

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

GENERAL RULES

TABLE OF CONTENTS

1.1	Introduction.....	1
	(a) Scope; Title; Citation.....	1
	(b) Other Local Rules.....	1
	(c) Deviations from Rules or Procedures.....	1
	(d) Definitions.....	1
	(e) Availability.....	2
1.2	General Information.....	2
	(a) Court Sessions.....	2
	(b) Clerk's Official Station.....	2
	(c) Court Personnel's Release of Information.....	2
	(d) Fee Prepayment.....	2
	(1) Method of Paying Filing Fees.....	3
	(e) Credit Card Fee Payment.....	3
	(1) In General.....	3
	(2) Refunds of Duplicate or Erroneous Fees Paid Electronically by Credit Card.....	3
	(A) Applications to Clerk.....	3
	(i) Filing Fees and Pro Hac Vice Admission Fees.....	3
	(ii) Full-time Attorney Admission Fees.....	3
	(B) Review of Denial.....	4
	(C) Payment of Refund.....	4
	(f) Fee Schedules.....	4
	(g) Mediation.....	4
	(h) Judicial Misconduct and Disability Complaints.....	4
	(i) Persons with Communications Disabilities.....	5
1.3	Case Filings; Appearance and Withdrawal of Attorneys; Pro Se Litigants... 5	5
	(a) Electronic Case Filing ("CM/ECF").....	5
	(1) Public Access to the System.....	5
	(A) Restrictions on Remote Access.....	5
	(i) Sealed Documents.....	5
	(ii) Restricted Access Documents.....	5
	(iii) Administrative Documents and Records.....	6
	(2) Electronic Orders and Judgments.....	6
	(A) Oral Orders.....	6
	(B) Notice to Unregistered Users.....	6
	(3) Filing Errors.....	6
	(4) Striking .PDF Documents and Text-Only Entries.....	6
	(5) Technical Failures.....	7

	(b)	Registration for CM/ECF.	7
	(1)	District Court Registration.	7
	(2)	Withdrawal from System.	8
	(c)	Privacy Policy.	8
	(d)	Attorney Appearances.	8
	(e)	Change of Address, Telephone, Fax, or E-Mail.	8
	(f)	Withdrawal of Appearance.	8
	(g)	Proceedings by Persons Without an Attorney (Pro Se).	8
	(h)	Attorney Appointments.	8
	(i)	Communication with Court.	9
1.4		Assignment of Judges.	9
	(a)	District Court.	9
	(1)	Dockets.	9
	(2)	Assignment Method.	9
	(3)	Reassignments.	9
	(A)	District Judges.	9
	(B)	Magistrate Judges.	10
	(C)	Clerk.	10
	(D)	Visiting Judges.	10
	(4)	Related Cases.	11
	(A)	Notification.	11
	(B)	Assignments.	11
	(C)	"Related" Cases Defined.	12
	(D)	Challenges.	12
	(5)	The Nebraska Docket.	12
	(A)	Applicable Cases.	12
	(B)	Application Notes.	13
	(C)	Place of Trial.	13
	(D)	Jury Selection.	13
	(6)	Death Penalty Cases.	13
	(A)	Location of Proceedings.	13
	(B)	Stay of Execution.	14
	(C)	Judge Assignment.	14
	(7)	Challenges.	14
	(8)	Sanctions.	14
	(b)	Bankruptcy Court.	14
	(1)	Assignment Method.	15
	(2)	Subsequent Filings.	15
	(3)	Place of Hearings.	15
	(4)	Reassignments.	15
1.5		Bankruptcy Cases.	15
	(a)	Reference to Bankruptcy Court.	15
	(1)	Civil Cases.	15
	(2)	Criminal Cases.	16
	(b)	Withdrawal of Reference.	16

	(1)	Motions for Withdrawal.	16
	(2)	Report and Recommendation; Objections.....	16
	(3)	Assignment of District Judge.	17
	(4)	Hearing on Objections.....	17
	(5)	Order of Withdrawal.....	17
	(6)	Denial of Motion.	17
	(7)	Bankruptcy Judges Disqualified or Incapacitated.	17
	(c)	Appeals from Bankruptcy Court Decisions.....	17
	(d)	Jury Trials.....	18
1.6		Public Security and Conduct in Courthouse and Courtroom.....	18
	(a)	General Conduct.....	18
	(b)	Entering and Leaving Building, Courtroom, or Corridor.....	18
	(c)	Weapons and Destructive Devices.	18
	(d)	Food and Tobacco.....	18
	(e)	Electronic Devices.....	19
	(1)	Admission of Electronic Devices.....	19
	(2)	Cameras and Other Image/Video Electronic Devices.	19
		(A) Use Prohibited.....	19
		(B) Placement Prohibited.....	19
	(3)	Sound Recording and Broadcasting Electronic Devices.	20
		(A) Use Prohibited.....	20
		(B) Placement Prohibited.....	20
		(C) Exemptions.....	20
	(4)	Electronic Devices in Courtroom.....	20
		(A) No Audible Signals in Courtroom.	20
		(B) Use Prohibited.....	20
	(f)	Spectator and News Media Seating.....	21
	(g)	Enforcement.....	21
	(h)	Exemption From or Interpretation of This Rule.	21
	(i)	Attorney Courtroom Decorum.....	21
	(1)	Addressing the Court.	21
	(2)	Examination of Witnesses.....	22
	(3)	Movement in the Courtroom.	22
	(4)	Colloquy Between Attorneys.	22
	(5)	Leaving the Courtroom.....	22
	(6)	Referring to and Addressing Witnesses and Parties.....	22
1.7		Practice of Law.	22
	(a)	Bar of the Court.	22
	(b)	Ethical Standards.	23
	(c)	Admission to Practice.	23
		(1) Fee Waiver.....	23
	(d)	Oath of Admission.....	23
	(e)	Admission for a Particular Case (Pro Hac Vice).	23
	(f)	Attorney Appointments.....	24
	(g)	Pro Hac Vice Admission Fee.	24

(h)	Nonresident Attorneys.....	24
(i)	Clinical Legal Education.....	24
(1)	Limited Admission.....	25
(A)	By Motion.....	25
(B)	Representation.....	25
(C)	Permitted Activities.....	25
(D)	Application of Rules.....	25
(2)	Eligibility.....	25
(3)	Restrictions.....	26
(4)	Notice.....	26
(5)	Termination.....	27
(6)	Supervising Attorney.....	27
1.8	Attorney Discipline.....	27
(a)	Required Conduct.....	27
(b)	Available Discipline.....	28
(c)	Reciprocal Discipline.....	28
(1)	Duty to Report.....	28
(2)	Discipline.....	28
(d)	Conviction of a Crime.....	29
(1)	Duty to Report.....	29
(2)	Discipline.....	29
(e)	Misconduct in a Case Before This Court.....	30
(1)	Initiation of Grievance.....	30
(A)	Nebraska Supreme Court Counsel for Discipline.....	30
(B)	Chief Judge.....	30
(2)	Procedures for Matters Retained by the Court for Investigation and Prosecution.....	30
(A)	Appointment of Investigatory Counsel.....	31
(B)	Notice and Hearing.....	31
(C)	Confidentiality.....	32
(D)	Recommendation to Chief Judge.....	32
(E)	Imposition of Discipline.....	32
(f)	Temporary Suspension.....	32
(g)	Reinstatement.....	33
(1)	Court Order Required.....	33
(2)	Time of Application.....	33
(3)	Petition for Reinstatement.....	33
(h)	Fees and Costs.....	34
(1)	Disciplinary Proceedings.....	34
(2)	Reinstatement Proceedings.....	34
(i)	Duties of Clerk.....	34
(1)	Service.....	34
(2)	Disciplinary Orders and Notices.....	34

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

GENERAL RULES

1.1 Introduction.

(a) Scope; Title; Citation.

