on the record.

...

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former Rule 758 a and b and 757 e.

Section (c) is derived from former Rule 758 c.

Section (d) is derived in part from former Rule 758 d and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

CHAPTER 300 – TRIAL AND SENTENCING

AMEND Rule 4-361 by replacing gendered pronouns with non-gender specific language in sections (a) and (b), as follows:

Rule 4-361. DISABILITY OF JUDGE

(a) After Verdict or Acceptance of Plea

If by reason of termination of office, death, sickness, or other disability, the judge before whom a defendant has been tried or by whom a plea of guilty or nolo contendere has been accepted is unable to perform an act or duty of the court after verdict or after acceptance of a plea, any other judge authorized to act in that court may sentence the defendant and perform any other act or duty if satisfied that ~~he or she~~ the other judge can properly do so.

(b) During Jury Trial in Circuit Court

If by reason of termination of office, absence, death, sickness, or other disability, the judge before whom a jury trial in circuit court has commenced is unable to proceed with the trial, any other judge authorized to act in that court upon certifying that ~~he or she~~ the other judge has become familiar with the record of the trial, may proceed with and finish the trial.

Cross reference: Code, Criminal Procedure Article, § 6-224.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 750 b and M.D.R. 750.

Section (b) is derived from former Rule 750 a.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 5 – EVIDENCE

CHAPTER 800 – HEARSAY

AMEND Rule 5-803 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (b)(8)(D), as follows:

Rule 5-803. HEARSAY EXCEPTIONS: UNAVAILABILITY OF DECLARANT NOT REQUIRED

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

...

(b) Other Exceptions

...

(8) Public Records and Reports

(A) Except as otherwise provided in this paragraph, a memorandum, report, record, statement, or data compilation made by a public agency setting forth

(i) the activities of the agency;

(ii) matters observed pursuant to a duty imposed by law, as to which matters there was a duty to report;

(iii) in civil actions and when offered against the State in criminal actions, factual findings resulting from an investigation made pursuant to authority granted by law; or

(iv) in a final protective order hearing conducted pursuant to Code, Family Law Article, § 4-506, factual findings reported to a court pursuant to Code, Family Law Article, § 4-505, provided that the parties have had a fair opportunity to review the report.

Committee note: If necessary, a continuance of a final protective order hearing may be granted in order to provide the parties a fair opportunity to review the report and to prepare for the hearing.

(B) A record offered pursuant to paragraph (A) may be excluded if the source of information or the method or circumstance of the preparation of the record indicate that the record or the information in the record lacks trustworthiness.

(C) Except as provided in subsection (b)(8)(D) of this Rule, a record of matters observed by a law enforcement person is not admissible under this paragraph when offered against an accused in a criminal action.

(D) Subject to Rule 5-805, an electronic recording of a matter made by a body camera worn by a law enforcement person or by another type of recording device employed by a law enforcement agency may be admitted when offered against an accused if (i) it is properly authenticated, (ii) it was made contemporaneously with the matter recorded, and (iii) circumstances do not indicate a lack of trustworthiness.

Committee note: Subsection (b)(8)(D) establishes requirements for the admission of certain electronic recordings made by a body camera worn by a law enforcement person or by another type of recording device employed by a law enforcement agency against an accused. Subsection (b)(8)(D) does not preclude an accused from offering on ~~his or her~~ the accused's own behalf a record of matters observed by a law enforcement person, including a recording made by a body camera. This section does not mandate following the

interpretation of the term “factual findings” set forth in *Beech Aircraft Corp. v. Rainey*, 488 U.S. 153 (1988). See *Ellsworth v. Sherne Lingerie, Inc.*, 303 Md. 581 (1985).

...

REPORTER’S NOTE

See the Reporter’s note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 5 – EVIDENCE

CHAPTER 800 – HEARSAY

AMEND Rule 5-804 by replacing gendered pronouns with non-gender specific language in subsection (b)(2), as follows:

Rule 5-804. HEARSAY EXCEPTIONS; DECLARANT UNAVAILABLE

...

(b) Hearsay Exceptions

The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former Testimony

Testimony given as a witness in any action or proceeding or in a deposition taken in compliance with law in the course of any action or proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement Under Belief of Impending Death

In a prosecution for an offense based upon an unlawful homicide, attempted homicide, or assault with intent to commit a homicide or in any civil action, a statement made by a declarant, while believing that the declarant's

death was imminent, concerning the cause or circumstances of what the declarant believed to be ~~his or her~~ the declarant's impending death.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 6 – SETTLEMENT OF DECEDENTS’ ESTATES
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 6-153 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 6-153. ADMISSION OF COPY OF EXECUTED WILL

...

(c) Form of Consent

[CAPTION]

CONSENT TO PROBATE OF COPY OF EXECUTED LAST WILL AND
TESTAMENT

The undersigned _____ and _____, being all the heirs at law of the decedent and all the legatees named in the will executed by the decedent on _____, hereby consent to the probate of a copy of that executed will, it having been determined, after an extensive search of the decedent's personal records, that an original of the will cannot be located. By signing this consent, each of the undersigned affirms that it is ~~his or her~~ the signer's belief that the will executed by the decedent on _____, is the last valid will executed by the decedent and was not revoked and that the copy of the will, as submitted with the petition for its admission, represents a true and correct copy of the will.

We solemnly affirm under the penalties of perjury that the contents of this document are true to the best of our knowledge, information, and belief.

Date	Signature	Print Name and Relationship
_____	_____	_____
_____	_____	_____

Attorney

Address

Telephone Number

Facsimile Number

E-mail Address

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 200 – DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT, AND
CHILD CUSTODY

AMEND Rule 9-204.1 by replacing gendered pronouns with non-gender specific language in subsection (a)(3), as follows:

Rule 9-204.1. PARENTING PLANS

(a) Definitions

The following definitions apply, except as expressly otherwise provided or as necessary implication requires:

(1) Decision-Making Authority (Legal Custody)

Decision-Making Authority, also called legal custody, refers to how major long-term decisions about a child's medical care, mental health, education, religious training, and extracurricular activities are made.

(2) Parenting Plan

Parenting Plan means a written agreement about how parties will work together to take care of a child.

(3) Parenting Time (Physical Custody)

Parenting Time, also called physical custody, refers to where a child lives and the amount of time ~~he or she~~ the child spends with each party.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 200 – DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT, AND
CHILD CUSTODY

AMEND Rule 9-205.3 by replacing gendered pronouns with non-gender specific language in subsection (d)(2) and the Committee Note following subsection (f)(1)(F), as follows:

Rule 9-205.3. CUSTODY AND VISITATION-RELATED ASSESSMENTS

...

(d) Qualifications of Custody Evaluator

...

(2) Training and Experience

Unless waived by the court, a custody evaluator shall have completed, or commit to completing, the next available training program that conforms with guidelines established by the Administrative Office of the Courts. The current guidelines shall be posted on the Judiciary’s website. In addition to complying with the continuing requirements of ~~his or her~~ the custody evaluator’s field, a custody evaluator shall have training or experience in observing or performing custody evaluations and shall have current knowledge in the following areas:

(A) domestic violence;

(B) child neglect and abuse;

- (C) family conflict and dynamics;
- (D) child and adult development; and
- (E) impact of divorce and separation on children and adults.

...

(f) Description of Custody Evaluation

(1) Mandatory Elements

Subject to any protective order of the court, a custody evaluation shall include:

- (A) a review of the relevant court records pertaining to the litigation;
- (B) an interview of each party and any adult who performs a caretaking role for the child or lives in a household with the child or, if an adult who lives in a household with the child cannot be located despite best efforts by the custody evaluator, documentation or a description of the custody evaluator's efforts to locate the adult and any information gained about the adult;
- (C) an interview of the child, unless the custody evaluator determines and explains that by reason of age, disability, or lack of maturity, the child lacks capacity to be interviewed;
- (D) a review of any relevant educational, medical, and legal records pertaining to the child;
- (E) if feasible, observations of the child with each party, whenever possible in that party's household;
- (F) contact with any high neutrality/low affiliation collateral sources of information, as determined by the assessor;

Committee note: “High neutrality/low affiliation” is a term of art that refers to impartial, objective collateral sources of information. For example, in a custody contest in which the parties are taking opposing positions about whether the child needs to continue taking a certain medication, the child's treating doctor would be a high neutrality/low affiliation source, especially if ~~he~~ the doctor had dealt with both parties.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 400 – TERMINATION OF PARENTAL RIGHTS UNDER CODE,
FAMILY LAW ARTICLE, TITLE 5, SUBTITLE 14

AMEND Rule 9-402 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (d)(2), as follows:

Rule 9-402. ACTION

...

(d) Parties

(1) If the action is filed by a parent, that parent shall be the petitioner and the other parent shall be the respondent.

(2) If the action is filed by the child's court-appointed guardian or attorney, the parent who is alleged to have committed the nonconsensual sexual conduct shall be the respondent, and the other parent shall be joined as a petitioner or as a nominal respondent.

Committee note: Code, Family Law Article, § 5-1403(c) requires that, when the action is filed by a court-appointed guardian or attorney for the child, the “other parent” shall be joined as “a party” but that the action may not proceed if that “other parent” objects before commencement of “a trial under this subtitle.” If that parent intends to object, ~~his/her~~ that parent’s status is more akin to that of a respondent seeking dismissal of the action. The term “nominal respondent” is used in subsection (d)(2) of the Rule to distinguish the “other parent” from the respondent parent who is alleged to have committed the nonconsensual sexual conduct.

The choice of joining the other parent as a petitioner or as a nominal respondent may be influenced by whether the guardian or attorney is aware of

that parent's position when filing the action. Hopefully, the guardian or attorney will have communicated with the parent before filing the action, but, if not, the Committee has attempted to deal with the problem by requiring the guardian or attorney to give notice to the parent of that right in the petition.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 9 – FAMILY LAW ACTIONS

CHAPTER 400 – TERMINATION OF PARENTAL RIGHTS UNDER CODE,
FAMILY

LAW ARTICLE, TITLE 5, SUBTITLE 14

AMEND Rule 9-403 by replacing gendered pronouns with non-gender specific language in subsection (b)(2)(B), as follows:

Rule 9-403. PROCEEDINGS; DUTY OF COURT

...

