

The Supreme Court of South Carolina

Re: Amendments to Rule 413, Rules for Lawyer
Disciplinary Enforcement; and Rule 502, Rules for
Judicial Disciplinary Enforcement, South Carolina
Appellate Court Rules

Appellate Case No. 2024-001998

ORDER

As part of the Supreme Court's oversight of the lawyer and judicial disciplinary system, the Court has conducted a careful analysis with regard to how complaints alleging misconduct against lawyers and judges are processed by the Office of Disciplinary Counsel (ODC) under the Rules for Lawyer Disciplinary Enforcement (RLDE) in Rule 413 of the South Carolina Appellate Court Rules; and the Rules for Judicial Disciplinary Enforcement (RJDE) in Rule 502 of the South Carolina Appellate Court Rules. After review, we modify Rules 12, 14, 18, and 19 of the RLDE and the RJDE for the reasons set forth below.

Rule 12 governs confidentiality of proceedings and provides, with some exceptions, that proceedings are confidential until after formal charges are filed. The rule is amended to provide greater discretion to disciplinary counsel to disclose information about pending, confidential South Carolina complaints or discipline to appropriate disciplinary authorities in other jurisdictions where the lawyer or judge is admitted to practice or is seeking admission. This change will better allow disciplinary counsel to exchange information with other jurisdictions when South Carolina lawyers or judges are charged with misconduct in those other jurisdictions, and to obtain information about complaints that may be pending in other jurisdictions when a lawyer or judge is alleged to have committed misconduct in South Carolina. This Court believes the changes to Rule 12 will allow disciplinary counsel to conduct investigations expeditiously and ensure that lawyers and judges who have committed misconduct in more than one jurisdiction are better held to account.

The amendments to Rule 14, which governs in part the process of filing complaints, require that complaints be made against a specific lawyer or judge and contain a clear statement of the details of each act of alleged misconduct or incapacity. The rule continues to permit disciplinary counsel to ask a complainant to submit additional information, which will allow disciplinary counsel to obtain additional information from complainants who may lack the means or the ability to fully explain all allegations in an initial complaint, but reminds complainants that the failure to provide sufficient and specific detail may result in dismissal.

Rule 19 governs screening and investigation of complaints. Amendments to this rule provide disciplinary counsel with additional tools to assist in determining whether a complaint raises allegations that, if true, would constitute misconduct or incapacity. The changes specifically permit disciplinary counsel to seek additional information from the lawyer or judge and to review publicly available documents or other information—in addition to asking the complainant for additional information—before determining whether to dismiss or investigate.

Additional changes to Rule 19 permit disciplinary counsel to dismiss complaints that are facially frivolous, which is a standard that is common in many other jurisdictions' disciplinary rules. Disciplinary counsel may also dismiss complaints that are submitted by persons who have no personal knowledge of the matter and have relied solely on published news reports or social media posts. However, disciplinary counsel retains the power and authority to investigate and prosecute matters that come to the attention of disciplinary counsel by any source. In those cases, disciplinary counsel is the complainant. *See* Rule 2(e), RLDE ("If there is no written complaint from another person, disciplinary counsel's written statement of the allegations constitutes the complaint.").

Finally, Rule 19 is amended to include a time limitation on the filing of a complaint, which requires that a complaint be filed within five years of the time the complainant discovered or reasonably should have discovered the alleged misconduct. This time limitation includes a number of appropriate exceptions in the interest of fairness, including for cases of belated discovery, concealment, fraud, conviction of a serious crime, and reciprocal discipline. While the amendment permits disciplinary counsel to dismiss a complaint that is filed beyond the time limitation if, and only if, the lawyer raises the defense and none of the exceptions apply, Rule 18 has been amended to provide complainants with a right of review by an investigative panel of the Commission whenever disciplinary counsel dismisses on this basis.

The amendments to Rules 12, 14, 18, and 19 of RLDE and the RJDE are set forth in the attachment to this order. The amendments are effective July 1, 2025, and apply to all complaints filed on or after July 1, 2025.

s/ John W. Kittredge C.J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

s/ D. Garrison Hill J.

s/ Letitia H. Verdin J.