The Court adopts the General Rules of the United States District Court for the District of Nebraska, cited as "NEGenR ____," under Federal Rule of Civil Procedure 83 and Federal Rule of Criminal Procedure 57. These rules apply to civil and criminal court proceedings in this district and regulate the conduct of court personnel, practicing attorneys, parties, and members of the public and the press.

(b) Other Local Rules.

The court has separate local rules of procedure for civil, criminal, and bankruptcy cases adopted under Federal Rule of Civil Procedure 83, Federal Rule of Criminal Procedure 57, and Federal Rule of Bankruptcy Procedure 9029. The local rules of the United States Bankruptcy Court for the District of Nebraska are available at the bankruptcy clerk's office and on that court's website at <https://www.neb.uscourts.gov/>.

(c) Deviations from Rules or Procedures.

Notwithstanding contrary authority, in the interest of justice a judge may deviate from this court's rules or procedures. A deviation supersedes every other rule or procedure.

(d) Definitions.

The following definitions apply.

- (1) "Judge" means any district or magistrate judge serving this district.
- (2) "Court" means "judge" or, collectively, the judges of this district.
- (3) "Clerk" means the clerk or a deputy clerk of this district.
- (4) "Marshal" means the United States Marshal or a deputy marshal of this district.

- (5) "Electronic filing" or "electronically file" means uploading a document directly from a registered user's computer, using the court's Internet-based System to file that document in the court's case file. Electronic filing also includes uploading to the System done by the clerk of a document given to the court in paper format or as a .pdf ("Portable Document Format") file. Sending a document to the court via electronic mail (e-mail) or facsimile transmission (fax) is not electronic filing.
- (6) "Filing" or "file" means "electronic filing" or "electronically file" unless otherwise specified. A paper document is considered filed on the date the clerk receives and file stamps it rather than the date the clerk uploads it to the System.
- (7) "NEF" means "Notice of Electronic Filing."

(e) Availability.

Paper copies of all district court local rules are available from the district court clerk. The court's rules can also be accessed and downloaded from the court's website, <https://www.ned.uscourts.gov/attorney/local-rules>.

1.2 General Information.

(a) Court Sessions.

In Omaha and Lincoln, the court is in continuous session on business days throughout the year. In North Platte, the court is in session during periods set by order as business requires.

(b) Clerk's Official Station.

The clerk's official station is in Omaha. The clerk appoints deputy clerks stationed in Omaha and Lincoln.

(c) Court Personnel's Release of Information.

Court personnel must not disclose without the court's authorization any case information not included in the court's public records.

(d) Fee Prepayment.

Before providing a service, the clerk requires prepayment of all collectible fees prescribed by statute or the Judicial Conference of the United States.

The clerk may require in advance a deposit estimated to cover the requested service. Any unused part of the deposit is returned when the proceeding ends or the service is completed, if the party owes no other fees.

(1) Method of Paying Filing Fees.

A fee required for filing a document in district court is payable to the clerk by credit/debit card, check, money order, or cash. The court does not keep electronic billing or debit accounts for lawyers or law firms.

(e) Credit Card Fee Payment.

(1) In General.

Fee information is available from the clerk and on the court's website at <https://www.ned.uscourts.gov/fees>.

(2) Refunds of Duplicate or Erroneous Fees Paid Electronically by Credit Card.

The clerk may, without motion or application, refund filing fees, full-time attorney admission fees, and pro hac vice admission fees paid online by credit card when the clerk's records demonstrate the fee was erroneously paid (e.g., as in the case of a system error) or is a duplicate. However, if the clerk's records do not clearly demonstrate that the payment was erroneous or a duplicate, then an application to the clerk is required. This limited authority does not otherwise amend the Judicial Conference policy prohibiting filing fee refunds.

(A) Applications to Clerk

(i) Filing Fees and Pro Hac Vice Admission Fees.

To file an application with the clerk for a refund of a filing fee or pro hac vice admission fee paid online with a credit card, the payor must file a Motion – Refund of Fees Paid Electronically in the applicable case explaining the circumstances and stating the requested refund amount. The clerk must authorize the refund request, deny it, or refer it to chambers.

(ii) Full-time Attorney Admission Fees.

To file an application with the clerk for a refund of a full-time attorney admission fee paid online with a credit card, the payor must send an application to the clerk explaining the circumstances and stating the requested refund amount. The clerk must authorize the refund request, deny it, or refer it to chambers.

(B) Review of Denial.

If the clerk denies a refund request, the payor has 7 days to file a motion asking the chief judge to review the denial.

(C) Payment of Refund.

The clerk processes an authorized refund through the electronic credit card system, pay.gov. If the payor's credit card is no longer valid, a refund will be sent to the payor by check. The clerk does not give cash refunds.

(f) Fee Schedules.

Fee schedules are available on the court's website at <https://www.ned.uscourts.gov/fees> or from the clerk.

(g) Mediation.

The court has adopted a Mediation Plan in accordance with 28 U.S.C. § 652, which requires each district to provide litigants in all civil cases with at least one alternative dispute resolution (ADR) process and requires litigants in all civil cases to consider the use of an ADR process at an appropriate stage in the litigation. By means of the Mediation Plan, any district, bankruptcy, or magistrate judge may by order refer a case to mediation when the judge determines the nature of the case and the amount in controversy make resolution of the case by mediation a practical possibility. The court's Mediation Plan and List of Court Approved Mediators are available on the court's mediation webpage at <https://www.ned.uscourts.gov/public/mediation>. Parties settling a case should advise the court if they engaged in mediation.

(h) Judicial Misconduct and Disability Complaints.

Information on filing complaints about a federal judge's behavior is on the Eighth Circuit's website at <https://www.ca8.uscourts.gov/judicial-complaints>.

(i) Persons with Communications Disabilities.

The court is required to provide reasonable accommodations to persons with communications disabilities. Contact the clerk's office at 402.661.7307 to request accommodations.

1.3 Case Filings; Appearance and Withdrawal of Attorneys; Pro Se Litigants.

(a) Electronic Case Filing ("CM/ECF").

