

**RULES
OF
THE BOARD OF JUDICIAL CONDUCT**

**CHAPTER 0787-01
GENERAL**

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0787-01-.01 MEETINGS.

- (1) **TIME AND PLACE OF MEETING** – The Board shall meet at 10:00 a.m. on the fourth (4th) Tuesday in February and the fourth (4th) Tuesday in July in the conference room of the Administrative Office of the Courts and at such other times and places as the chairperson or a majority of the members of the Board may deem necessary. Members finding it more convenient may also attend the meeting by video or phone conference.
- (2) **NOTICE OF MEETING** – The chairperson shall give a minimum of ten (10) days' notice of the time and place of meetings to all members of the Board.
- (3) **QUORUM** – Nine (9) members of the Board, whether meeting in person or by video or phone conference, shall constitute a quorum.

Authority: T.C.A. § 17-5-201(f). **Administrative History:** Emergency rules filed October 7, 2019; effective through April 4, 2020. Emergency rules expired effective April 5, 2020. Original rules filed February 3, 2020; effective May 3, 2020.

0787-01-.02 CHAIRPERSON AND VICE-CHAIR OF THE BOARD.

- (1) **CHAIRPERSON ELECTION AND REMOVAL** – The Board, at its meeting on the fourth (4th) Tuesday in July of each year, shall elect a chairperson to serve for a period of one (1) year. The chairperson shall be elected from the members of the Board by a majority present and voting. The chairperson may be removed by a two-thirds vote of the members of the Board, with or without cause.
- (2) **VICE-CHAIR ELECTION, REMOVAL, AND DUTIES** – The Board, at its meeting on the fourth (4th) Tuesday in July of each year, shall elect a vice-chair to serve for a period of one (1) year. The vice-chair shall be elected from the members of the Board by a majority present and voting. The vice-chair may be removed by a two-thirds vote of the members of the Board, with or without cause. If at any meeting the chairperson is not present, the vice-chair shall act as chairperson for that meeting. If the chairperson is recused with respect to a matter, the vice-chair shall act as chairperson with respect to that matter.
- (3) **CHAIRPERSON DUTIES** – In addition to the duties and responsibilities set forth in T.C.A. §§ 17-5-101, et seq., the chairperson shall preside at all meetings of the Board and at trials. The chairperson shall rule upon the admission or exclusion of evidence. However, the chairperson's ruling upon the admission or exclusion of evidence may be appealed to the full hearing panel. The chairperson and only the chairperson shall be the spokesperson for all matters pending before the Board, except that if the chairperson is recused with respect to a matter pending before the Board, the vice-chair and only the vice-chair shall be the spokesperson for the Board with respect to that matter. After the trial of any matter, the chairperson shall write or shall designate a member of the hearing panel that heard the

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matter to write the majority opinion. Any member of the hearing panel that heard the matter may write a concurring or dissenting opinion. The chairperson shall have such other duties and responsibilities as are necessary in fulfilling the office.

Authority: T.C.A. § 17-5-201(f). **Administrative History:** Emergency rules filed October 7, 2019; effective through April 4, 2020. Emergency rules expired effective April 5, 2020. Original rules filed February 3, 2020; effective May 3, 2020.

0787-01-.03 CONFIDENTIALITY.

- (1) Except as required under T.C.A. § 17-5-303(f), matters that come before the Board are confidential. Individual members of the Board will not discuss any matter pending before the Board, except with other members of the Board and with the Board's disciplinary counsel. However, nothing in this rule shall prohibit the complainant, respondent-judge, or any witness from disclosing the existence or substance of a complaint, matter, investigation, or proceeding before the Board or from disclosing any documents or correspondence filed by, served on, or provided to that person. In addition, if it becomes apparent that allegations of misconduct by a judge have become a matter of public record independent of any action by the Board and that continued silence by the Board may be detrimental to the public interest, may lead to bringing the judiciary into public disrepute, or may adversely affect the administration of justice, the chairperson in his or her discretion may (a) confirm that an investigation is in progress, (b) clarify the procedural aspects of any proceedings, and (c) explain the rights of the subject of the investigation to a fair hearing without prejudgment.

Authority: T.C.A. §§ 17-5-201(f), 17-5-202(e), and 17-5-303(f). **Administrative History:** Emergency rules filed October 7, 2019; effective through April 4, 2020. Emergency rules expired effective April 5, 2020. Original rules filed February 3, 2020; effective May 3, 2020.

0787-01-.04 RECORDS RETENTION.

- (1) The purpose of this rule is to create a records retention policy as directed by T.C.A. § 17-5-202(e).
- (2) Administrative records of the board shall be maintained by disciplinary counsel and kept at the board's office. Examples of administrative records include notices of board meetings, agendas of board meetings, minutes of board meetings, transcripts of board meetings, the designation of investigative and hearing panels, statistical reports, financial records, rules governing practice and procedure before the board, and other official documents generated in the ordinary course of essential board business. These records shall be permanently kept in both physical and electronic form.
- (3) Historical records documenting the essential functions of the board, such as minute books, dockets, statistical reports or summaries, and letters of appointment and board membership lists, as well as other historically significant documents pertaining to board business, shall be maintained by disciplinary counsel and kept at the board's office. These records shall be permanently kept in both physical and electronic form.
- (4) Records related to the receipt, screening, investigation, and prosecution of complaints, whether from an outside source or internally created, shall be maintained by disciplinary counsel, in both physical and electronic form, and kept at the board's office. Examples of such records include the complaint and any relevant supporting documentation, correspondence to and from the complaining party and the subject judge, votes of investigative panel members, statutorily required notices, pleadings, case dispositions, extensions of time granted by the board chair, and referrals to other agencies. The electronic file shall be permanently kept, except when destruction of the records is required by T.C.A. § 17-5-304 upon a determination that the complaint is frivolous, unfounded, or beyond the

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permissible scope of the board's inquiry. The physical file shall be destroyed consistent with state law but no sooner than one year after the final action taken in the case, except when it is determined that deletion of the records is required by T.C.A. § 17-5-304. When deletion of records is required by T.C.A. § 17-5-304, both paper and electronic records shall be destroyed as quickly as reasonably possible after the complaint has been determined to be frivolous, unfounded, or beyond the permissible scope of the board's inquiry.

- (5) Records related to the adjudication of a case initiated by the filing of a formal charge shall be kept and housed by the clerk of the Supreme Court. These records include all public documents pertaining to the case, such as pleadings, motions, orders, transcripts, and the board's decision. These records shall be permanently kept in both physical and electronic form.
- (6) Temporary records, defined in T.C.A. § 10-7-301(13) as material which can be disposed of in a short period of time as being without value in documenting the functions of an agency, need not be kept. Examples of such records include drafts of documents, notes, emails, voice or text messages, and other communication media with no significant or permanent administrative, historical, or legal value.

Authority: T.C.A. §§ 17-5-201(f) and 17-5-202(e). **Administrative History:** Emergency rules filed October 7, 2019; effective through April 4, 2020. Emergency rules expired effective April 5, 2020. Original rules filed February 3, 2020; effective May 3, 2020. Amendments filed May 24, 2023; effective August 22, 2023.