Columbia, South Carolina
June 25, 2025

Rule 413, SCACR Amendments

(1) Rule 12(c)(5), RLDE, is deleted and replaced with new paragraph (i), which provides:

(i) Disclosure to Appropriate Disciplinary Authority. Commission counsel, disciplinary counsel, or a member of the staff of the Commission or the Office of Disciplinary Counsel may:

(1) Disclose the existence of a complaint to a representative of an appropriate disciplinary authority in any jurisdiction in which a lawyer is admitted to practice law or has applied for admission to practice law; or

(2) Disclose confidential information related to a complaint or investigation to a representative of an appropriate disciplinary authority in any jurisdiction if it appears that information may assist in the discharge of their duties when there is evidence the lawyer committed misconduct under lawyer disciplinary rules of that jurisdiction or where a lawyer receives any sanction under Rule 7(b).

(2) Rule 14(d), RLDE, is amended to provide:

(d) Filing Complaint with Disciplinary Counsel.

(1) Filing of a complaint with the Office of Disciplinary Counsel, along with any relevant supporting documentation or exhibits, shall be made by:

(A) Delivering one unbound copy to the Office of Disciplinary Counsel. Delivery of a copy under this provision means handing it to an employee of the Office of Disciplinary Counsel; or

(B) Depositing one unbound copy in the U.S. Mail, properly addressed to the Office of Disciplinary Counsel with sufficient first-class postage attached.

(2) A complaint must be made against a specific lawyer and contain a clear statement of the details of each act of alleged misconduct or incapacity and include details such as:

(A) a brief description of the legal matter that gives rise to the complaint; and

(B) a detailed factual description of the alleged misconduct or incapacity.

The Office of Disciplinary Counsel may require the complainant provide additional information; however, the complainant's failure to provide sufficient and specific detail may result in individual allegations not being investigated or the dismissal of the complaint.

(3) Rule 18(b), RLDE, is amended to provide:

(b) Limited Right to Review. Although entitled to notice, a complainant is not a party to the proceeding. However, upon notice of a dismissal by disciplinary counsel pursuant to Rule 19(d)(1) or Rule 19(f)(3), a complainant may seek review by the investigative panel. Disciplinary counsel shall inform the complainant of the following review process in the notice of dismissal. The complainant may seek review by submitting a request to the disciplinary counsel in writing within 30 days of the date of the notice of dismissal. Upon receipt of the request for review, disciplinary counsel shall provide the lawyer with a copy of the request. The lawyer may submit a written response within 15 days. Disciplinary counsel shall submit the complainant's request and the lawyer's response, if any, for consideration at the next meeting of the investigative panel. Notification in writing shall be mailed to the complainant and the lawyer within 20 days of the investigative panel's decision. The complainant is not entitled to appeal or otherwise seek review of a dismissal or referral by disciplinary counsel pursuant to Rule 19(a) or of any decision, action, or disposition by the investigative panel, the hearing panel, the Commission chair or vice-chair, or the Supreme Court.

(4) Rule 19(a), RLDE, is amended, and new paragraph (f) is added to Rule 19, which provide:

(a) Screening. Disciplinary counsel shall evaluate all information coming to disciplinary counsel's attention by complaint or from other sources that alleges lawyer misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings due to a physical or mental condition.

(1) As part of the screening evaluation, disciplinary counsel may:

(A) Request the complainant provide additional information before determining whether to dismiss or investigate;

(B) Provide the lawyer with an opportunity to respond to or address the allegations in the complaint before determining whether to dismiss or investigate;

(C) Conduct a limited review of publicly available documents or other information before determining whether to dismiss or investigate.

(2) If the complaint is facially frivolous or the information would not constitute misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings if it were true, disciplinary counsel shall dismiss the complaint or, if appropriate, refer the matter to another agency. Disciplinary counsel may also dismiss a complaint submitted by a person who provides information about a lawyer based solely on published news reports, social media posts, or otherwise where the complainant appears to have no personal knowledge of the information submitted.

(3) If the information raises allegations that would constitute lawyer misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings if true, disciplinary counsel shall conduct an investigation.

(4) Disciplinary counsel shall notify the complainant of the disposition of the complaint. If dismissed, disciplinary counsel is not required to notify the lawyer of the complaint or disposition but may release information about the complaint to the lawyer upon written request.

. . .

(f) Time Limitation for Filing a Complaint Alleging Lawyer Misconduct.

(1) A complaint must be filed with the Office of Disciplinary Counsel within five years of the time the complainant discovered or reasonably should have discovered the alleged misconduct.