The district court uses an electronic case filing ("CM/ECF") system ("System"). Failure to comply with CM/ECF procedures may result in sanctions on an attorney or party. Information about CM/ECF is on the court's website at <https://www.ned.uscourts.gov/attorney/electronic-case-filing>.

(1) Public Access to the System.

Public remote electronic access to the System for viewing purposes is limited to subscribers of the Public Access to Court Electronic Records ("PACER") system, <https://www.pacer.psc.uscourts.gov>. The Electronic Public Access Fee Schedule, which includes information about free access and exemptions, is available on the United States Courts website at <https://www.uscourts.gov/services-forms/fees/electronic-public-access-fee-schedule>.

(A) Restrictions on Remote Access.

(i) Sealed Documents.

A sealed case or document is placed on the System but is not remotely accessible to the public or available at the terminals in the clerk's office unless the court orders the case or document unsealed. See NECivR 7.5; NECrimR 12.5.

(ii) Restricted Access Documents.

Remote access to documents containing personal identifying information protected by the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (Dec. 17, 2002) (codified at 5 U.S.C. §§ 3701-3707 and scattered sections) ("E-Government Act"), is restricted to case participants and court users. Public access to

these documents is not allowed at terminals in the clerk's office. See NECivR 5.3; NECrimR 49.1.1.

(iii) Administrative Documents and Records.

Public access will not be available to the court's internal administrative documents and records filed on the System.

(2) Electronic Orders and Judgments.

All court orders, judgments, and proceedings are filed under these rules, resulting in entry on the clerk's docket. Court personnel file signed orders electronically. Any order or other court-issued document filed electronically with an electronic signature has the same effect as an originally signed, nonelectronically filed document. Orders issued as "text-only" docket entries (*i.e.*, without an attached .pdf document) are also official and binding.

(A) Oral Orders.

Copies of oral orders are distributed electronically as minutes, text-only orders, or .pdf documents.

(B) Notice to Unregistered Users.

The clerk mails paper copies of orders to parties who are not registered users of the System. A paper copy is accompanied by an NEF.

(3) Filing Errors.

Once a document is submitted and becomes part of the case docket, only the clerk may correct the document. The System does not allow the filing party to change a document or its docket entry once a transaction is accepted. If an error is discovered, the filing party should immediately contact the clerk with the relevant case and document numbers. If necessary, the clerk notifies a party to refile a document or file a motion to strike.

(4) Striking .PDF Documents and Text-Only Entries.

The clerk may enter an order striking a .pdf document filed electronically and note in the docket entry of the stricken document

that the document is "STRICKEN" if the document is (A) a duplicate of a document already filed electronically in the same case; (B) filed in the wrong case; (C) empty, upside down or illegible; or (D) related to an application to clerk for refund under NEGenR 1.2(e)(2). The stricken document or entry remains visible and electronically available on the docket unless otherwise ordered by the court. The clerk may also enter an order striking a text-only entry if a court employee uploaded the entry in error.

(5) Technical Failures.

A filing party whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

(b) Registration for CM/ECF.

(1) District Court Registration.

Before electronically filing a document with the court, an attorney or a pro se party (*i.e.*, one not represented by an attorney) to a pending civil case must register for electronic filing with PACER at the following web address: <https://www.pacer.gov/>. See NECivR 5.1; NECrimR 49.1. Electronic filing registration constitutes a party's consent to electronic service and waiver of the right to service by personal service or first class mail. Once registration is complete, a login and password are issued by PACER and serve as part of the user's electronic signature on documents filed on the System. See NECivR 11.1; NECrimR 49.2.

- (A) An attorney must not knowingly facilitate the use of the attorney's password by anyone other than an authorized agent. If an attorney believes that a password's security is compromised and that a threat to the System exists, the attorney must immediately change the password.
- (B) Once registered, an attorney is responsible for all documents filed with the attorney's password.
- (C) An attorney admitted pro hac vice must register for a password with PACER at <https://www.pacer.gov/>.
- (D) If a pro se party retains an attorney who appears in a pending action, only the attorney receives future NEFs.

(2) Withdrawal from System.

A registered user may withdraw from the System by sending the clerk a written notice of withdrawal, either on paper or electronically. Upon receipt, the clerk immediately terminates access in the System. Withdrawal does not constitute authorization to file cases or documents nonelectronically.

(c) Privacy Policy.

Federal rules support compliance with the E-Government Act. See Fed. R. Civ. P. 5.2; Fed. R. Crim. P. 49.1. Parties and their attorneys are responsible under the rules for preventing the disclosure of certain confidential information in case filings. The clerk does not review case filings for compliance or independently redact or seal noncomplying filings.

(d) Attorney Appearances.

An attorney appears in a case by (1) filing a written entry of appearance or signed pleading or (2) personally appearing at a hearing. An attorney who orally enters an appearance must promptly file and serve a written appearance. A written appearance or pleading signed by an attorney must show the attorney's bar number, office address, telephone number, fax number, and e-mail address.

(e) Change of Address, Telephone, Fax, or E-Mail.

An attorney whose address, telephone number, fax number, or e-mail address changes during a pending case must file and serve notice of the change within 30 days.

(f) Withdrawal of Appearance.

An attorney of record may withdraw upon showing good cause, but is relieved of duties to the court, the client, and opposing attorneys only after (1) filing a motion to withdraw, (2) providing proof of service of the motion on the client, and (3) obtaining the court's leave to withdraw.

(g) Proceedings by Persons Without an Attorney (Pro Se).

Unless stated otherwise, parties who proceed pro se are bound by and must comply with all local and federal procedural rules.

(h) Attorney Appointments.

Any indigent pro se civil litigant may file a motion requesting appointment of an attorney. If filed with an original complaint, the motion must be a separate document. Attorneys are appointed under statute, court rule, or in the court's discretion. If an appointed attorney moves to withdraw, the court may appoint a substitute attorney. This rule does not limit the court's authority to appoint an attorney on its own motion.

(i) Communication with Court.

Once an attorney is appointed or retained, all further documents and other communications with the court must be submitted through the attorney, unless the court permits otherwise. Any further pro se documents or other communications submitted to the court may be (1) returned unfiled to the sending party or (2) forwarded to the sending party's attorney.

1.4 Assignment of Judges.

(a) District Court.

(1) Dockets.

As determined by the majority of the active district judges, the court maintains various dockets generally defined by geography or the nature of the case. Not all judges participate in each docket. A judge who participates in a docket may not necessarily receive cases in the same proportion as other participating judges. The chief judge, after consulting with the other active district judges, determines the judges selected to participate in one or more of these dockets and the proportion of participation.

(2) Assignment Method.

Unless these rules state or the chief judge directs otherwise, the clerk randomly assigns cases from each docket to the participating judges. However, under the chief judge's direction after consulting with the other active district judges, a magistrate judge may be paired with a district judge on a nonrandom basis. See NECivR 73.1 (assignment of civil cases to magistrate judges for trial). In interpreting this rule, the chief judge's decision is final.

(3) Reassignments.

