

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-16-0023  
RULES 48(f), 58(d), 63(b), )  
64(f)(1), and 65, RULES OF THE )  
SUPREME COURT )  
 )  
 ) **FILED: 09/02/2016**  
 )  
\_\_\_\_\_ )

**ORDER**

**AMENDING RULES 63 and 64(f)(1), RULES OF THE ARIZONA SUPREME COURT,  
AND CIRCULATING FOR COMMENT THE PROPOSED AMENDMENTS TO RULE 59, RULES  
OF THE ARIZONA SUPREME COURT**

A petition having been filed proposing to amend Rules 48(f), 58(d), 63(b), 64(f)(1), and 65, Rules of the Arizona Supreme Court, and no comments having been received, and a request to amend the petition to include a proposed amendment to Rule 59 having been filed, upon consideration,

**IT IS ORDERED** that Rules 63 and 64(f)(1), Rules of the Arizona Supreme Court, be amended in accordance with the attachment hereto, effective January 1, 2017.

**IT IS FURTHER ORDERED** that the request to amend the petition is granted. Consideration of the proposed amendment to Rule 59 will be continued and the proposal circulated for comment. Comments will be due October 28, 2016, in accordance with Rule 28(D), Rules of the Arizona Supreme Court. This Court will consider the proposed



TO:  
Rule 28 Distribution  
Hon Lawrence F Winthrop

**ATTACHMENT\***

**RULES OF THE ARIZONA SUPREME COURT**

**Rule 63. Transfer to Disability Inactive Status**

(a) [No change in text.]

**(b) Method of Transfer**

1.-4. [No change in text.]

**5. By consent agreement.** An agreement for transfer to disability inactive status must be signed by the lawyer, the lawyer's counsel, if any, and bar counsel.

A. General language. Agreements must include the following language as applicable:

(i) a statement describing the nature and extent of the lawyer's physical or mental condition that adversely affects his or her ability to practice law warranting transfer to disability inactive status;

(ii) a statement that the order of transfer to disability inactive status may include conditions of conduct in the nature of probation;

(iii) a statement that the lawyer's consent to be transferred to disability inactive status is submitted freely and voluntarily and not as a result of coercion or intimidation;

(iv) a statement that the lawyer is represented by counsel, has chosen not to seek the assistance of counsel or is unable to secure representation by counsel;

(v) a statement that the lawyer voluntarily waives the right to an adjudicatory hearing on the transfer, unless otherwise ordered, and waives all motions, defenses, objections, or requests which have been made or raised, or could be asserted thereafter, if the transfer is approved;

(vi) a statement that the lawyer acknowledges the duty to comply with all rules pertaining to notification of clients, return of property, and other rules pertaining to suspension, including reinstatement;

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\* Additions to text are indicated by underscoring and deletions by strikeouts.

(vii) a statement that outlines the possible consequences of any violation of the conditions of conduct that are being imposed in the nature of probation or any other provision of the agreement;

(viii) a statement that the agreement has been approved as to form and content by the chief bar counsel or chief bar counsel's designee; and

(ix) a statement that any complainant has been informed of the consent for transfer to disability inactive status and that a copy of the complainant's objection, if any, has been provided to the presiding disciplinary judge.

B. *Evaluations.* The parties may attach to the consent agreement copies of relevant and recent medical, psychiatric or psychological evaluations, if appropriate.

C. *Hearing.* At the discretion of the presiding disciplinary judge, or upon request of either party, a hearing may be held before the presiding disciplinary judge for the purpose of addressing a consent agreement to transfer to disability inactive status.

**(c) Proceedings to Determine Incapacity or Competence.**

1.-5. [No change in text.]

6. *Appeal.* Except in cases resolved by consent agreement under (b)(5), ~~Either~~ party may appeal the presiding disciplinary judge's decision and order regarding transfer of a lawyer to disability inactive status as provided in Rule 59.

[No change in remaining text.]

**Rule 64. Reinstatement; Eligibility**

(a)-(e) [No change in text.]

**(f) Reinstatement After Summary Suspension by the Board of Governors; Resignation in Lieu of Reinstatement.**

*1. Reinstatement After Summary Suspension.*

A. [No change in text.]

B. *After Two (2) Years.* If an application is not filed within two years from the effective date of suspension, the reinstatement procedure set forth in Rule 65 of these rules shall apply. If the State Bar finds there is no need for rehabilitation and there appear to be no discipline or disability issues, the applicant need only prove compliance with all rules,

fitness to practice and competence under Rule 65(b)(2). Notwithstanding this provision, a suspended member may apply for reinstatement under the provisions of paragraph (f)(1)(A) as set forth above by submitting proof that the suspended member:

(i)–(iv) [No change in text.]