(2) The five-year time limitation shall not apply to complaints when the allegations involve fraud, conversion, conviction of a serious crime, or when the lawyer is alleged to have concealed or attempted to conceal the conduct. Additionally, the five-year limitation shall not apply to the imposition of reciprocal discipline.

(3) Disciplinary counsel may dismiss a complaint based on the time limitation if raised by the lawyer and none of exceptions in paragraphs (f)(1) and (2) apply.

Rule 502, SCACR, Amendments

(1) Rule 12(c)(5), RJDE, is deleted and replaced with new paragraph (g), which provides:

(g) Disclosure to Appropriate Disciplinary Authority. Commission counsel, disciplinary counsel, or a member of the staff of the Commission or the Office of Disciplinary Counsel may:

(1) Disclose the existence of a complaint to a representative of an appropriate disciplinary authority in any jurisdiction in which a judge is admitted to practice law, has applied for admission to practice law, or acts as a judge; or

(2) Disclose confidential information related to a complaint or investigation to a representative of an appropriate disciplinary authority in any jurisdiction if it appears that information may assist in the discharge of their duties when there is evidence the judge committed misconduct under lawyer or judicial disciplinary rules of that jurisdiction or where a judge receives any sanction under Rule 7(b).

(2) Rule 14(d), RJDE, is amended to provide:

(d) Filing Complaint with Disciplinary Counsel.

(1) Filing of a complaint with the Office of Disciplinary Counsel, along with any relevant supporting documentation or exhibits, shall be made by:

(A) Delivering one unbound copy to the Office of Disciplinary Counsel. Delivery of a copy under this provision means handing it to an employee of the Office of Disciplinary Counsel; or

(B) Depositing one unbound copy in the U.S. Mail, properly addressed to the Office of Disciplinary Counsel with sufficient first-class postage attached.

(2) A complaint must be made against a specific judge and contain a clear statement of the details of each act of alleged misconduct or incapacity and include details such as:

(A) a brief description of the legal matter that gives rise to the complaint; and

(B) a detailed factual description of the alleged misconduct or incapacity.

The Office of Disciplinary Counsel may require the complainant provide additional information; however, the complainant's failure to provide sufficient and specific detail may result in individual allegations not being investigated or the dismissal of the complaint.

(3) Rule 18(b), RJDE, is amended to provide:

(b) Limited Right to Review. Although entitled to notice, a complainant is not a party to the proceeding. However, upon notice of a dismissal by disciplinary counsel pursuant to Rule 19(d)(1) or Rule 19(e)(3), a complainant may seek review by the investigative panel. Disciplinary counsel shall inform the complainant of the following review process in the notice of dismissal. The complainant may seek review by submitting a request to disciplinary counsel in writing within 30 days of the date of the notice of dismissal. Upon receipt of the request for review, disciplinary counsel shall provide the judge with a copy of the request. The judge may submit a written response within 15 days. Disciplinary counsel shall submit the complainant's request and the judge's response, if any, for consideration at the next meeting of the investigative panel. Notification in writing shall be mailed to the complainant and the judge within 20 days of the investigative panel's decision. The complainant is not entitled to appeal or otherwise seek review of a dismissal or referral by disciplinary counsel pursuant to Rule 19(a) or of any decision, action, or disposition by the investigative panel, the hearing panel, the Commission chair or vice-chair, or the Supreme Court.

(4) Rule 19(a), RLDE, is amended, and new paragraph (e) is added to Rule 19, which provide:

(a) Screening. Disciplinary counsel shall evaluate all information coming to disciplinary counsel's attention by complaint or from other sources that alleges judicial misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings due to a physical or mental condition.

(1) As part of the screening evaluation, disciplinary counsel may:

(A) Request the complainant provide additional information before determining whether to dismiss or investigate;

(B) Provide the judge with an opportunity to respond to or address the allegations in the complaint before determining whether to dismiss or investigate;

(C) Conduct a limited review of publicly available documents or other information before determining whether to dismiss or investigate.

(2) If the complaint is facially frivolous or the information would not constitute misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings if it were true, disciplinary counsel shall dismiss the complaint or, if appropriate, refer the matter to another agency. Disciplinary counsel may also dismiss a complaint submitted by a person who provides information about a judge based solely on published news reports, social media posts, or otherwise where the complainant appears to have no personal knowledge of the information submitted.