(A) District Judges.

The chief judge, with the assigned district judge's consent, may reassign a case to another district judge due to personal disqualification of the assigned district judge or other good cause. If the assigned district judge is disabled and unable to consent to reassignment, the chief judge may reassign the case without the district judge's consent. If the chief judge is disqualified or disabled, the reassignment authority passes to the active status district judge then available and next senior in service. If all active status district judges are disqualified or disabled, the reassignment authority passes to the senior status district judge then available and most senior in service. If all district judges are disqualified or incapacitated, and if a visiting judge has been designated for service in this district, the reassignment authority passes to the visiting judge.

(B) Magistrate Judges.

The assigned district judge may reassign the reference on the case from one magistrate judge to another magistrate judge due to the assigned magistrate judge's personal disqualification or other good cause.

(C) Clerk.

The clerk is authorized to reassign a civil case to:

- (i) a referral magistrate judge when the civil case is originally assigned to an Article III judge and all parties voluntarily consent to reassignment in writing in the Rule 26(f) report or otherwise; and
- (ii) a randomly-drawn district judge when the case was originally assigned to a magistrate judge as the presiding judge and all parties do not timely consent in writing to the disposition of the case by a magistrate judge. When necessary, the clerk may also assign a magistrate judge to the case for judicial supervision and processing of pretrial matters.

(D) Visiting Judges.

The assigned district judge or the chief judge, with the consent of the assigned district judge, may reassign a case to a visiting

district judge designated for service in this district. If the assigned district judge is disabled and unable to consent to reassignment, the chief judge may reassign a case without the district judge's consent.

(4) Related Cases.

(A) Notification.

Attorneys of record must notify the court that a case is or may be related to another pending or closed case in this court. Failure to notify the court may result in sanctions on attorneys and parties. Accordingly,

- (i) in civil cases, on the "open unassigned case" screen, the filer should enter "USDC-NE" in the "other court" name field and the number of the related case in the "other court number" field;
- (ii) in criminal cases, the filer should enter the number of the related case in the "Related to" field on the criminal cover sheet; and
- (iii) after filing, an attorney of record who learns that a case is or may be related to another pending or closed case in this court must inform the clerk and the chief judge by electronically filing a notice of related cases.

(B) Assignments.

- (i) If a case is noted as related on the criminal cover sheet or on the civil case opening screen when filed, the clerk assigns it to the district judge who handled the earlier pending or closed case, and the clerk docketed a public text-only remark stating that the case was noted as related on the criminal cover sheet or civil case opening screen.
- (ii) If at any time after case opening and judge assignment a judge assigned to a case determines that the case is or may be related, the judge informs the chief judge. If the chief judge determines the cases are related, the chief judge orders reassignment of the higher numbered case(s) to the district judge with the lowest

numbered case unless good cause exists for not ordering the reassignment.

(C) "Related" Cases Defined.

- (i) Open or closed criminal cases are related when some or all of the charges arise from the same general set of events. A new criminal case is related to a previous open or closed criminal case involving the same defendant when the new case arose during a period of incarceration, supervised release, probation or pretrial release based on or in the course of the previous case. A superseding indictment or information is related to the superseded indictment or information.
- (ii) Open or closed bankruptcy appeals are related when they involve some or all of the same property or the same debtor(s).
- (iii) Open or closed civil cases are related when they involve some or all of the same issues of fact, arise out of the same transaction, or involve the validity or infringement of the same patent.
- (iv) Civil cases are not related to criminal cases.

(D) Challenges.

Motions challenging operation of this rule under Nebraska General Rule 1.4(a)(7) must be made within 14 days of a defendant's original answer date.

(5) The Nebraska Docket.

(A) Applicable Cases.

Except for cases challenging the death penalty under 28 U.S.C. § 2254, cases in which North Platte is designated as the place of trial, and cases involving social security or bankruptcy appeals, civil cases are placed on one docket called the "Nebraska docket" if:

- (i) the State of Nebraska or any of its agencies are named defendants in the original complaint;

- (ii) a named defendant in the original complaint is being sued for acts or omissions that allegedly occurred while the defendant was allegedly an employee of the State of Nebraska or one of its agencies;
- (iii) the plaintiff is the United States of America;
- (iv) the plaintiff is pro se when the case is filed; or
- (v) the plaintiff is a prisoner in state custody when the case is filed.

(B) Application Notes.

- (i) An "agency" of the State of Nebraska does not include local political subdivisions such as cities or counties, natural resource districts, public power districts, or similar entities.
- (ii) Motions filed under 28 U.S.C. § 2255 are not civil cases for purposes of this rule.
- (iii) If the clerk does not know if a case is properly placed in the Nebraska docket, the clerk may ask the chief judge, whose decision is final.

(C) Place of Trial.

The district judge handling a Nebraska docket case may try the case in Omaha or Lincoln, regardless of the place designated for trial, after considering the convenience of the parties, lawyers, witnesses, and other related matters.

(D) Jury Selection.

All juries in Nebraska docket cases are selected from the jury pool used where the case is tried.

(6) Death Penalty Cases.

(A) Location of Proceedings.

The assigned district judge may decide the location of all

proceedings, regardless of the location designated for trial.

(B) Stay of Execution.

If the assigned district judge is absent or unavailable to consider a motion for a stay of execution, any district judge may rule on the motion.

(C) Judge Assignment.

When assigning a death penalty habeas corpus case, the clerk will exclude from random assignment any judge who has two or more pending death penalty habeas corpus cases. This rule has been adopted to conform to the policy of the Eighth Circuit Judicial Council's Death Penalty Committee, which provides that "no district judge should be charged with the disposition of more than two death penalty habeas cases at any one time."¹

(7) Challenges.

All motions challenging the operation or seeking avoidance or restraint of this rule must be made to the chief judge or, if the chief judge is disqualified or disabled, to the district judge then available and next senior in service.

(8) Sanctions.

No person may (a) reveal the sequence of district or magistrate judges' names within a docket or any rotation randomly determined; (b) assign any case other than as stated in this rule or ordered by the court; or (c) directly or indirectly cause, or attempt to cause, any person to (i) reveal the sequence of district or magistrate judges' names within a docket or rotation randomly determined, or (ii) assign any cases other than as stated in this rule or ordered by the court. The court will sanction any person violating this provision with criminal contempt.

(b) Bankruptcy Court.

¹ In a Memorandum dated May 19, 2017, Eighth Circuit Judge Bobby Shepherd, in consultation with the Ad Hoc Committee on Death Penalty Cases, explained that a death penalty habeas case on appeal does not count toward a judge's two cases. In addition, the policy does not apply to non-habeas cases such as ancillary proceedings or other civil cases challenging the method of execution.

(1) Assignment Method.

From time to time, the bankruptcy judges adopt a general policy concerning case assignment for implementation by the clerk. The general policy varies on a case-by-case basis at the judges' discretion based on a number of factors including the judges' relative workload, conflicts of interest, and recusals. When a petition is filed, the bankruptcy court clerk assigns the case to a judge.

