

## Rule 226

### FINAL HEARING REPORT

- (a) **Final Hearing Report.**
- (1) **Contents.** Following a hearing on a formal complaint, the hearing panel will issue a final hearing report setting forth findings of fact, conclusions of law, aggravating and mitigating factors, and a recommendation of discipline or that no discipline be imposed.
- (A) **Findings of Fact.** Each finding of fact must be established by clear and convincing evidence.
- (B) **Conclusions of Law.** Each conclusion of law must be set forth separately.
- (C) **Aggravating and Mitigating Factors.**
- (i) Aggravating factors are any considerations that may justify an increase in the discipline to be imposed.
- (ii) Mitigating factors are any considerations that may justify a reduction in the discipline to be imposed.
- (D) **Recommendation Regarding Discipline.** The recommendation by the hearing panel regarding discipline is advisory only and does not prevent the Supreme Court from imposing discipline greater or lesser than the panel's recommendation.
- (2) **Concurring or Dissenting Opinion.** If a member of the hearing panel cannot agree on a finding of fact, conclusion of law, aggravating or mitigating factor, or the recommendation regarding discipline, the panel member's concurring or dissenting opinion will be included in the final hearing report.
- (3) **Distribution.** The following distribution must occur after the hearing panel issues the final hearing report:
- (A) the panel must file the report and provide the disciplinary administrator and the respondent with a copy of the report; and
- (B) the disciplinary administrator must provide a copy of the report to the complainant.
- (b) **Case Docketed in Supreme Court.** If a majority of a hearing panel finds misconduct and recommends discipline under Rule 225(a)(1), (2), (3), (4), (5), or (7) or if a written objection is filed under subsection (c) or (d) of this rule, the disciplinary administrator must docket a case in the Supreme Court under Rule 228.
- (c) **Informal Admonition.** If the hearing panel imposes an informal admonition under Rule 225(a)(6), the disciplinary administrator will not docket a case in the Supreme Court unless the disciplinary

administrator or the respondent files a written objection with the hearing panel no later than 21 days after service of the final hearing report. If the disciplinary administrator or the respondent timely files a written objection, the case will be docketed in the Supreme Court and will proceed under Rule 228.

- (d) **Dismissal.** If the hearing panel dismisses a disciplinary board proceeding or recommends that no discipline be imposed, the disciplinary administrator will not docket a case in the Supreme Court unless the disciplinary administrator files a written objection with the hearing panel no later than 21 days after service of the final hearing report. If the disciplinary administrator timely files a written objection, the case will be docketed in the Supreme Court and will proceed under Rule 228.

**[History:** New rule adopted effective January 1, 2021.]