(b) Scheduling Conference

(1) The court shall hold a scheduling conference within 60 days after service of the petition.

(2) At the scheduling conference, the court:

(A) shall determine whether there is a criminal action pending that involves the same underlying facts and, if so, whether further proceedings in the termination of parental rights action should be stayed until the criminal action is concluded.

Cross reference: See Code, Family Law Article, § 5-1404(a)(2).

(B) shall advise the respondent that the respondent may refuse to testify or to offer evidence and that no adverse inference will be drawn from ~~his or her~~ the respondent's refusal to testify or offer evidence;

(C) after taking into consideration the best interest of the child, the time needed for discovery, and the interest of justice, shall issue a scheduling order; and

(D) after providing the parents with an opportunity to be heard, may determine temporary custody of the child.

(3) Failure to comply with subsection (b)(2)(A) is not grounds to overturn a finding made under these Rules.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 10-103 by replacing gendered pronouns with non-gender specific language in subsections (b)(1) and (b)(2), as follows:

Rule 10-103. DEFINITIONS

In this Title the following definitions apply except as expressly otherwise provided or as necessary implication requires:

(a) Court

“Court” means the circuit court for any county and, where it has jurisdiction, the Orphans' Court.

Cross reference: See Code, Estates and Trusts Article, § 13-105 for the jurisdiction of the Orphans' Court over guardians of the person of a minor and protective proceedings for minors. See also 92 Op.Atty.Gen. 009 (March 20, 1992).

(b) Disabled Person

(1) In connection with a guardianship of the person, “disabled person” means a person, other than a minor, who, because of mental disability, disease, habitual drunkenness, or addiction to drugs, has been adjudged by a court to lack sufficient understanding or capacity to make or communicate responsible decisions concerning ~~himself or herself~~ the person’s self, such as provisions for health care, food, clothing, or shelter, and who, as a result of this inability, requires a guardian of the person.

(2) In connection with a guardianship of property, “disabled person” means a person, other than a minor, (A) who has been adjudged by a court to be unable to manage ~~his or her~~ the person’s property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance, (B) who has or may be entitled to property or benefits that require proper management, and (C) who, as a result of this inability, requires a guardian of the property.

Cross reference: Code, Estates and Trusts Article, §§ 13-101, 13-705(b) and 13-201(c).

...

Source: This Rule is derived as follows:

Section (a) is derived from former Rule R70 a.

Section (b) is derived from former Rule R70 b, and Code, Estates and Trusts Article, §§ 13-201(c)(1) and 13-705(b).

Section (c) is derived in part from former Rule V70 b and is in part new.

Section (d) is new.

Section (e) is derived from former Rule R70 c.

Section (f)

Subsection (1) is derived in part from former Rule R70 d and in part from Code, Estates and Trusts Article, § 13-707.

Subsection (2) is derived from former Rule V70 c.

Section (g) is in part derived from former Rule R70 e and is in part new.

Section (h) is derived from Code, Estates and Trusts Article, § 13-707(a)(10).

Section (i) is derived in part from Code, Estates and Trusts Article, §§ 13-203 and 13-709 and is in part new.

REPORTER’S NOTE

See the Reporter’s note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 10-113 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 10-113. DISQUALIFYING OFFENSES; WAIVER

(a) Opportunity to Show Good Cause

Upon request, a proposed guardian who has been convicted of a disqualifying offense under Code, Estates and Trusts Article, § 11-114 shall be given an opportunity to show good cause why ~~he or she~~ the proposed guardian should be appointed guardian notwithstanding the conviction.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 – GUARDIAN OF PERSON

AMEND Rule 10-201 by replacing gendered pronouns with non-gender specific language in subsection (f)(2)(A), as follows:

Rule 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF THE PERSON

...

(f) Request for Expedited Hearing in Connection with Medical Treatment

...

(2) Factors for Court to Consider

In determining whether to expedite the hearing in connection with medical treatment, the court shall consider:

(A) the degree to which the alleged disabled person's current circumstances are not meeting ~~his or her~~ the alleged disabled person's medical needs in the most appropriate manner;

(B) the degree to which alternative arrangements are or can be made available;

(C) the urgency, necessity, and gravity of the proposed medical treatment and any medical risks to the alleged disabled person if the proceedings are not expedited;

(D) the ability of the alleged disabled person or other legally authorized individual to provide necessary consents for services; and

(E) any other factor that the court considers relevant.

...

Source: This Rule is derived as follows:

Section (a) is derived from former Rule R71 a.

Section (b) is new.

Section (c) is derived from former Rule R72 a and b.

Section (d) is new.

Section (e) is new.

Section (f) is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 – GUARDIAN OF PERSON

AMEND Rule 10-205 by replacing gendered pronouns with non-gender specific language in section (b), as follows:

Rule 10-205. HEARING

...

(b) Guardianship of Alleged Disabled Person

When the petition is for guardianship of the person of an alleged disabled person, the court shall set the matter for jury trial. The alleged disabled person or the attorney representing the person may waive a jury trial at any time before trial. If a jury trial is held, the jury shall return a verdict pursuant to Rule 2-522 (b)(2) as to any alleged disability. Each certificate filed pursuant to Rule 10-202 is admissible as substantive evidence without the presence or testimony of the certifying health care professional unless, not later than 10 days before trial, an interested person who is not an individual under a disability, or the attorney for the alleged disabled person, files a request that the health care professional appear to testify. If the trial date is less than 10 days from the date the response is due, a request that the health care professional appear may be filed at any time before trial. If the alleged disabled person asserts that, because of ~~his or her~~ a disability, the alleged disabled

RULE 10-205

person cannot attend a trial at the courthouse, the court may hold the trial at a place to which the alleged disabled person has reasonable access.

Cross reference: See Rules 21-201 and 21-202.

Source: This Rule is in part derived from former Rule R77 and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 – GUARDIAN OF PERSON

AMEND Rule 10-212 by replacing gendered pronouns with non-gender specific language in section (b), as follows:

Rule 10-212. HEARING

...

(b) Conduct of Hearing

The person alleged to be in need of emergency protective services is entitled to be present at the hearing unless the person has knowingly and voluntarily waived the right to be present. Waiver may not be presumed from nonappearance but shall be determined on the basis of factual information supplied by the person's attorney or a representative appointed by the court. Upon motion by or on behalf of the person alleged to be in need of emergency protective services that, because of ~~his or her~~ a disability, the person cannot attend a hearing at the courthouse, the court may hold the hearing at a place to which the person has reasonable access. The person has a right to counsel and to present evidence and cross-examine witnesses.

Source: This Rule is derived from Code, Estates and Trusts Article, § 13-709(f).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 300 – GUARDIAN OF PROPERTY

AMEND Rule 10-301 by replacing gendered pronouns with non-gender specific language in subsection (d)(2), as follows:

Rule 10-301. PETITION FOR APPOINTMENT OF A GUARDIAN OF PROPERTY

...

(d) Required Exhibits

The petitioner shall attach to the petition as exhibits a copy of any instrument nominating a guardian and documentation in full compliance with at least one of the following:

- (1) the certificates required by Rule 10-202;

Committee note: Rule 10-202 (a)(2) requires that a certificate of a licensed physician, licensed psychologist, licensed certified social worker-clinical, or nurse practitioner be substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the offices of the clerks of the circuit courts.

- (2) if the alleged disability is due to detention by a foreign power or by imprisonment, affidavits or exhibits documenting (A) where and when the person is detained or imprisoned, (B) the reason the person was detained or imprisoned, (C) the expected duration of the detention or imprisonment, if known and (D) reasons why detention or imprisonment renders the person unable to manage ~~his or her~~ the person's property and affairs effectively;

(3) if the alleged disability is due to disappearance, affidavits or exhibits documenting (A) when the person was first suspected of having disappeared, (B) the nature and extent of any search known to the petitioner to have been made to locate the person, (C) whether there exists any power of attorney signed by the person or effective remedy other than a guardianship, and (D) what, if any, effort was made to determine whether the person is still alive; or

Cross reference: With respect to a person who allegedly has disappeared, see Code, Courts Article, Title 3, Subtitle 1, in particular §§ 3-102, 3-105, and 3-106.

(4) if the petition is for the appointment of a guardian for a minor, all required exhibits listed in the Instructions on the form set forth in Rule 10-111, including, if the minor is a beneficiary of the Department of Veterans Affairs, a certificate of the Secretary of that Department or any authorized representative of the Secretary, in accordance with Code, Estates and Trusts Article, § 13-802.

...

Source: This Rule is derived as follows:
Section (a) is derived from former Rule R71 a.
Section (b) is new.
Section (c) is derived from former Rule R72 a and b.
Section (d) is new.
Section (e) is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 10 – GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 300 – GUARDIAN OF PROPERTY

AMEND Rule 10-302 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 10-302. SERVICE; NOTICE

...

(c) Notice to Interested Persons

The Notice to Interested Persons shall be in the following form:

In the Matter of

In the Circuit Court for

(Name of minor or alleged disabled person)

(County)

(docket reference)

NOTICE TO INTERESTED PERSONS

A petition has been filed seeking appointment of a guardian of the property of _____, who is alleged to be a minor or alleged disabled person.

You are an “interested person”, that is, someone who should receive notice of this proceeding because you are related to or otherwise concerned with the welfare of this person.

If the court appoints a guardian of the property for _____, that person will lose the right to manage ~~his or her~~ that person’s property.

Please examine the attached papers carefully. If you object to the appointment of a guardian, please file a response in accordance with the attached show cause order. (Be sure to include the case number). If you wish otherwise to

participate in this proceeding, notify the court and be prepared to attend any hearing.