(2) Subsequent Filings.

After the bankruptcy court assigns a case, subsequent documents must be filed in the bankruptcy court clerk's office in the assigned judge's location.

(3) Place of Hearings.

The clerk and the assigned judge determine the location of hearings in a bankruptcy case.

(4) Reassignments.

If the assigned bankruptcy judge is disabled and unable to consent to the reassignment of a case, the chief bankruptcy judge may reassign the case without consent. If the chief bankruptcy judge is disqualified or disabled, the reassignment authority passes to the next senior bankruptcy judge. If all bankruptcy judges are disqualified or disabled, the reassignment authority passes to the chief district judge.

1.5 Bankruptcy Cases.

(a) Reference to Bankruptcy Court.

All cases under Title 11 of the United States Code, and all proceedings arising under Title 11 or related to a case brought under Title 11, are referred to the bankruptcy court of this district under 28 U.S.C. § 157.

(1) Civil Cases.

Upon the filing of a suggestion in bankruptcy, or other notification that a defendant in a civil case is a debtor in a bankruptcy case, the court issues an order staying further proceedings in the case as to the

party in bankruptcy. The case may proceed as to any parties not in bankruptcy. If any party files a motion requesting referral of the case to the bankruptcy court, the case is referred to the bankruptcy court for further action. Upon receiving the referral, the bankruptcy judge requests status reports from the parties. After reviewing the status reports, the bankruptcy judge determines whether the case should proceed in bankruptcy court or be returned to district court. If the case is to be returned to district court, the bankruptcy judge files a report and recommendation concerning withdrawal of the reference. The report includes a recommendation regarding the necessity of the debtor's participation in the case, and, if appropriate, the bankruptcy judge enters an order in the bankruptcy case granting relief from the automatic stay to allow the case to proceed with the debtor as a party.

(2) Criminal Cases.

Upon notice to the court that a defendant in a criminal case is a debtor in a bankruptcy case, the district court may refer to the bankruptcy court questions about: restitution; forfeiture of assets, which may be property of the bankruptcy estate; or other monetary penalties. The bankruptcy judge responds with a recommendation related to the estate issues.

(b) Withdrawal of Reference.

The district court may withdraw, in whole or in part, a reference under this rule on its own or a party's timely motion.

(1) Motions for Withdrawal.

Motions for withdrawal of reference must be filed with the bankruptcy court clerk. The district court refers motions for withdrawal of reference to the bankruptcy court for a report and recommendation, except as stated in Nebraska General Rule 1.5(b)(7).

(2) Report and Recommendation; Objections.

When a motion for withdrawal of reference is filed, a bankruptcy judge after notice and hearing files a report and recommendation with the bankruptcy and district courts. The district court may adopt the report and recommendation if the parties file no objections within 14 days of service. Parties must file any objections to the report and recommendation with both the bankruptcy and district courts.

(3) Assignment of District Judge.

When the bankruptcy judge files the report and recommendation with the district court, the motion for withdrawal of reference and the bankruptcy court's report and recommendation are assigned to a district judge under Nebraska General Rule 1.4(a)(2) and any applicable general order regarding assignment of district judges. The assigned district judge rules on the motion to withdraw. A motion for withdrawal of reference does not stay any bankruptcy matter pending before a bankruptcy judge, unless a district judge or a bankruptcy judge issues a stay.

(4) Hearing on Objections.

If the assigned district judge holds a hearing on objections to the report and recommendation, the order setting the hearing is filed in both the district and bankruptcy courts.

(5) Order of Withdrawal.

If the district court withdraws the reference, the order is filed in both the district and bankruptcy courts. The district court clerk notices interested parties. When the bankruptcy court clerk receives a withdrawal order, the bankruptcy court clerk delivers to the district court clerk a transmittal letter with a list of the bankruptcy or adversary documents necessary for the district court proceeding.

(6) Denial of Motion.

If the district court denies a motion for withdrawal of reference, the order is filed in both the district and bankruptcy courts.

(7) Bankruptcy Judges Disqualified or Incapacitated.

If all bankruptcy judges are disqualified or incapacitated, the bankruptcy court clerk refers motions for withdrawal of reference to the district court clerk. The motion for withdrawal of reference is then assigned to a judge under Nebraska General Rule 1.4(a)(2) and any general order regarding assignment of judges. After conducting any necessary proceedings, the assigned judge rules on the motion to withdraw.

(c) Appeals from Bankruptcy Court Decisions.

Appeals from bankruptcy court decisions must comply with 28 U.S.C. § 158 and federal and local bankruptcy rules.

(d) Jury Trials.

If the right to a jury trial applies in a bankruptcy proceeding, the district judges specifically designate the bankruptcy judge to exercise the jurisdiction to conduct jury trials in bankruptcy cases and adversary proceedings with the consent of all parties.

1.6 Public Security and Conduct in Courthouse and Courtroom.

(a) General Conduct.

No person may loiter, sleep, or act in an abusive or disorderly manner.

(b) Entering and Leaving Building, Courtroom, or Corridor.

Persons must enter or leave the building, courtroom, or building corridor only through doorways designated by court security officers. Persons may be required to show court security officers a valid photo ID to enter the courthouse.

(c) Weapons and Destructive Devices.

No person, except federal, state, county, and city law enforcement officers and federal probation and pretrial services officers authorized to carry weapons in performing their duties, may possess or cause to be brought into a courthouse any weapon, destructive device, or related component. The marshal may prohibit or otherwise regulate firearm possession by other law enforcement officers and federal probation and pretrial services officers within a courthouse. Except for law enforcement officers and federal probation and pretrial services officers with specific, prior authorization from the marshal to possess or carry a weapon in the courthouse, all persons, including attorneys, are subject to (1) a search of their persons and possessions for any weapon, destructive device, or related component, and (2) a security officer's determination that persons do not possess any weapon, destructive device or related component, as a condition to enter the courthouse.

(d) Food and Tobacco.

Unless the presiding judge authorizes otherwise, no person may eat food

or use tobacco in a courtroom.

(e) Electronic Devices.

The following provisions govern the use and admission of electronic devices into the courthouse. Electronic devices covered by these provisions include, but are not limited to: cellular phones; smartphones (iPhones, Android devices, and other mobile phones that perform many of the functions of a computer); tablets; laptop computers; devices that wirelessly connect to and pair with computers and smartphones to transmit data (including smart watches, earpieces, headphones, fitness trackers, and smart glasses); audio recorders; still cameras; and video cameras.

(1) Admission of Electronic Devices.

Only federal employees with agency identification, attorneys with bar cards, and jurors with summonses may bring an electronic device into the courthouse. Other visitors must leave their electronic devices outside the courthouse or with the court security officers at the security screening station, unless allowed by a judge assigned to the case.

(2) Cameras and Other Image/Video Electronic Devices.

(A) Use Prohibited.

