

3-7.9 | CONSENT JUDGMENT

(a) Before Formal Complaint is Filed. If a respondent states a desire to plead guilty before a formal complaint is filed, bar counsel consults established board guidelines for discipline and confers with the designated reviewer. If the designated reviewer rejects the proposed consent judgment, the matter is not referred to the board of governors. If bar counsel and the designated reviewer approve the proposed consent judgment, bar counsel advises the respondent that bar counsel and the designated reviewer will recommend approval of the respondent's written plea, and the matter is placed on the agenda of the board of governors for its review. If the board of governors concurs in the consent judgment, bar counsel notifies the respondent and file all necessary pleadings to secure approval of the plea. If a proposed consent judgment is rejected, bar counsel prepares and files a complaint as provided elsewhere in these rules.

(b) After Filing of Formal Complaint. If a respondent states a desire to plead guilty to a formal complaint that has been filed, staff counsel consults established board guidelines for discipline and confers with the designated reviewer. If the designated reviewer rejects the proposed consent judgment, the plea is not filed with the referee. If staff counsel and the designated reviewer approve the proposed consent judgment, bar counsel advises the respondent that staff counsel and the designated reviewer will recommend approval of the respondent's written plea and the consent judgment is filed with the referee. If the referee accepts the consent judgment, the referee enters a report and files the report with the court as provided elsewhere in these rules. If the referee rejects the consent judgment, the matter proceeds as provided in this chapter.

(c) Approval of Consent Judgments. Acceptance of any proposed consent judgment is conditioned on final approval by the Supreme Court of Florida, and the court's order will recite the disciplinary charges against the respondent.

(d) Content of Conditional Pleas. All conditional pleas must show clearly by reference or otherwise the disciplinary offenses to which the plea is made. All conditional pleas in which the respondent agrees to the imposition of a suspension or disbarment must include an acknowledgment that, unless waived or modified by the court on motion of the respondent,



the court order accepting the conditional plea will contain a provision that prohibits the respondent from accepting new business from the date of the order or opinion and must provide that the suspension or disbarment is effective 30 days from the date of the order or opinion so that the respondent may close out the practice of law and protect the interests of existing clients. A conditional plea may not permit a respondent to begin serving a suspension or disbarment until the Supreme Court of Florida issues an order or opinion approving the recommended discipline.

(e) Disbarment on Consent. A respondent may surrender membership in The Florida Bar in lieu of defending against allegations of disciplinary violations by agreeing to disbarment on consent. Disbarment on consent has the same effect as, and is governed by, the same rules provided for disbarment elsewhere in these rules. Matters involving disbarment on consent are processed in the same manner as set forth in subdivisions (a) through (d) of this rule and elsewhere in these rules, except that a respondent may enter into a disbarment on consent without admitting any of the facts or rule violations alleged by the bar. In that event, the disbarment on consent must set forth a brief recitation of the allegations underlying the disbarment on consent. This option is only available for disbarments on consent and not for any other type of consent judgment.

(f) Effect of Pleas on Certification. In negotiating consent judgments with a respondent or in recommending acceptance, rejection, or offer of a tendered consent judgment, staff counsel and the designated reviewer must consider and express a recommendation on whether the consent judgment will include revocation of certification if held by the lawyer and restrictions to be placed on recertification. When certification revocation is agreed to in a consent judgment, the revocation and any conditions on recertification will be reported to the legal specialization and education director for recording purposes.



(Former Rule 3-7.8 renumbered as Rule 3-7.9 March 16, 1990, effective March 17, 1990 (558 So.2d 1008); Amended: July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); Sept. 24, 1998, effective Oct. 1, 1998 (718 So.2d 1179); April 25, 2002 (820 So.2d 210); May 20, 2004 (SC03-705) (875 So.2d 448); October 6, 2005, effective January 1, 2006 (SC05-206) (916 So.2d 655); March 22, 2007, effective June 1, 2007 (SC06-1840), (952 So.2d 1185). Amended April 12, 2012, effective July 1, 2012 (SC10-1967). Amended June 11, 2015, effective October 1, 2015 (167 So.3d 412); amended September 7, 2023, effective November 6, 2023 (SC22-1293).)

