

Effective October 1, 2016, all Departments of the Appellate Division enacted 22 NYCRR part 1240 - Rules for Attorney Disciplinary Matters. In conjunction with the enactment of those rules, the Appellate Division, Fourth Department repealed 22 NYCRR part 1022 and enacted two new rule parts: 22 NYCRR part 1015 - Attorneys; and 22 NYCRR part 1020 - Procedures for Attorney Disciplinary Matters in the Fourth Judicial Department.

Listed below are highlights of changes to the practices and procedures of the Appellate Division, Fourth Department resulting from the repeal of part 1022 and enactment of the above-referenced rule parts. The highlights were compiled by Court staff and are offered for general information purposes only. They are not binding on the Court.

22 NYCRR part 1015 - Attorneys:

- provides that, following a conviction or an adverse decision in certain proceedings in a criminal matter, trial counsel retained for the defendant or assigned by the trial court must, when appropriate, move on behalf of the defendant for permission to proceed as a poor person and assignment of counsel on appeal (22 NYCRR 1015.7)
- provides that attorneys, upon their retirement from the practice of law, must notify each client whether they possess or control funds or property owned by the client (22 NYCRR 1015.14)
- provides for an application to the Appellate Division for an order appointing a guardian attorney to take possession of the client files of an attorney who is deceased or incapacitated from the practice of law for non-disciplinary reasons (22 NYCRR 1015.13)

22 NYCRR parts 1240 and 1020 - Attorney Disciplinary Matters:

- contains forms for certain applications or motions to the Court, including applications for resignation from or reinstatement to the practice of law; also contains a form affidavit of compliance that must be filed by disbarred or suspended attorneys (22 NYCRR part 1240, Appendices A through F)
- provides that certain individuals, such as partners, associates, and immediate family members of committee members, are disqualified from representing a respondent or complainant in certain disciplinary proceedings (22 NYCRR 1240.6)
- provides a framework of rules for proceedings before the grievance committees (22 NYCRR 1240.7 and 1020.5)

- provides a framework of rules for proceedings in the Appellate Division, including rules concerning required initial disclosures in contested matters, time frames for pleadings and hearings, and filing requirements for motions to the Court (22 NYCRR 1240.8 and 1020.8)
- expands the existing diversion rule, which covers alcohol and substance abuse, to cover mental and physical health issues (22 NYCRR 1240.11)
- imposes certain obligations on attorneys suspended or disbarred for professional misconduct, including an obligation to certify that they have discontinued all advertising and returned client property and files; also requires such attorneys to move to fix compensation in pending matters (22 NYCRR 1240.15)
- provides that any respondent who intends to offer evidence of a medical or psychological condition in mitigation of allegations or charges of misconduct must provide to the grievance committee advance written notice thereof and written authorization to obtain records from any health care professional treating the respondent for the condition (22 NYCRR 1240.20)