No person may photograph, record, videorecord, televise, or cause to be photographed, videorecorded, televised, or send images or sounds of any person or thing in a courtroom, jury room, building corridor on the floor on which a courtroom or jury room is located, or judge's chambers. The term "televise" includes Internet broadcasting.

(B) Placement Prohibited.

No person may place or cause to be placed any electronic device at any location from which it is capable of photographing, video recording, or televising any person or thing in a courtroom, jury room, building corridor on the floor on which a courtroom or jury room is located, or judge's chambers. Court security officers may prohibit related equipment from being brought into the courthouse.

(3) Sound Recording and Broadcasting Electronic Devices.**(A) Use Prohibited.**

No person may record or broadcast or cause to be recorded or broadcast any sounds of proceedings or take any recording or broadcasting equipment into a courtroom, a jury room, or a judge's chambers. The term "broadcast" includes Internet broadcasting.

(B) Placement Prohibited.

No person may place or cause to be placed any electronic device at any location from which the device could record or broadcast sounds of proceedings in a courtroom, jury room, or judge's chambers. Court security officers may prohibit related equipment from being brought into the courthouse.

(C) Exemptions.

This subparagraph (3) does not apply when:

- (i) the presiding judge authorizes electronic means to present evidence or perpetuate a record;
- (ii) the presiding judge authorizes courtroom audio to be transmitted to the judge's chambers; or
- (iii) the presiding judge of a ceremonial proceeding approves the use of specifically identified electronic devices for the sound recording or broadcasting of the proceeding.

(4) Electronic Devices in Courtroom.**(A) No Audible Signals in Courtroom.**

Electronic devices must be turned off or silenced before entering a courtroom.

(B) Use Prohibited.

No person may use an electronic device in a courtroom during

a judicial proceeding without the presiding judge's permission.

(f) Spectator and News Media Seating.

On days of judicial proceedings, a security officer may reserve for members of the news media and spectators designated areas in the courtrooms for seating, and all persons must abide by the designation. The term "news media" includes sketch artists. Sketch artists may attend judicial proceedings unless the presiding judge restricts their attendance. Seating not designated for the media is available to spectators on a first-come, first-served basis. When all regular spectator seats except those reserved for the news media are filled, only seated persons may remain as spectators. No seats are reserved for spectators or members of the media leaving the courtroom after having been admitted. Only court personnel, attorneys of record, and other persons specifically authorized by the court may be in the well of the courtroom. A pass system may be instituted by which some spectator seats in the courtroom may be equitably allocated to persons receiving passes from the court and the parties. If a pass system is instituted, those spectator seats not covered by passes from the court or the parties are available to spectators on a first-come, first-served basis.

(g) Enforcement.

The marshal and other United States security personnel authorized by law or deputized must enforce Nebraska General Rule 1.6(a)-(g) and take violators into custody and promptly bring a violator before a judge. The marshal and other United States security personnel may also seize equipment from violators.

(h) Exemption From or Interpretation of This Rule.

A person seeking an exemption from or interpretation of Nebraska General Rule 1.6(a) (h) should present a request to the officer in charge of security, who may present it to a judge.

(i) Attorney Courtroom Decorum.

(1) Addressing the Court.

Attorneys must stand when addressing or being addressed by the court. When objecting, attorneys need not stand unless directed by the court. In courtrooms in which digital recording is used to make the record, attorneys must sit when addressing or being addressed by the court so that microphones on the counsel tables can record

their voices.

(2) Examination of Witnesses.

Unless necessary to approach a witness or an exhibit, attorneys must examine witnesses from the counsel table or lectern. When examining witnesses from a lectern, an attorney must stand close to the lectern and with the lectern between the attorney and the witness. When examining witnesses from the counsel table, attorneys must sit or stand immediately next to the counsel table.

(3) Movement in the Courtroom.

Except to make an opening statement or closing argument, an attorney must not approach opposing counsel, the bench, a witness, the court reporter, courtroom deputy, the law clerk, or otherwise move from the counsel table or lectern without the court's permission. If an attorney must move often during a trial, upon request the court may grant continuing leave to make specified approaches.

(4) Colloquy Between Attorneys.

Attorneys may not audibly or inaudibly communicate with each other without the court's permission.

(5) Leaving the Courtroom.

Attorneys, including cocounsel, must have the court's permission to leave the courtroom. Cocounsel may have continuing permission to leave the courtroom at any time, although no attorney should leave during the testimony of a witness whom that attorney has examined.

(6) Referring to and Addressing Witnesses and Parties.

Witnesses and parties must be referred to and addressed by their surnames, unless the court grants leave to do otherwise.

1.7 Practice of Law.

(a) Bar of the Court.

The bar of this court consists of persons admitted to practice before the court. See NEGenR 1.7(c).

(b) Ethical Standards.

An attorney who is admitted to practice in this court must comply with the Nebraska Rules of Professional Conduct and this court's local rules. See NEGenR 1.8.

(c) Admission to Practice.

An attorney admitted and licensed to practice before the highest court of any state may apply for admission to practice in this court. The request must be submitted through PACER at the following web address: <https://www.pacer.gov/>. The attorney must read and acknowledge the oath in subsection 1.7(d) of this section and pay the prescribed fee. Once the clerk has verified the attorney's admission to the bar of the state identified on the application, the clerk will issue a certificate of admission and add the applicant's name to the attorney roll.

(1) Fee Waiver.

Attorneys employed with federal agencies are not required to pay the admission fee, but must still apply for admission to the court's bar as prescribed in subsection 1.7(c).

(d) Oath of Admission.

An applicant for admission to this court's bar must swear, affirm, or acknowledge the following:

As an officer of the United States District Court for the District of Nebraska I will demean myself faithfully, uprightly, and according to law; and I will support, uphold, and defend the Constitution of the United States of America.

(e) Admission for a Particular Case (Pro Hac Vice).

An attorney admitted and licensed to practice before the highest court of any state may apply in writing to practice in this court for a particular case. An initial request to proceed pro hac vice in this court must be submitted through PACER at the following web address: <https://www.pacer.gov/>; then, a motion filed in the applicable case. Unless directed otherwise, attorneys making subsequent appearances pro hac vice in this court need only file a

motion in the applicable case. The clerk will verify the attorney's admission to the bar of the state identified on the motion. An attorney admitted pro hac vice must read and acknowledge the oath in subsection 1.7(d) of this section.

(f) Attorney Appointments.

A judge may appoint any member of this court's bar to represent indigent litigants. Appointed attorneys may request authorization to incur expenses under the Criminal Justice Act, 18 U.S.C. § 3006A, or the Amended Plans for Administration of the Federal Practice Fund and the Federal Practice Committee, <https://www.ned.uscourts.gov/plans-and-policies>. Appointed attorneys may not, however, contract with the litigant for the payment of attorney fees for professional services without the court's explicit prior approval.

(g) Pro Hac Vice Admission Fee.