(3) If the information raises allegations that would constitute misconduct, incapacity, or the inability to participate in a disciplinary investigation or assist in the defense of formal proceedings if true, disciplinary counsel shall conduct an investigation.

(4) Disciplinary counsel shall notify the complainant of the disposition of the complaint. If dismissed, disciplinary counsel is not required to notify the judge of the complaint or disposition but may release information about the complaint to the judge upon written request.

. . .

(e) Time Limitation for Filing a Complaint Alleging Judicial Misconduct.

(1) A complaint must be filed with the Office of Disciplinary Counsel within five years of the time the complainant discovered or reasonably should have discovered the alleged misconduct.

(2) The five-year time limitation shall not apply to complaints when the allegations involve fraud, conversion, conviction of a serious crime, or when the judge is alleged to have concealed or attempted to conceal the conduct. Additionally, the five-year limitation shall not apply to the imposition of reciprocal discipline.

(3) Disciplinary counsel may dismiss a complaint based on the time limitation if raised by the judge and none of exceptions in paragraphs (e)(1) and (2) apply.

The Supreme Court of South Carolina

Re: Published Summaries of Dismissed Complaints and
Confidential Discipline Issued or Imposed on South
Carolina Judges

Appellate Case No. 2025-000989

ORDER

The Supreme Court of South Carolina has jurisdiction under Article V, Section 4 of the South Carolina Constitution over the administration of the courts in South Carolina, which includes the authority to discipline members of the judiciary for misconduct. The Rules for Judicial Disciplinary Enforcement (RJDE), which are found in Rule 502 of the South Carolina Appellate Court Rules, were promulgated to establish the processing of judicial discipline matters in South Carolina.

The RJDE, which are based on corresponding American Bar Association Model Rules, establish the Office of Disciplinary Counsel as the investigating and prosecuting authority. *See* Rule 5(b), RJDE. The Commission on Judicial Conduct is charged with conducting hearings on formal charges and making findings, conclusions, and recommendations to the Supreme Court for the disposition of matters. *See* Rule 4(g)(2), RJDE. Rule 12 of the RJDE provides, with some exceptions, for confidentiality until after formal charges are filed.

In the case of complaints filed against South Carolina judges, we believe there is a need to better balance the existing rules of confidentiality in judicial disciplinary matters, with the right of the public to know how cases are being resolved. Such knowledge and understanding are critical to ensure the public has confidence that "an independent, fair and competent judiciary will interpret and apply the laws that govern us." CJC Preamble, Rule 501, SCACR.

Specifically, the public must be better informed about what sort of judicial complaints are dismissed. Further, while sanctions like suspension, public reprimand, or removal from office are public, other forms of judicial discipline for minor violations are confidential. These include letters of caution, admonitions,

and deferred disciplinary agreements. *See* Rule 2(a), (g), and (q), RJDE, Rule 502, SCACR. While these sorts of confidential resolutions are permitted only in cases of minor misconduct, the public would also be better served if more information about these matters is made available.

Therefore, we order disciplinary counsel and Counsel for the Commission on Judicial Conduct (Commission counsel) to begin preparing and publishing summaries of all judicial complaints that are dismissed, along with summaries for all cases where a letter of caution, confidential admonition, or deferred discipline agreement is issued or imposed on a judge. These summaries shall be anonymous and must not identify the judge by name, but must include certain details.

Summaries of dismissals must identify the type of judge named in the complaint, include a brief summary of the allegation(s) of judicial misconduct, and state the basis for the dismissal.

Summaries of confidential resolutions of judicial complaints must identify the type of judge named in the complaint, include a brief summary of the nature of the misconduct, and state whether a letter of caution, confidential admonition, or deferred discipline agreement was issued or imposed.

Disciplinary counsel and Commission counsel shall prepare these summaries for all complaints that are dismissed or resolved by a letter of caution, confidential admonition, or deferred discipline agreement on or after July 1, 2025. These summaries shall be published on the Judicial Branch website on a quarterly basis beginning no later than November 1, 2025. Additional summaries shall be prepared and published on a quarterly basis unless otherwise ordered by this Court.

s/ John W. Kittredge C.J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

s/ D. Garrison Hill J.

s/ Letitia H. Verdin J.

Columbia, South Carolina
June 25, 2025