

Rule 15-520. Discipline by consent.

1 (a) Discipline by consent prior to filing of formal complaint. A respondent against whom an
2 informal complaint has been filed may, prior to the filing of a formal complaint, tender a
3 proposal for discipline by consent, including a conditional admission to the informal complaint
4 or portions thereof in exchange for a disciplinary sanction and final disposition of the informal
5 complaint. The proposal shall include a waiver of right to a screening panel hearing. The
6 proposal shall be submitted to OPC counsel who shall forward the proposal to the Committee
7 chair with a recommendation in favor of or opposed to the proposal and a statement of the basis
8 for such recommendation. If the proposal is approved by the Committee chair, the sanction shall
9 be imposed as provided in this rule. If the proposal is rejected by the Committee chair, the
10 proposal and admission shall be withdrawn and cannot be used against the respondent in
11 subsequent proceedings.

12 (b) Discipline by consent after filing of formal complaint. A respondent against whom a
13 formal complaint has been filed may tender a conditional admission to the formal complaint or to
14 a particular count thereof in exchange for a stated form of discipline and final disposition of the
15 formal complaint. The proposal shall be submitted to OPC counsel, who shall then forward the
16 proposal to the district court with a recommendation favoring or opposing the proposal and a
17 statement of the basis for such recommendation. The district court shall either approve or reject
18 the proposal. If the district court approves the proposal and the stated form of discipline includes
19 public discipline, it shall enter the appropriate disciplinary order as provided in paragraph (d). If
20 the district court rejects the proposal, the proposal and conditional admission shall be withdrawn
21 and cannot be used against the respondent in subsequent proceedings.

22 (c) Order of discipline by consent. The final order of discipline by consent shall be predicated
23 upon:

24 (c)(1) the informal complaint and any NOIC if no formal complaint has been filed;

25 (c)(2) the formal complaint, if filed;

26 (c)(3) the approved proposal for discipline by consent; and

27 (c)(4) an affidavit of consent by the respondent to be disciplined.

28 (d) Affidavit of consent. A respondent whose proposal for discipline by consent has been
29 approved as provided in this rule, shall submit an affidavit to the Committee chair or the district

30 court as appropriate, consenting to the imposition of the approved disciplinary sanction and
31 affirming that:

32 (d)(1) the consent is freely and voluntarily entered;

33 (d)(2) the respondent is not acting under coercion or duress;

34 (d)(3) the respondent is fully aware of the implications of submitting the consent;

35 (d)(4) the respondent is aware that there is presently pending an investigation into, or
36 proceeding involving, allegations that there exist grounds for discipline, the nature of which shall
37 be specifically set forth;

38 (d)(5) for purposes of disciplinary proceedings, the respondent acknowledges that the
39 material facts so alleged are true; and

40 (d)(6) the respondent submits consent because the respondent knows that if an informal or
41 formal complaint were predicated upon the matters under investigation were filed, or the pending
42 formal charges were prosecuted, the respondent could not successfully defend against the
43 charges upon which the discipline is based.

Effective November 1, 2018