In civil cases the only source of funds available to reimburse appointed attorneys for reasonable expenses incurred in representing an indigent litigant is the Federal Practice Fund, <https://www.ned.uscourts.gov/internetDocs/pom/crtplans/fedpract.pdf>. To ensure that the fund will cover these expenses, the court charges a pro hac vice fee to attorneys seeking to be admitted pro hac vice. The proceeds of this fee are used to defray the cost of maintaining a roll of attorneys admitted to practice before this court and for the Federal Practice Fund. Failure to pay the pro hac vice fee is cause to deny an attorney admission to proceed pro hac vice.

(h) Nonresident Attorneys.

A judge may require an attorney who is not a resident of this district to associate with an attorney who is both a resident of this district and a member of this court's bar. This resident attorney's name must be identified on all documents filed thereafter and that attorney must continue in the case unless another resident attorney makes an appearance. The resident attorney need not be present in court during all proceedings unless the court orders otherwise. The resident attorney must have full authority to act for and on behalf of the client in all matters, including appearing at pretrial conferences, trial, or any hearings.

(i) Clinical Legal Education.

(1) Limited Admission.**(A) By Motion.**

An eligible law student acting under a supervising attorney may be admitted to the limited practice of law in this court on the supervising attorney's motion.

(B) Representation.

- (i) An eligible law student may represent the United States in both civil and criminal matters.
- (ii) If a supervising attorney and the client give written consent, an eligible law student may represent the client in any civil or criminal matter.

(C) Permitted Activities.

The eligible law student may, under the conditions stated below, interview, advise, hold consultations, and prepare and sign documents for filing. The eligible law student may participate orally in contested and uncontested matters, including trials.

(D) Application of Rules.

The eligible law student is bound by all of this court's rules applicable to the supervising attorney in the case in which the law student is participating.

(2) Eligibility.

To be eligible to appear and participate a law student must:

- (A) be a student enrolled and in good standing in a law school approved by the American Bar Association. A law student is considered enrolled during the student's law school's summer vacation after completion of the requirements of Nebraska General Rule 1.7(i)(2)(B);
- (B) have completed 4 semesters of legal study or the equivalent if the law school is not on a semester basis;

- (C) file with the clerk:
 - (i) a law school dean's certificate stating that the student is of good moral character, meets the requirements in Nebraska General Rule 1.7(i)(2)(A) and (B), and is qualified to serve as a legal intern. The certificate must be in a court-approved form and is effective for 12 months after it is filed or until the student's graduation from law school, whichever is earlier; and
 - (ii) a notice of appearance in each case in which the student participates or appears as a law student intern. The notice must be in a court-approved form and signed by the supervising attorney, the student intern, and the client or authorized representative;
- (D) be introduced to the court in which the student appears by an attorney admitted to practice in this court; and
- (E) receive the court's affirmative consent for the student to appear before it.

(3) Restrictions.

A law student admitted under these rules may not:

- (A) request or receive compensation or remuneration of any kind directly from the client. This restriction does not prevent the supervising attorney or the attorney's law firm, a law school, a public defender, or any government agency from compensating the law student, or prevent any firm or agency from charging for its services as it may otherwise properly charge;
- (B) appear in court without the supervising attorney; or
- (C) file any documents the student prepared that were not read, approved, and signed by the supervising attorney and cosigned by the student.

(4) Notice.

A supervising attorney who intends to use a student attorney under this rule in a contested matter must notify the court and opposing

counsel before the matter is scheduled to begin. If the court decides the student attorney's participation would be inappropriate, the court will advise the supervising attorney and the student attorney may not appear.

(5) Termination.

A student attorney's certification terminates if the student attorney (A) does not take the first bar examination after graduation, (B) takes the examination and fails it, or (C) is admitted to full practice before this court. The student attorney's law school dean or the supervising attorney may withdraw the certification at any time by submitting a notice to the clerk. The notice need not state the cause for the withdrawal. A judge may also terminate a student attorney's admission to limited practice at any time without notice, hearing, or showing of cause.

(6) Supervising Attorney.

Any person acting as a supervising attorney under this rule must be admitted to practice in this court and must also:

- (A) assume personal professional responsibility for the conduct of the student being supervised;
- (B) cosign all documents prepared by the student;
- (C) advise the court of the student's participation under Nebraska General Rule 1.7(i)(4), be present with the student at all times in court, and be prepared to supplement oral or written work of the student as the court requests or as necessary to ensure the client's proper representation; and
- (D) be available for client consultation.

1.8 Attorney Discipline.

(a) Required Conduct.

An attorney who is admitted to practice in this court must comply with the Nebraska Rules of Professional Conduct, which are adopted as the rules of this court, and the local rules of this district, including the court's local rules that address attorney conduct and discipline. An attorney commits

misconduct by failing to comply with the Nebraska Rules of Professional Conduct.

(b) Available Discipline.

The court may discipline any attorney who is admitted to practice before the court or is admitted for a particular proceeding. Such discipline may include, but is not limited to, disbarment, suspension, public reprimand, private admonition, or sanctions. This rule does not limit the court's inherent, statutory, or other authority to control its proceedings, including through civil or criminal contempt proceedings.

(c) Reciprocal Discipline.

(1) Duty to Report.

An attorney admitted to practice in this court must promptly report the following in writing to the clerk: disbarment, suspension, public reprimand, or other public discipline imposed by any other court or jurisdiction. The attorney's report must include a copy of the judgment or order imposing the discipline.

(2) Discipline.

- (A) An attorney admitted to practice in this court is subject to discipline if the attorney is publicly disciplined by any other court.
- (B) An attorney who is publicly disciplined by any other court must be given written notice by the chief judge, or by a district judge designated by the chief judge, that the court intends to impose the same discipline as the other court. The notice must identify the ground for imposing reciprocal discipline and provide the attorney an opportunity to show cause, within the time prescribed by the notice, why the attorney should not be disciplined.
- (C) A final adjudication in another court that the attorney has been found guilty of misconduct leading to discipline shall establish conclusively the conduct for the purposes of proceeding in this court. The chief judge, or a district judge designated by the chief judge, imposes the same discipline as that imposed by the other court unless the attorney carries the burden of showing that such prior action lacked due process.

(d) Conviction of a Crime.**(1) Duty to Report.**

An attorney admitted to practice in this court must promptly report the following in writing to the clerk: any conviction of committing, attempting to commit, conspiring to commit, or aiding another to commit:

- (A) Any crime punishable by incarceration for more than one year; or
- (B) Any crime that includes as a necessary element false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, or theft.

(2) Discipline.

- (A) Unless the court orders otherwise, an attorney admitted to this court who is convicted of a crime set forth in NEGenR 1.8(d)(1) must immediately cease practicing before this court pending further action by the court. This must occur regardless of whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, and regardless of whether the charge resulted in a suspended imposition of sentence.
- (B) An attorney who is convicted of a crime set forth in NEGenR 1.8(d)(1) must be given written notice by order of the chief judge, or by a district judge designated by the chief judge, that:
 - (i) the attorney is suspended from practicing in this court pending final disposition of a disciplinary proceeding; and
 - (ii) the attorney must explain why he or she should not be disbarred.
- (C) An attorney who fails to respond to the order within the time prescribed will be disbarred. Otherwise, the chief judge, or a district judge designated by the chief judge, may take any

appropriate disciplinary action, including disbarment, against the attorney.