Each certificate filed pursuant to Rule 10-202 that is attached to the petition will be admissible as substantive evidence without the presence or testimony of the certifying health care professional unless you file a request that the health care professional appear to testify. The request must be filed at least 10 days before the trial date, unless the trial date is less than 10 days from the date your response is due. If the trial date is less than 10 days from the date your response is due, the request may be filed at any time before trial.

If you believe you need further legal advice about this matter, you should consult your attorney.

Source: This Rule is in part derived from former Rule R74 and Code, Estates and Trusts Article, § 1-103 (b) and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 14 – SALES OF PROPERTY

CHAPTER 200 – FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-207.1 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 14-207.1. COURT SCREENING

...

(c) Special Magistrates or Examiners

The court may designate one or more qualified Maryland lawyers to serve as a part-time special magistrate or examiner to screen pleadings and papers under section (a) of this Rule, conduct proceedings under section (b) of this Rule, and make appropriate recommendations to the court. Subject to section (d) of this Rule, the costs and expenses of the special magistrate or examiner may be assessed against one or more of the parties pursuant to Code, Courts Article, § 2-102(c), Rule 16-807 (b), or Rule 16-808 (b). ~~With his or her consent, the~~ The special magistrate or examiner may serve on a pro bono basis if the special magistrate or examiner consents.

(d) Assessment of Costs, Expenses, and Attorney's Fees

The costs, expenses, and attorney's fees of any proceeding under this Rule, including any costs or expense of a special magistrate or examiner under section (c) of this Rule, shall not be assessed against the borrower or record

RULE 14-207.1

owner either directly or as an expense of sale, unless the affidavit in question was filed by or on behalf of the borrower or record owner.

Committee note: The exercise of the authority granted in this Rule is discretionary with the court. Nothing in this Rule precludes the court from using its own personnel for these purposes.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 15 – OTHER SPECIAL PROCEEDINGS

CHAPTER 1300 – STRUCTURED SETTLEMENT TRANSFERS

AMEND Rule 15-1303 by replacing gendered pronouns with non-gender specific language in section 23 of the form, as follows:

Rule 15-1303. CONSENT BY PAYEE

A Consent by the payee shall be substantially in the following form.

CONSENT TO PETITION FOR APPROVAL OF TRANSFER OF
STRUCTURED SETTLEMENT PAYMENT RIGHTS

Identifying Information

1. My name is _____.
2. I live at _____.
3. My telephone number is _____.
4. My e-mail address is _____.
 I do not have an e-mail address.
5. I do not have a guardian of the person, guardian of the property, or representative payee.
 I do have a guardian of the person, guardian of the property, or representative payee, whose name, address, and telephone number
_____.

Employment

6. I am employed by _____.
 I am not currently employed.

Dependents

7. I am married divorced single.
8. I have _____ children under the age of 18.
 no children under the age of 18.
9. I am under an order of the _____ (Name of court(s)) to pay a total of \$ _____ per _____ (week/month) in spousal support.

- not under a court order to pay spousal support.
10. I am under an order of the _____(Name of court(s))
to pay a total of \$ _____ per _____ (week/month) in child support.
 not under any court order to pay child support.

Structured Settlement Agreement

11. In _____ (year):
 a case was filed by me by my parent or guardian on my behalf in the
_____ (Name of court).

The case number is _____.

a claim was made by me by my parent or guardian on my behalf. No court case was filed and the claim was settled without litigation.

12. I was represented in that case or claim by _____ (Name of attorney).

13. In or as a result of that case or claim, I received a structured settlement pursuant to a structured settlement agreement.

Independent Professional Advisor

14. I have selected _____ as my independent professional advisor to explain the terms and consequences to me of the transfer and advise me regarding whether it is in my best interest to accept those terms, taking into account the welfare and support of my dependents.

15. My independent professional advisor has:

- met with me in person on _____ occasion(s);
 explained the terms and consequences of the proposed transfer agreement;

answered all my questions;

16. I learned about _____ (Name of independent professional advisor)
from:

- TV, radio, or other advertising
 Personal solicitation by the independent professional advisor
 Other: _____ (explain)

17. I have not previously transferred any of my structured settlement payments.

18. I have made _____ previous transfers of some of my structured settlement payments and I have

disclosed to my independent professional advisor the details of each such transfer and

given to my independent professional advisor copies of the transfer agreements from each such transfer.

I used the money I received from the prior transfer(s) for the following purposes:

19. If the current transfer is approved, I intend to use the money that I receive for the following purposes:

20. After consultation with my independent professional advisor, I understand:

that I am presently entitled to receive from my structured settlement \$ _____ each month year; and that those payments will continue

for the rest of my life or

until _____, 20 ____.

that I am entitled to receive lump sum payments due on the dates and in the amounts specified below:

that the payments I now propose to transfer, in exchange for a net purchase price of \$ _____, have a discounted present value of \$ _____, as determined for federal tax purposes, and

that the "effective annual interest rate" of the proposed transfer is _____ %. Based on the net amount that I will receive and the amounts and timing of the structured settlement payments that I am transferring, I will, in effect, be paying interest at a rate of _____ % per year so that I can get money now rather than later.

21. I have not received any advances or gifts of money, other property, or services in connection with the proposed assignment.

22. I have received an advance or gift of _____, from _____ in connection with this assignment.

23. I have agreed to pay my independent professional advisor a fee of \$ _____ for the services rendered by ~~him/her~~ the advisor.

My independent professional advisor has told me that ~~he/she~~ the advisor will receive no other compensation from anyone with respect to this transaction, except as follows:

_____.

My Understanding

24. I understand that, if the proposed transfer is approved:

the aggregate amount of the future payments I would be transferring and would no longer be entitled to is \$ _____;

the discounted present value of the future payments that I would be transferring and would no longer be entitled to receive is \$ _____; and

as consideration for the transfer, I would receive from the transferee the sum of \$ _____; which is _____ % of the discounted present value.

From that sum, fees and other charges in the amount of \$ _____ will be deducted or no fees or other charges will be deducted.

25. I understand that the proposed transfer cannot proceed unless approved by the Court and that a petition for Court approval has been or will be filed by the transferee

26. I have received a copy of the petition and

have read it.

had it read to me by _____.

Consent

WITH THIS KNOWLEDGE, I HEREBY CONFIRM THAT I UNDERSTAND THE PROPOSED TRANSFER AND ITS CONSEQUENCES TO ME, AND I CONSENT TO THE PETITION. MY CONSENT IS VOLUNTARY. I HAVE NOT BEEN THREATENED WITH ANY LEGAL ACTION OR OTHER PENALTY IF I FAIL OR REFUSE TO FILE THIS CONSENT.

Signature of Transferor

Date

Signature of Witness

Date

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 200 – GENERAL PROVISIONS — CIRCUIT AND DISTRICT COURTS

AMEND Rule 16-207 by replacing gendered pronouns with non-gender specific language in the Committee note after section (f), as follows:

Rule 16-207. PROBLEM-SOLVING COURT PROGRAMS

...

(f) Immediate Sanctions; Loss of Liberty or Termination from Program

If permitted by the program and in accordance with the protocols of the program, the court, for good cause, may impose an immediate sanction on a participant, except that if the participant is considered for the imposition of a sanction involving the loss of liberty or termination from the program, the participant shall be afforded notice, an opportunity to be heard, and the right to be represented by an attorney before the court makes its decision. If a hearing is required by section (f) of this Rule and the participant is not represented by an attorney, the court shall comply with Rule 4-215 in a criminal action or Code, Courts Article, § 3-8A-20 in a delinquency action before holding the hearing.

Committee note: In considering whether a judge should be disqualified pursuant to Rule 18-102.11 of the Maryland Code of Judicial Conduct from conducting violation of probation proceedings involving a defendant who has been terminated from a problem-solving court program, the judge should be sensitive to any exposure to ex parte communications or inadmissible

information that the judge may have received while the participant was in the program. Even in cases where the judge does not have personal bias or prejudice that would require disqualification, if presiding over the violation of probation proceedings might reasonably create the appearance of impropriety, the judge should ~~disqualify himself or herself~~ recuse. See *Conner v. State*, 472 Md. 722 (2021).

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 400 – CIRCUIT COURT—CLERKS’ OFFICES

AMEND Rule 16-401 by replacing gendered pronouns with non-gender specific language in subsection (b)(2)(B), as follows:

Rule 16-401. PERSONNEL

...

(b) Other Employees

(1) Authorization to Fill Vacancy

If a vacancy occurs in a clerk's office, the clerk shall seek authorization from the State Court Administrator to fill the vacancy.

(2) Personnel System

(A) Generally

The selection and appointment of other employees in the clerk's office and the promotion, classification and reclassification, transfer, demotion, suspension, discharge, and other discipline of such employees shall be subject to and conform with the standards and procedures set forth in a personnel system developed by the State Court Administrator and approved by the Chief Justice of the Supreme Court. The personnel system shall (i) provide for equal opportunity, (ii) be based on merit principles, (iii) include appropriate job

classifications and compensation scales, and (iv) include a grievance procedure in conformance with subsection (b)(2)(B) of this Rule.

(B) Grievance Procedure

The clerk shall resolve a grievance within the clerk's office, but the grievance procedure shall permit an aggrieved party to appeal from the decision of the clerk to the State Court Administrator or ~~his or her~~ designee of the State Court Administrator. The decision of the State Court Administrator or designee shall constitute the final administrative decision. During the pendency of an appeal, the State Court Administrator may grant interim relief which, after consultation with the county administrative judge of each affected court, may include a transfer of an employee.

Committee note: The State Court Administrator may seek appropriate judicial relief to enforce a final determination and directive. See Rule 1-201 (a).

...

Source: This Rule is derived from former Rule 16-301 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 400 – CIRCUIT COURT—CLERKS’ OFFICES

AMEND Rule 16-405 by replacing gendered pronouns with non-gender specific language in subsection (e)(1)(C), as follows:

Rule 16-405. FILING AND REMOVAL OF PAPERS

...

(e) Removal of Papers and Exhibits

(1) Papers and Exhibits Filed with the Clerk

A paper or exhibit filed with the clerk in an action may not be removed from the clerk's office, except:

(A) by direction of a judge of the court;

(B) upon signing a receipt, by an attorney of record in the case for the purpose of presenting the paper or exhibit to the court;

(C) upon signing a receipt, by an auditor, magistrate, or examiner or examiner-magistrate in connection with the performance of ~~his or her~~ the official duties of the signer; or

(D) pursuant to the Rules in Title 20.

...

Source: This Rule is derived from former Rule 16-306 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 800 – MISCELLANEOUS COURT ADMINISTRATION MATTERS

AMEND Rule 16-804 by replacing gendered pronouns with non-gender specific language in subsection (a)(1), as follows:

Rule 16-804. CONTINUANCES OR POSTPONEMENTS FOR CONFLICTING CASE ASSIGNMENTS OR LEGISLATIVE DUTIES

(a) Responsibilities of Attorneys

(1) Ascertaining Potential Conflict

When consulted as to the availability of dates or times for a trial or other proceeding, an attorney shall check ~~his or her~~ the attorney's calendar to determine whether the attorney has a conflicting assignment before agreeing to a particular date and time.

(2) When Conflict Exists

If an attorney accepts employment in a case in which a date or time for trial or other proceeding has already been set, the attorney shall:

(A) advise the client that the attorney has a conflicting assignment, that the attorney will promptly attempt to resolve the conflict, and that, after consulting with the client, the attorney will attempt to make suitable arrangements in the event the attorney is unsuccessful in obtaining a continuance or postponement in the client's case;

(B) unless impracticable, within five business days, contact the other parties in either or both cases to attempt to obtain (i) consent to a postponement or continuance and (ii) at least three alternative dates for which no conflict exists for any party; and

(C) unless impracticable, no later than 30 days prior to scheduled argument in an appellate court or 15 days prior to the scheduled proceeding in a circuit court or in the District Court, request a postponement or continuance in one or more of the conflicting cases, advise the court whether the other parties consent to the request, and provide to the court the alternative dates obtained in accordance with subsection (a)(2)(B)(ii) of this Rule.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 800 – MISCELLANEOUS COURT ADMINISTRATION MATTERS

AMEND Rule 16-809 by restoring the original language of the quotation in the Committee Note following subsection (a)(2), as follows:

Rule 16-809. APPOINTMENT, COMPENSATION, DUTIES OF AUDITORS

(a) Standing Auditors

(1) Appointment; Compensation

A majority of the judges of the circuit court of a county may appoint standing auditors. The compensation of an auditor who is an employee of the court shall be as determined in the appropriate budget and may not be assessed as costs against a party to the action. Otherwise, subject to Code, Courts Article, § 2-102(b)(1), the court shall prescribe the compensation, fees, and costs of the auditor and may assess them among the parties.

Cross references: Code, Courts Article, § 2-501(b)(1) provides that each employee of a circuit court, including auditors, is entitled to compensation as provided in the appropriate budget.

(2) Duties

The duties of a standing auditor and the procedures relating to matters referred to a standing auditor shall be as set forth in the Maryland Rules or by other State law.

Cross reference: See Rules 2-543, 13-502, 14-305.

Committee note: Auditors have been described as “the calculator and accountant of the court, and when any calculations or statements are required, all the pleadings, exhibits and proofs are referred to him ~~or her~~, so that he ~~or she~~ be enabled to investigate and put the whole matter in proper order, for the action of the court.” *German Luth. Church v. Heise*, 44 Md. 453, 64-65 (1876).

...

Source: This Rule is derived in part from the 2018 version of Rule 2-543 (a) and (i) and is in part new.

REPORTER’S NOTE

See the Reporter’s note to Rule 1-333. For clarity, the quotation in the Committee note that follows subsection (a)(2) of Rule 16-809 is proposed to be restored to its exact, original language.

MARYLAND RULES OF PROCEDURE

TITLE 16 – COURT ADMINISTRATION

CHAPTER 1000 – EMERGENCY POWERS OF THE CHIEF JUSTICE OF THE
SUPREME COURT

AMEND Rule 16-1001 by replacing gendered pronouns with non-gender specific language in the Committee note after section (b), as follows:

Rule 16-1001. APPLICABILITY OF CHAPTER

...

(b) Other Events Affecting the Judiciary

The authority granted specifically by these Rules and by Article IV, Section 18 of the Maryland Constitution generally may be exercised, to the extent necessary, by the Chief Justice of the Supreme Court in the event of a natural or other event that significantly affects access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Maryland Judiciary to operate effectively.

Committee note: Section (b) is intended to cover situations in which, due to a local event not warranting an emergency declaration by the Governor or possibly a quarantine or isolation order issued by the Secretary of Health on ~~his or her~~ the Secretary's own initiative pursuant to Health-General Article § 18-905, access to or the functioning of one or more courts or other judicial facilities or operations is, or is likely to be, significantly inhibited for a significant period of time.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE
CODE

AMEND Rule 18-100.3 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 18-100.3. DEFINITIONS

In the Rules in this Chapter, the following definitions apply except as otherwise expressly provided or as necessary implication requires:

(a) Domestic Partner

“Domestic partner” means an individual with whom another individual maintains a household and an intimate relationship, ~~other than an individual to whom he or she is legally married~~ and the two individuals are not legally married to each other.

...

Source: This Rule is derived from paragraphs B-101 through B-112 of former Rule 16-813 (2016).

REPORTER’S NOTE

See the Reporter’s note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

GENERAL PROVISIONS, SCOPE, DEFINITIONS, AND PREAMBLE OF THE
CODE

AMEND Rule 18-100.4 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 18-100.4. PREAMBLE

(a) Importance of Independent, Fair, Competent, Impartial Judiciary

An independent, fair, competent, and impartial judiciary composed of ~~men and women~~ individuals of integrity who will interpret and apply the law that governs our society is indispensable to our system of justice. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

...

Source: This Rule is derived from paragraphs C-101 through C-103 of former Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING JUDICIAL INTEGRITY AND THE AVOIDANCE OF
IMPROPRIETY

AMEND Rule 18-101.3 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-101.3. AVOIDING LENDING THE PRESTIGE OF JUDICIAL OFFICE
(ABA RULE 1.3)

A judge shall not lend the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use ~~his or her~~ the judge's position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use a judicial letterhead to gain an advantage in conducting ~~his or her~~ the judge's personal business.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING THE PERFORMANCE OF JUDICIAL DUTIES

AMEND Rule 18-102.11 by replacing gendered pronouns with non-gender specific language in section (a) and subsection (a)(3), as follows:

Rule 18-102.11. DISQUALIFICATION

(a) A judge shall ~~disqualify himself or herself~~ recuse in any proceeding in which the judge's impartiality might reasonably be questioned, including the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, an individual within the third degree of relationship to either of them, or the spouse or domestic partner of such an individual:

(A) is a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) is acting as an attorney in the proceeding;

(C) is an individual who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) is likely to be a material witness in the proceeding.

(3) The judge knows that ~~he or she~~ the judge, individually or as a fiduciary, or any of the following individuals has a significant financial interest in the subject matter in controversy or in a party to the proceeding:

(A) the judge's spouse or domestic partner;

(B) an individual within the third degree of relationship to the judge; or

(C) any other member of the judge's family residing in the judge's household.

...

Source: This Rule is derived from former Rule 2.11 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING THE PERFORMANCE OF JUDICIAL DUTIES

AMEND Rule 18-102.12 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-102.12. SUPERVISORY DUTIES (ABA RULE 2.12)

...

COMMENT

[1] A judge is responsible for ~~his or her~~ the judge's own conduct and for the conduct of others, such as staff, when those individuals are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate this Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under ~~his or her~~ the judge's supervision administer their workloads promptly.

Source: This Rule is derived from former Rule 2.12 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.4 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-103.4. APPOINTMENT TO GOVERNMENTAL POSITIONS (ABA RULE 3.4)

...

COMMENT

...

[3] A judge may represent ~~his or her~~ the judge's country, State, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.5 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-103.5. USE OF NONPUBLIC INFORMATION (ABA RULE 3.5)

...

COMMENT

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to ~~his or her~~ the judge's judicial duties.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.7 by replacing gendered pronouns with non-gender specific language in subsection (a)(4), as follows:

Rule 18-103.7. PARTICIPATION IN EDUCATIONAL, RELIGIOUS, CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES (ABA Rule 3.7)

(a) Subject to the requirements of Rules 18-103.1 and 18-103.6, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

...

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting ~~his or her~~ the judge's title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

...

RULE 18-103.7

Source: This Rule is derived from former Rule 3.7 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.8 by replacing gendered pronouns with non-gender specific language in section (d), as follows:

Rule 18-103.8. APPOINTMENTS TO FIDUCIARY POSITIONS (ABA Rule 3.8)

...

(d) If an individual who is serving in a fiduciary position becomes a judge, ~~he~~ ~~or she~~ the individual must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

(e) Section (a) of this Rule does not apply to senior judges.

COMMENT

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 18-102.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

Source: This Rule is derived from former Rule 3.8 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.10 by replacing gendered pronouns with non-gender specific language in Comment [2], as follows:

Rule 18-103.10. PRACTICE OF LAW (ABA RULE 3.10)

...

COMMENT

...

[2] Section (a) and subsection (b)(1) of this Rule limit the practice of law in a representative capacity but not in a self-represented capacity. A judge may act ~~for himself or herself~~ self-represented in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies. In so doing, however, a judge must not abuse the prestige of office for any reason, including advancement of an interest of the judge or the judge's family. See Rules 18-102.4 (b) and 18-103.2 (c).

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.11 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-103.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES
(ABA RULE 3.11)

...

COMMENT

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 18-102.1. Similarly, it would be improper for a judge to use ~~his or her~~ the judge's official title or appear in judicial robes in business advertising, or to conduct ~~his or her~~ the judge's business or financial affairs in such a way that disqualification is frequently required. See Rules 18-101.3 and 18-102.11.