- (D) A judgment of conviction of an attorney for any crime set forth in NEGenR 1.8(d)(1) shall establish conclusively the commission of that crime for the purposes of proceeding in this court.

(e) Misconduct in a Case Before This Court.

(1) Initiation of Grievance.

Grievances alleging an attorney has violated the Nebraska Rules of Professional Conduct in a case before this court may be filed directly with the Nebraska Supreme Court Counsel for Discipline or with the chief judge of this court.

(A) Nebraska Supreme Court Counsel for Discipline.

To file a grievance with the Nebraska Supreme Court Counsel for Discipline, complainants should follow the procedures set forth by the Nebraska Supreme Court for investigation and prosecution of violations of the Nebraska Rules of Professional Conduct.

(B) Chief Judge.

Complainants may file a written grievance with the chief judge by following the procedures set forth on the court's website. The chief judge will review the grievance and determine whether the grievance should be dismissed, pursued further, or referred to the Nebraska Supreme Court Counsel for Discipline.

If the chief judge determines that the grievance should be retained by the court for investigation and prosecution, he or she may self-assign the matter or refer it to another judge. However, if the chief judge initiates the grievance, he or she must refer the matter to another judge. A judge who presents a written grievance may not be assigned to preside over the disciplinary proceeding.

(2) Procedures for Matters Retained by the Court for Investigation and Prosecution.

(A) Appointment of Investigatory Counsel.

The chief judge or assigned judge may appoint investigatory counsel to investigate and advise the judge as to whether disciplinary proceedings should be initiated. Investigatory counsel, if assigned, must provide the judge with a written report containing a recommendation as to whether the judge should initiate disciplinary proceedings.

(B) Notice and Hearing.

- (i) If, after reviewing the record, the assigned judge determines that the matter should not be pursued, he or she will inform the chief judge.
- (ii) If the assigned judge concludes that a disciplinary proceeding should be conducted, he or she will issue an order to show cause to the attorney explaining the alleged misconduct and inviting the attorney to show cause why he or she should not be disciplined. The notice shall be sufficiently clear and specific to inform the attorney of the alleged misconduct.
- (iii) The attorney will be afforded at least 30 days to present any objections and show cause why discipline should not be imposed.
- (iv) The attorney may request a hearing and choose to be represented by counsel at his or her own expense.
- (v) During the hearing, if one is requested, or in the attorney's response to the order to show cause, the attorney may submit any evidence or statements to rebut the grievance.
- (vi) If a hearing is requested, the judge may appoint disciplinary counsel to prosecute the matter. An attorney who served as investigatory counsel may serve as disciplinary counsel. Disciplinary counsel may introduce evidence, call witnesses, and cross-examine any witness called by the respondent-attorney. Likewise, the respondent-attorney may testify,

introduce evidence, call witnesses, and cross-examine any witness called by disciplinary counsel.

- (vii) The court may impose discipline only after the respondent-attorney is afforded the opportunity to present evidence and argument in rebuttal and/or mitigation.
- (viii) If the attorney fails to file a timely response to the order to show cause, the assigned judge will review the record and determine whether the imposition of discipline is warranted.

(C) Confidentiality.

During the pendency of the disciplinary proceedings, the allegations and other records of the proceeding will remain confidential and will not be made a part of the public record.

(D) Recommendation to Chief Judge.

Within a reasonable time after the hearing, if one has been requested, or after receiving the attorney's response to the order to show cause, the assigned judge shall make findings of fact and conclusions of law and recommend the disciplinary action, if any, to be taken. The assigned judge will transmit his or her findings of fact and conclusions of law, recommendation, and the record to the chief judge.

(E) Imposition of Discipline.

The chief judge will review the documents transmitted by the assigned judge and determine whether discipline should be imposed and if so, the appropriate discipline. If the chief judge initiated the grievance, then the matter shall be referred to another judge for review and a determination. The appropriate disciplinary sanction to be imposed is within the court's discretion. However, in determining the proper disciplinary sanction, the court may refer to the American Bar Association Standards for Imposing Lawyer Sanctions or seek guidance from the Nebraska Supreme Court Counsel for Discipline.

(f) Temporary Suspension.

The chief judge or his or her designee may temporarily suspend or restrict an attorney's right to practice pending a final determination of a disciplinary proceeding if evidence establishes probable cause to believe the attorney has committed misconduct and evidence establishes the attorney poses a threat of serious harm to the public, to any person, or to the administration of justice.

(g) Reinstatement.

(1) Court Order Required.

An attorney who has been suspended or disbarred from practice before this court may not resume practice before the court until reinstated by order of the court.

(2) Time of Application.

- (A) An attorney who has been suspended from practice before this court may apply for reinstatement but not before the end of his or her term of suspension.
- (B) An attorney who has been disbarred may apply for reinstatement but not before five years from the effective date of the disbarment.
- (C) An attorney who has been suspended or disbarred from practice pursuant to the provisions of 1.8(c) (Reciprocal Discipline) may apply for reinstatement based upon a change of the attorney's status in the jurisdiction whose imposition of discipline was the basis for the imposition of reciprocal discipline by the court.

(3) Petition for Reinstatement.

- (A) Petitions for reinstatement must be filed with the clerk in paper format. The petition must include a copy of this court's prior order of suspension or disbarment, a copy of an order of reinstatement from another jurisdiction (if applicable), and a concise statement of facts claimed to justify reinstatement. Petitioners for reinstatement after disbarment must also apply for admission to practice in this court and pay the prescribed fee.

- (B) The petitioner has the burden of demonstrating that he or she is qualified and able to practice law before the court and that the circumstances that led to the suspension or disbarment have changed.
- (C) The chief judge will consider the petition for reinstatement or refer it to another judge designated by the chief judge. After consideration, the court will enter an appropriate order.

(h) Fees and Costs.

(1) Disciplinary Proceedings.

The court may assess fees and costs against an attorney if the court finds that the attorney committed misconduct.

(2) Reinstatement Proceedings.

The court may assess fees and costs against an attorney petitioning for reinstatement, whether the petition is granted or denied.

(i) Duties of Clerk.

(1) Service.

The clerk will serve documents issued by the court under this rule by first class mail to the respondent or respondent's attorney.

(2) Disciplinary Orders and Notices.

- (A) Any order of discipline, except for non-public forms of discipline, will be published by the clerk to the court's external website at the following web address: <https://www.ned.uscourts.gov/attorney/attorney-discipline>. The clerk will maintain all other records as sealed records.
- (B) The court will provide copies of all public orders imposing discipline to the Clerk of the United States Bankruptcy Court for the District of Nebraska, the Clerk of the United States Court of Appeals for the Eighth Circuit, the Nebraska State Bar Association, and the American Bar Association National Lawyer Regulatory Data Bank.