[2] As soon as practicable without serious financial detriment, the judge must divest ~~himself or herself of~~ from investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Source: This Rule is derived from former Rule 3.11 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT
RULES GOVERNING EXTRAJUDICIAL ACTIVITY

AMEND Rule 18-103.14 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-103.14. REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES OR CHARGES (ABA RULE 3.14)

...

COMMENT

...

[3] A judge must ~~assure himself or herself~~ ensure that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. The factors that a judge should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 100 – MARYLAND CODE OF JUDICIAL CONDUCT

RULES GOVERNING POLITICAL ACTIVITY

AMEND Rule 18-104.4 by replacing gendered pronouns with non-gender specific language in Comments [7] and [8], as follows:

Rule 18-104.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION (ABA Rule 4.4)

...

COMMENT

...

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 18-104.4 (d), ~~he or she~~ the candidate may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 18-104.4 (d)(3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the adjudicative duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a particular result. Commitments, promises, and pledges must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a judge should acknowledge the overarching judicial obligation to

RULE 18-104.4

apply and uphold the law, without regard to ~~his or her~~ the judge's personal views.

Source: This Rule is derived from former Rule 4.4 of Rule 16-813 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING INTEGRITY AND THE AVOIDANCE OF IMPROPRIETY

AMEND Rule 18-201.3 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-201.3. AVOIDING LENDING THE PRESTIGE OF THE POSITION

...

COMMENT

[1] It is improper for a judicial appointee to use or attempt to use ~~his or her~~ the judicial appointee's position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judicial appointee to allude to ~~his or her~~ the judicial appointee's official status to gain favorable treatment in encounters with traffic officials. Similarly, a judicial appointee must not use an official letterhead to gain an advantage in conducting ~~his or her~~ the judicial appointee's personal business.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF JCONDUCT FOR JUDICIAL
APPOINTEES

RULES GOVERNING THE PERFORMANCE OF A JUDICIAL APPOINTEE’S
DUTIES

AMEND Rule 18-202.11 by replacing gendered pronouns with non-gender specific language in section (a) and subsection (a)(3), as follows:

Rule 18-202.11. DISQUALIFICATION

(a) A judicial appointee shall ~~disqualify himself or herself~~ recuse in any proceeding in which the judicial appointee's impartiality might reasonably be questioned, including the following circumstances:

(1) The judicial appointee has a personal bias or prejudice concerning a party or a party's attorney, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judicial appointee knows that the judicial appointee, the judicial appointee's spouse or domestic partner, or an individual within the third degree of relationship to either of them, or the spouse or domestic partner of such an individual:

(A) is a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(B) is acting as an attorney in the proceeding;

(C) is an individual who has more than a de minimis interest that could be substantially affected by the proceeding; or

(D) is likely to be a material witness in the proceeding.

(3) The judicial appointee knows that ~~he or she~~ the judicial appointee, individually or as a fiduciary, or any of the following individuals has a significant financial interest in the subject matter in controversy or in a party to the proceeding:

(A) the judicial appointee's spouse or domestic partner;

(B) an individual within the third degree of relationship to the judicial appointee; or

(C) any other member of the judicial appointee's family residing in the judicial appointee's household.

...

Source: This Rule is derived from former Rule 2.11 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING THE PERFORMANCE OF A JUDICIAL APPOINTEE’S

DUTIES

AMEND Rule 18-202.12 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-202.12. SUPERVISORY DUTIES

...

COMMENT

[1] A judicial appointee is responsible for ~~his or her~~ the judicial appointee’s own conduct and for the conduct of others, such as staff, when those individuals are acting at the judicial appointee's direction or control. A judicial appointee may not direct court personnel to engage in conduct on the judicial appointee's behalf or as the judicial appointee's representative when such conduct would violate this Code if undertaken by the judicial appointee.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judicial appointee with supervisory authority must take the steps needed to ensure that judicial appointees under ~~his or her~~ the judicial appointee’s supervision administer their workloads promptly.

Source: This Rule is derived from former Rule 2.12 of Rule 16-814 (2016).

REPORTER’S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.4 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-203.4. APPOINTMENT TO GOVERNMENTAL POSITIONS

...

COMMENT

...

[3] A judicial appointee may represent ~~his or her~~ the judicial appointee's country, State, or locality on ceremonial occasions or in connection with historical, educational, or cultural activities. Such representation does not constitute acceptance of a government position.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.5 by replacing gendered pronouns with non-gender specific language in Comment [1], as follows:

Rule 18-203.5. USE OF NONPUBLIC INFORMATION

...

COMMENT

[1] In the course of performing official duties, a judicial appointee may acquire information of commercial or other value that is unavailable to the public. The judicial appointee must not reveal or use such information for personal gain or for any purpose unrelated to ~~his or her~~ the judicial appointee's official duties.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL
APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.7 by replacing gendered pronouns with non-gender specific language in subsection (a)(4), as follows:

Rule 18-203.7. PARTICIPATION IN EDUCATIONAL, RELIGIOUS,
CHARITABLE, FRATERNAL, OR CIVIC ORGANIZATIONS AND ACTIVITIES

(a) Subject to the requirements of Rules 18-203.1 and 18-203.6, a judicial appointee may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including the following activities:

...

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting ~~his or her~~ the judicial appointee's title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judicial appointee

may participate only if the event concerns the law, the legal system, or the administration of justice;

...

Source: This Rule is derived from former Rule 3.7 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL
APPOINTEES
RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.8 by replacing gendered pronouns with non-gender specific language in section (d), as follows:

Rule 18-203.8. APPOINTMENTS TO FIDUCIARY POSITIONS

...

(d) If an individual who is serving in a fiduciary position becomes a judicial appointee, ~~he or she~~ the individual must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judicial appointee.

...

Source: This Rule is derived from former Rule 3.8 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL
APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.10 by replacing gendered pronouns with non-gender specific language in subsection (b)(2)(A), as follows:

Rule 18-203.10. PRACTICE OF LAW

...

(b) Exceptions

...

(2) To the extent not expressly prohibited by law or by the appointing authority and subject to other applicable provisions of this Code, a part-time judicial appointee who is an attorney may practice law, provided that:

(A) the judicial appointee shall not use ~~his or her~~ the judicial appointee's position to further the judicial appointee's success in the practice of law; and

(B) the judicial appointee shall not practice or appear in the appointing court, as an individual in a matter involving the judicial appointee or the judicial appointee's interest.

...

Source: This Rule is derived in part from former Rule 3.10 of Rule 16-814 (2016) and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.11 by replacing gendered pronouns with non-gender specific language in Comments [1] and [2], as follows:

Rule 18-203.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES

...

COMMENT

[1] Judicial appointees are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extra-official activities, is subject to the requirements of this Code. For example, it would be improper for a judicial appointee to spend so much time on business activities that it interferes with the performance of the judicial appointee's official duties. See Rule 18-202.1. Similarly, it would be improper for a judicial appointee to use ~~his or her~~ the judicial appointee's official title or conduct ~~his or her~~ the judicial appointee's business or financial affairs in such a way that disqualification is frequently required. See Rules 18-201.3 and 18-202.11.

[2] As soon as practicable without serious financial detriment, the judicial appointee must divest ~~himself or herself of~~ from investments and other financial interests that might require frequent disqualification or otherwise violate this Rule.

Source: This Rule is derived from former Rule 3.11 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING EXTRA-OFFICIAL ACTIVITY

AMEND Rule 18-203.14 by replacing gendered pronouns with non-gender specific language in Comment [3], as follows:

Rule 18-203.14. REIMBURSEMENT OF EXPENSES AND WAIVERS OF FEES
OR CHARGES

...

COMMENT

...

[3] A judicial appointee must ~~assure himself or herself~~ ensure that acceptance of reimbursement or fee waivers would not appear to a reasonable person to undermine the judicial appointee's independence, integrity, or impartiality. The factors that a judicial appointee should consider when deciding whether to accept reimbursement or a fee waiver for attendance at a particular activity include:

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 200 – MARYLAND CODE OF CONDUCT FOR JUDICIAL

APPOINTEES

RULES GOVERNING POLITICAL ACTIVITY

AMEND Rule 18-204.4 by replacing gendered pronouns with non-gender specific language in Comments [7] and [8], as follows:

Rule 18-204.4. POLITICAL CONDUCT OF CANDIDATE FOR ELECTION

...

COMMENT

...

[7] Candidates for election are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. As long as the candidate for election does not violate Rule 18-204.4 (d), ~~he or she~~ the candidate may make a factually accurate public response, although it is preferable for someone else to respond if the allegations relate to a pending case. If an independent third party has made unwarranted attacks on a candidate for election's opponent, the candidate for election may disavow the attacks and request the third party to cease and desist.

[8] Rule 18-204.4 (d)(3) prohibits candidates for election, with regard to cases or issues likely to come before the court, from making a commitment, promise, or pledge that is inconsistent with the impartial performance of the duties of the office. The making of a commitment, promise, or pledge is not dependent on, or limited to, the use of any specific words or phrases. The totality of the statement must be examined to determine if a reasonable person would believe that the candidate has specifically undertaken to reach a particular result. Commitments, promises, and pledges must be contrasted with statements or announcements of personal views on legal, political, or other issues, which are not prohibited. When making such statements, a candidate for election should acknowledge the overarching judicial obligation to

RULE 18-204.4

apply and uphold the law, without regard to ~~his or her~~ the candidate's personal views.

Source: This Rule is derived from former Rule 4.4 of Rule 16-814 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 18 – JUDGES AND JUDICIAL APPOINTEES

CHAPTER 400 – JUDICIAL DISABILITIES AND DISCIPLINE

DIVISION 4. DISPOSITION OTHER THAN FILING OF CHARGES

AMEND Rule 18-428 by replacing gendered pronouns with non-gender specific language in section (c), as follows:

Rule 18-428. RETIREMENT AS A DISPOSITION

...

(c) Effect

(1) Retirement under this Rule is permanent. A judge who is retired under this Rule may not be recalled to sit on any court, but the judge shall lose no other retirement benefit to which ~~he or she~~ the judge is entitled by law.

(2) Retirement under this Rule does not constitute discipline.

Cross reference: See Rule 18-441 dealing with special procedures in disability cases. See also Md. Const., Art. IV, § 4B(a)(2), authorizing the Commission to recommend to the Supreme Court retirement of a judge “in an appropriate case” and Rule 19-717.1 authorizing a comparable disposition for attorneys who have a disability.

Source: This Rule is new.

REPORTER’S NOTE

See the Reporter’s note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 18 – JUDGES AND JUDICIAL APPOINTEES
CHAPTER 500 – MARRIAGE CEREMONIES

AMEND Rule 18-504 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 18-504. RESTRICTIONS

(a) Judge's Own Ceremony

A judge may not perform ~~his or her~~ the judge's own marriage ceremony.

...

Source: This Rule is derived from former Rule 16-824 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 100 – STATE BOARD OF LAW EXAMINERS AND CHARACTER
COMMITTEES

AMEND Rule 19-105 by replacing gendered pronouns with non-gender specific language in subsection (b)(1), as follows:

Rule 19-105. CONFIDENTIALITY

...

(b) Right of Applicant

(1) Right to Attend Hearings and Inspect Papers

An applicant has the right to attend all hearings before a panel of the Accommodations Review Committee, a Character Committee, the Board, and the Court pertaining to ~~his or her~~ the application. Except as provided in subsection (b)(2) of this Rule, and subject to any protective order issued by a circuit court for good cause on motion by the Board, an applicant has the right to be informed of and inspect all papers, evidence, and information received or considered by the panel, Committee, or the Board pertaining to the applicant.

...

Source: This Rule is derived from former Rule 19 of the Rules Governing Admission to the Bar of Maryland (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 200 – ADMISSION TO THE BAR

GENERAL ADMISSION

AMEND Rule 19-201 by replacing gendered pronouns with non-gender specific language in subsection (a)(6), as follows:

Rule 19-201. ELIGIBILITY FOR ADMISSION TO THE MARYLAND BAR BY
UNIFORM BAR EXAMINATION

(a) General Requirements

Subject to section (b) of this Rule, in order to be admitted to the Maryland Bar by the UBE, an individual shall have:

(1) completed the pre-legal education necessary to meet the minimum requirements for admission to a law school approved by the American Bar Association;

(2) graduated with a juris doctor or equivalent degree from a law school (A) located in a state and (B) approved by the American Bar Association;

(3) achieved a qualifying UBE score;

(4) achieved a qualifying MPRE score;

(5) successfully completed the Maryland Law Component; and

(6) established ~~his or her~~ good moral character and fitness for admission to the Bar.

...

Source: This Rule is derived in part from former Rules 3 and 4 of the Rules Governing Admission to the Bar of Maryland (2016) and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL
CONDUCT

CLIENT-ATTORNEY RELATIONSHIP

AMEND Rule 19-301.8 by replacing gendered pronouns with non-gender specific language in Comment [14], as follows:

Rule 19-301.8. CONFLICT OF INTEREST; CURRENT CLIENTS; SPECIFIC RULES (1.8)

...

COMMENT

...

Limiting Liability and Settling Malpractice Claims--[14] Agreements prospectively limiting an attorney's liability for malpractice are prohibited unless the client is independently represented in making the agreement because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the attorney seeking the agreement. This section does not, however, prohibit an attorney from entering into an agreement with the client to arbitrate existing legal malpractice claims, provided the client is fully informed of the scope and effect of the agreement. Nor does this section limit the ability of attorneys to practice in the form of a limited-liability entity, where permitted by law, provided that each attorney remains personally liable to the client for ~~his or her~~ the attorney's own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with Rule 19-301.2 (1.2) that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL

CONDUCT

CLIENT-ATTORNEY RELATIONSHIP

AMEND Rule 19-301.17 by replacing gendered pronouns with non-gender specific language in Comment [11], as follows:

Rule 19-301.17. SALE OF LAW PRACTICE (1.17)

...

COMMENT

...

[11] This Rule does not apply to the transfers of legal representation between attorneys when such transfers are unrelated to the sale of a practice. This Rule does not prohibit an attorney from selling ~~his or her~~ the attorney’s interest in a law practice.

...

REPORTER’S NOTE

See the Reporter’s note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL
CONDUCT

LAW FIRMS AND ASSOCIATIONS

AMEND Rule 19-305.3 by replacing gendered pronouns with non-gender specific language in subsection (d)(2)(B)(i), as follows:

Rule 19-305.3. RESPONSIBILITIES REGARDING NON-ATTORNEY
ASSISTANTS (5.3)

With respect to a non-attorney employed or retained by or associated with an attorney:

...

(d) an attorney who employs or retains the services of a non-attorney who (1) was formerly admitted to the practice of law in any jurisdiction and (2) has been and remains disbarred, suspended, or placed on inactive status because of incapacity shall comply with the following requirements:

(A) all law-related activities of the formerly admitted attorney shall be (i) performed from an office that is staffed on a full-time basis by a supervising attorney and (ii) conducted under the direct supervision of the supervising attorney, who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this Rule.

(B) the attorney shall take reasonable steps to ensure that the formerly admitted attorney does not:

- (i) ~~represent himself or herself~~ claim to be an attorney;
- (ii) render legal consultation or advice to a client or prospective client;
- (iii) appear on behalf of or represent a client in any judicial, administrative, legislative, or alternative dispute resolution proceeding;
- (iv) appear on behalf of or represent a client at a deposition or in any other discovery matter;
- (v) negotiate or transact any matter on behalf of a client with third parties;
- (vi) receive funds from or on behalf of a client or disburse funds to or on behalf of a client; or
- (vii) perform any law-related activity for (a) a law firm or attorney with whom the formerly admitted attorney was associated when the acts that resulted in the disbarment or suspension occurred or (b) any client who was previously represented by the formerly admitted attorney.

...

Model Rules Comparison: The language of Rule 19-305.3 (a) through (c) (5.3) is substantially similar to the language of the Ethics 2000 Amendments to the ABA Model Rules of Professional Conduct. Section (d) of this Rule and Comment [3] are in part derived from Rule 217 (j) of the Pennsylvania Rules of Disciplinary Enforcement and in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL
CONDUCT

MAINTAINING THE INTEGRITY OF THE PROFESSION

AMEND Rule 19-308.2 by replacing gendered pronouns with non-gender specific language in subsection (b)(3), as follows:

Rule 19-308.2. JUDICIAL AND LEGAL OFFICIALS (8.2)

...

(b) Rule 18-104.1 (c)(2)(D) (4.1) of the Maryland Code of Judicial Conduct, set forth in Title 18, Chapter 100, provides that an attorney becomes a candidate for a judicial office when the attorney files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for that office. A candidate for a judicial office:

...

(3) shall not knowingly misrepresent ~~his or her~~ the candidate’s identity or qualifications, the identity or qualifications of an opponent, or any other fact;

...

Model Rules Comparison: Rule 19-308.2 (8.2) revises prior Maryland language without adopting Ethics 2000 Amendments to the ABA Model Rules of Professional Conduct.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL
CONDUCT

MAINTAINING THE INTEGRITY OF THE PROFESSION

AMEND Rule 19-308.5 by replacing gendered pronouns with non-gender specific language in subsection (a)(2)(B), as follows:

Rule 19-308.5. DISCIPLINARY AUTHORITY; CHOICE OF LAW (8.5)

(a) Disciplinary Authority

(1) An attorney admitted by the Supreme Court to practice in this State is subject to the disciplinary authority of this State, regardless of where the attorney's conduct occurs.

(2) An attorney not admitted to practice in this State is also subject to the disciplinary authority of this State if the attorney:

(A) provides or offers to provide any legal services in this State,

(B) ~~holds himself or herself out as~~ claims to be practicing law in this State,

or

(C) has an obligation to supervise or control another attorney practicing law in this State whose conduct constitutes a violation of these Rules.

Cross reference: Md. Rule 19-701 (b).

...

RULE 19-308.5

Model Rules Comparison: Rule 19-308.5 (a) (8.5) combines the substance of former Rules 8.5 (a) and 8.5 (b). Rule 19-308.5 (b) (8.5) is substantially similar to ABA Model Rule 8.5 (b). The Comments are substantially similar to the ABA Comments with the exception of omitting the final sentence of ABA Comment [1].

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

GENERAL PROVISIONS

AMEND Rule 19-701 by replacing gendered pronouns with non-gender specific language in section (b), as follows:

Rule 19-701. DEFINITIONS

...

(b) Attorney

“Attorney” means an individual admitted by the Supreme Court to practice law in this State. For purposes of discipline or inactive status, the term also includes (1) an individual not admitted by the Supreme Court but who engages in the practice of law in this State, ~~holds himself or herself out as practicing~~ claims to practice law in this State, or who has the obligation of supervision or control over another attorney who engages in the practice of law in this State, and (2) an individual who is seeking reinstatement pursuant to Rules 19-751 or 19-752 following the imposition of discipline or inactive status.

Cross reference: See Rule 19-308.5 (8.5) of the Maryland Attorneys' Rules of Professional Conduct.

...

Source: This Rule is derived in part from former Rule 16-701 (2016) and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEEDINGS

AMEND Rule 19-716 by deleting gendered pronouns in subsection (c)(3)(A)(vi), as follows:

Rule 19-716. CONDITIONAL DIVERSION AGREEMENT

...

(c) Terms of Agreement

...

(3) Permissive Provisions

The agreement may:

(A) provide for any program or corrective action appropriate under the circumstances, including:

(i) mediation or binding arbitration of a fee dispute;

(ii) restitution to persons financially injured by the attorney's professional misconduct, to a client of unearned or excessive fees, and to the Client Protection Fund for amounts paid on claims arising from the attorney's professional misconduct;

(iii) a public apology to designated persons;

(iv) assistance in law office management, including temporary or continuing monitoring, mentoring, accounting, bookkeeping, financial, or other professional assistance, and completion of specific educational programs dealing with law office management;

(v) completion of specific legal education courses or curricula, including courses in legal ethics and professional responsibility;

(vi) an agreement not to practice in specific areas of the law (a) unless the attorney associates ~~himself or herself~~ with one or more other attorneys who are proficient in those areas, or (b) until the attorney has successfully completed a designated course of study to improve the attorney's proficiency in those areas;

...

Source: This Rule is derived from former Rule 16-736 (2016).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEEDINGS

AMEND Rule 19-717.1 by replacing gendered pronouns with non-gender specific language in subsection (b)(7), as follows:

Rule 19-717.1. PERMANENT RETIRED STATUS

...

(b) Criteria

...

(7) the attorney has taken all appropriate actions to windup ~~his or her~~ the attorney's practice or will do so within a time established by the Commission in any approval of permanent retired status.

...

Source: This Rule is derived from former Rule 19-740 (2021).

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

ADMINISTRATIVE PROCEEDINGS

AMEND Rule 19-720 by replacing gendered pronouns with non-gender specific language in the Committee note after section (a), as follows:

Rule 19-720. PEER REVIEW PROCESS

(a) Purpose

The purpose of the peer review process is for the Peer Review Panel to consider the Statement of Charges and all relevant information offered by Bar Counsel and the attorney concerning it and to determine (1) whether the Statement of Charges has a substantial basis and there is reason to believe that the attorney has committed professional misconduct or is incapacitated, and, if so, (2) whether a Petition for Disciplinary or Remedial Action should be filed or some other disposition is appropriate. The peer review process is not intended to be an adversarial one and it is not the function of Peer Review Panels to hold evidentiary hearings, adjudicate facts, or write full opinions or reports.

Committee note: If a Peer Review Panel concludes that the complaint has a substantial basis indicating the need for some remedy, some behavioral or operational changes on the part of the attorney, or some discipline short of suspension or disbarment, part of the peer review process can be an attempt through both evaluative and facilitative dialogue, (a) to effectuate directly or suggest a mechanism for effecting an amicable resolution of the existing

dispute between the attorney and the complainant, and (b) to encourage the attorney to recognize any deficiencies on ~~his or her~~ the attorney's part that led to the problem and take appropriate remedial steps to address those deficiencies. The goal, in this setting, is not to punish or stigmatize the attorney or to create a fear that any admission of deficiency will result in substantial harm, but rather to create an ambience for a constructive solution. The objective views of two fellow attorneys and a lay person, expressed in the form of advice and opinion rather than in the form of adjudication, may assist the attorney (and the complainant) to retreat from confrontational positions and look at the problem more realistically.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 700 – DISCIPLINE, INACTIVE STATUS, RESIGNATION

DISPOSITIONS BY THE SUPREME COURT

AMEND Rule 19-740 by replacing gendered pronouns with non-gender specific language in the Committee note after subsection (c)(2)(B), as follows:

Rule 19-740. DISPOSITION — GENERALLY

...

(c) Disposition

...

(2) If Suspension Ordered

...

(B) Upon a request by Bar Counsel or the attorney or on its own initiative and for good cause, the Court may stay execution of a suspension and place the attorney on probation upon terms and conditions the Court finds appropriate, which may include any terms or conditions permitted in a Conditional Diversion Agreement. The Order staying execution of a suspension may include provisions for monitoring compliance with the terms and conditions and for prompt reporting to Bar Counsel, the attorney, and the Court of any material noncompliance.

Committee note: In determining whether to enter a stay of execution and place the attorney on probation, the Court should consider, among any other

relevant factors, whether (1) the attorney had been the subject of prior discipline or the dismissal of a complaint with a letter of cautionary advice or admonition; (2) the misconduct was repetitive in nature; (3) the misconduct was likely to have been episodic and out of character; (4) upon the attorney's satisfaction of conditions attached to the stay, misconduct was not likely to recur; (5) the attorney recognizes the misconduct and the severity of it and has shown genuine remorse; and (6) the attorney has provided or will provide adequate recompense for anyone harmed by ~~his or her~~ the attorney's misconduct.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 20-104 by replacing gendered pronouns with non-gender specific language in the Committee note following subsection (b)(2), as follows:

Rule 20-104. USER REGISTRATION

...

(b) On-line Application

(1) An individual seeking to become a registered user shall complete an on-line application in the form prescribed by the State Court Administrator.

(2) The form may require information the State Court Administrator finds necessary to identify the applicant with particularity and shall include (A) an agreement by the applicant to comply with MDEC policies and procedures and the Rules in this Title, (B) a statement as to whether the applicant is an attorney and, if so, is a member of the Maryland Bar in good standing, and (C) whether the applicant has ever previously registered and, if so, information regarding that registration, including whether it remains in effect and why the applicant is seeking another registration.

Committee note: One of the purposes of registration is to help ensure that electronic submissions are not filed in MDEC actions by persons who are not authorized to file them. See Rule 20-201 (b). It is important for the MDEC system to know, to the extent possible, whether a person seeking to file a submission or to access, through MDEC, documents in an MDEC action, is who ~~he or she~~ the person purports to be.

This is particularly important with respect to attorneys, who have greater ability to file submissions and access case records than other members of the public. As part of the registration process, attorney-applicants are required to supply a unique attorney number so that MDEC will know they are attorneys. Other kinds of information may be necessary to identify non-attorneys. See section (e) of this Rule with respect to multiple registrations.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE
TITLE 20 – ELECTRONIC FILING AND CASE MANAGEMENT
CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 20-105 by replacing gendered pronouns with non-gender specific language in section (a) and the Committee note following section (a), as follows:

Rule 20-105. JUDGES; JUDICIAL APPOINTEES; CLERKS; JUDICIAL PERSONNEL

(a) Assignment of Username and Password

The State Court Administrator shall assign to each judge, judicial appointee, clerk, and judicial personnel a username and password that will allow that individual to access the MDEC System to the extent necessary to the performance of ~~his or her~~ the individual's official duties.

Committee note: The access permitted under section (a) of this Rule is limited to that necessary to the performance of official duties. A judicial official or employee who desires access for personal reasons, such as to file submissions as a self-represented litigant, must become a registered user and proceed as such. The State Court Administrator may permit a senior judge to continue to use the username and password the senior judge used while an incumbent judge so long as ~~he or she~~ the judge remains a senior judge.

...

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 21 – REMOTE ELECTRONIC PARTICIPATION IN JUDICIAL
PROCEEDINGS

CHAPTER 100 – GENERAL PROVISIONS

AMEND Rule 21-105 by replacing gendered pronouns with non-gender specific language in section (a), as follows:

Rule 21-105. SUBPOENAS

(a) Generally

In addition to complying with the content requirements of Rule 2-510, a subpoena issued to require the presence of an individual at a proceeding to be conducted by remote electronic participation shall describe the method by which that presence will be implemented and state that details will be supplied by a court official prior to the court proceeding. The party requesting the subpoena shall provide to the court official in writing an e-mail address for the individual subject to the subpoena if the individual subject to the subpoena is to appear by remote electronic participation. Unless impracticable, the court official shall send log-in information to individuals appearing by remote electronic participation at least five days before the date of the proceeding. The subpoena shall direct the individual subject to the subpoena to contact the party who requested the subpoena within three days after service if the

individual is unable to effect ~~his or her~~ the individual's presence by the manner stated in the subpoena.

...

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 4 – CRIMINAL CAUSES

APPENDIX OF FORMS

FORMS FOR EXPUNGEMENT OF RECORDS

AMEND Form 4-508.1 by replacing gendered pronouns with non-gender specific language, as follows:

Form 4-508.1. ORDER FOR EXPUNGEMENT OF RECORDS

(Caption)

ORDER FOR EXPUNGEMENT OF RECORDS

Having found that _____
(Name)

of _____
(Address)

is entitled to expungement of the police records pertaining to ~~his/her~~ that individual's arrest, detention, or confinement on or about _____,

at _____, Maryland,
(Date)

by a law enforcement officer of the _____
(Law Enforcement Agency)

and the court records in this action, it is by the _____

Court for _____ City/County, Maryland, this _____ day of

_____, _____
(Month) (Year)

ORDERED that the clerk forthwith shall serve a true copy of this Order on each of the parties to this proceeding; and it is further

ORDERED that the clerk forthwith shall serve on each custodian of police and court records designated in this Order and on the Central Repository a copy of this Order together with a blank form of Certificate of Compliance; and it is further

ORDERED that within 60 days after the entry of this Order or, if this Order is stayed, 30 days after the stay is lifted, the clerk and the following custodians of court and police records and the Central Repository shall (1) expunge all court and police records pertaining to this action or proceeding in their custody, (2) file an executed Certificate of Compliance, and (3) serve a copy of the Certificate of Compliance on the applicant/petitioner/defendant; and it is further

ORDERED that the clerk and other custodians of records forthwith upon receipt of this Order if it is not stayed or notice that the stay is lifted shall remove the records from public inspection; and it is further

ORDERED that this Order

- is stayed pending further order of the court.
- is not stayed.

(Custodian)

(Address)

Date

Judge

NOTICE TO APPLICANT/PETITIONER/DEFENDANT: Until a custodian of records has received a copy of this Order AND filed a Certificate of Compliance, expungement of the records in the custody of that custodian is not complete and may not be relied upon.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL
CONDUCT

AMEND Appendix 19-B by replacing gendered pronouns with non-gender specific language throughout the Appendix, as follows:

Appendix 19-B. IDEALS OF PROFESSIONALISM

Professionalism is the combination of the core values of personal integrity, competency, civility, independence, and public service that distinguish attorneys as the caretakers of the rule of law.

These Ideals of Professionalism emanate from and complement the Maryland Attorneys' Rules of Professional Conduct (“MARPC”), the overall thrust of which is well-summarized in this passage from the Preamble to those Rules:

“An attorney should use the law's procedures only for legitimate purposes and not to harass or intimidate others. An attorney should demonstrate respect for the legal system and for those who serve it, including judges, other attorneys, and public officials.”

A failure to observe these Ideals is not of itself a basis for disciplinary sanctions, but the conduct that constitutes the failure may be a basis for

disciplinary sanctions if it violates a provision of the MARPC or other relevant law.

Preamble

Attorneys are entrusted with the privilege of practicing law. They take a firm vow or oath to uphold the Constitution and laws of the United States and the State of Maryland. Attorneys enjoy a distinct position of trust and confidence that carries the significant responsibility and obligation to be caretakers for the system of justice that is essential to the continuing existence of a civilized society. Each attorney, therefore, as a custodian of the system of justice, must be conscious of this responsibility and exhibit traits that reflect a personal responsibility to recognize, honor, and enhance the rule of law in this society. The Ideals and some characteristics set forth below are representative of a value system that attorneys must demand of themselves as professionals in order to maintain and enhance the role of legal professionals as the protectors of the rule of law.

Ideals of Professionalism

An attorney should aspire:

- (1) to put fidelity to clients before self-interest;
- (2) to be a model for others, and particularly for ~~his or her~~ clients of the attorney, by showing respect due to those called upon to resolve disputes and the regard due to all participants in the dispute resolution processes;
- (3) to avoid all forms of wrongful discrimination in all ~~of his or her~~ activities of the attorney, including discrimination on the basis of race, sex, gender,

religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, with equality and fairness as the goals;

(4) to preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good;

(5) to make the law, the legal system, and other dispute resolution processes available to all;

(6) to practice law with a personal commitment to the rules governing the profession and to encourage others to do the same;

(7) to preserve the dignity and the integrity of the profession by ~~his or her~~ the attorney's conduct, because the dignity and the integrity of the profession are an inheritance that must be maintained by each successive generation of attorneys;

(8) to strive for excellence in the practice of law to promote the interests of ~~his or her~~ the attorney's clients, the rule of law, and the welfare of society; and

(9) to recognize that the practice of law is a calling in the spirit of public service, not merely a business pursuit.

Accountability and Trustworthiness

An attorney should understand the principles set forth in this section.

(1) Punctuality promotes the credibility of an attorney. Tardiness and neglect denigrate the individual, as well as the legal profession.

(2) Personal integrity is essential to the honorable practice of law. Attorneys earn the respect of clients, opposing attorneys, and the courts when they keep their commitments and perform the tasks promised.

(3) Honesty and, subject to legitimate requirements of confidentiality, candid communications promote credibility with clients, opposing attorneys, and the courts.

(4) Monetary pressures that cloud professional judgment and should be resisted.

Education, Mentoring, and Excellence

An attorney should:

(1) make constant efforts to expand ~~his or her~~ the attorney's legal knowledge and to ensure familiarity with changes in the law that affect a client's interests;

(2) willingly take on the responsibility of promoting the image of the legal profession by educating each client and the public regarding the principles underlying the justice system, and, as a practitioner of a learned art, by conveying to everyone the importance of professionalism;

(3) attend continuing legal education programs to demonstrate a commitment to keeping abreast of changes in the law;

(4) as a senior attorney, accept the role of mentor and teacher, whether through formal education programs or individual mentoring of less experienced attorneys; and

(5) understand that mentoring includes the responsibility for setting a good example for another attorney, as well as an obligation to ensure that each

mentee learns the principles enunciated in these Ideals and adheres to them in practice.

A Calling to Service

An attorney should:

(1) serve the public interest by communicating clearly with clients, opposing attorneys, judges, and the general public;

(2) consider the impact on others when scheduling events. Reasonable requests for schedule changes should be accommodated if, in the view of the attorney, such requests do not impact adversely the merits of the client's position;

(3) maintain an open and respectful dialogue with clients and opposing attorneys;

(4) respond to all communications promptly, even if more time is needed to formulate a complete answer, and understand that delays in returning telephone calls or answering mail may leave the impression that the communication was unimportant or that the message was lost, and such delays increase tension and frustration;

(5) keep a client apprised of the status of important matters affecting the client and inform the client of the frequency with which information will be provided, understanding that some matters will require regular contact, while others will require only occasional communication;

(6) always explain a client's options or choices in sufficient detail to help the client make an informed decision;

(7) reflect a spirit of respect in all interactions with opposing attorneys, parties, staff, and the court; and

(8) accept responsibility for ensuring that justice is available to every person and not just those with financial means.

Fairness, Civility, and Courtesy

An attorney should:

(1) act fairly in all dealings as a way of promoting the system of justice;

(2) understand that an excess of zeal may undermine a client's cause and hamper the administration of justice and that an attorney can advocate zealously a client's cause in a manner that remains fair and civil;

(3) know that zeal requires only that the client's interests are paramount and therefore warrant use of negotiation and compromise, when appropriate, to achieve a beneficial outcome, understanding that yelling, intimidating, issuing ultimatums, and using an “all or nothing” approach may constitute bullying, not zealous advocacy;

(4) seek to remain objective when advising a client about the strengths and weaknesses of the client's case or work;

(5) not allow a client's improper motives, unethical directions, or ill-advised wishes to influence an attorney's actions or advice, such as when deciding whether to consent to an extension of time requested by an opponent, and make that choice based on the effect, if any, on the outcome of the client's case and not on the acrimony that may exist between the parties;

(6) when appropriate and consistent with duties to the client, negotiate in good faith in an effort to avoid litigation and, where indicated, suggest alternative dispute resolution;

(7) use litigation tools to strengthen the client's case, but avoid using litigation tactics in a manner solely to harass, intimidate, or overburden an opposing party; and

(8) note explicitly any changes made to documents submitted for review by opposing attorneys, understanding that fairness is undermined by attempts to insert or delete language without notifying the other party or the party's attorney.

An attorney should understand that:

(1) professionalism requires civility in all dealings, showing respect for differing points of view, and demonstrating empathy for others;

(2) courtesy does not reflect weakness; rather, it promotes effective advocacy by ensuring that parties have the opportunity to participate in the process without personal attacks or intimidation;

(3) maintaining decorum in every venue, especially in the courtroom, is neither a relic of the past nor a sign of weakness; it is an essential component of the legal process;

(4) professionalism is enhanced by preparing scrupulously for meetings and court appearances and by showing respect for the court, opposing attorneys, and the parties through courteous behavior and respectful attire;

(5) courtesy and respect should be demonstrated in all contexts, not just with clients and colleagues, or in the courtroom, but also with support staff and court personnel;

(6) hostility between clients should not be a ground for an attorney to show hostility or disrespect to a party, an opposing attorney, or the court;

(7) patience enables an attorney to exercise restraint in volatile situations and to defuse anger, rather than elevate the tension and animosity between parties or attorneys; and

(8) the Ideals of Professionalism are to be observed in every kind of communication, and an attorney should resist the impulse to respond uncivilly to electronic communications in the same manner as ~~he or she~~ the attorney would resist such impulses in other forms of communication.

REPORTER'S NOTE

See the Reporter's note to Rule 1-333.

MARYLAND RULES OF PROCEDURE

TITLE 19 – ATTORNEYS

CHAPTER 300 – MARYLAND ATTORNEYS’ RULES OF PROFESSIONAL

CONDUCT

APPENDIX

AMEND the following Appendix by replacing gendered pronouns with non-gender specific language in section 1.2, as follows:

APPENDIX 19-D. MARYLAND GUIDELINES FOR PRACTICE FOR COURT-APPOINTED ATTORNEYS REPRESENTING CHILDREN IN CASES INVOLVING CHILD CUSTODY OR CHILD ACCESS

Introduction and Scope

These Guidelines are intended to promote good practice and consistency in the appointment and performance of attorneys for children in cases involving child custody and child access decisions. However, the failure to follow a Guideline does not itself give rise to a cause of action against an attorney nor does it create any presumption that a legal duty has been breached. These Guidelines apply to divorce, custody, visitation, domestic violence, and other civil cases where the court may be called upon to decide issues relating to child custody or access. Nothing contained in the Guidelines is intended to modify, amend, or alter the fiduciary duty that an attorney owes to a client pursuant to the Maryland Attorneys' Rules of Professional Conduct.

These Guidelines do not apply to Child In Need of Assistance (“CINA”), Termination of Parental Rights (“TPR”), or adoption cases. The appointment and performance of attorneys appointed to represent children in those cases is addressed by the Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings.

1. Definitions.-- A court that appoints an attorney for a minor child in a case involving child custody or child access issues should clearly indicate in the appointment order, and in all communications with the attorney, the parties,

and other attorneys, the role expected of child's attorney. The terminology and roles used should be in accordance with the definitions in Guidelines 1.1--1.3.

1.1. Child's Best Interest Attorney.-- "Child's Best Interest Attorney" means an attorney appointed by a court for the purpose of protecting a child's best interest, without being bound by the child's directives or objectives. This term replaces the term "guardian ad litem." The Child's Best Interest Attorney makes an independent assessment of what is in the child's best interest and advocates for that before the court, even if it requires the disclosure of confidential information. The best interest attorney should ensure that the child's position is made a part of the record whether or not different from the position that the attorney advocates.

1.2. Child's Advocate Attorney.-- "Child's Advocate Attorney" means an attorney appointed by a court to provide an independent attorney for a child. This term replaces the less specific phrase, "child's attorney." A Child's Advocate Attorney owes the child the same duties of undivided loyalty, confidentiality, and competent representation as are due an adult client. A Child's Advocate Attorney should be appointed when the child is need of a voice in court, such as in relocation cases, when there are allegations of child abuse, or where the child is sufficiently mature and sees ~~his or her~~ the child's interests as distinct from the interests of the child's parents.

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REPORTER'S NOTE

See the Reporter's note to Rule 1-333.