

Proposed BBO rule on remote witness testimony

Proposed BBO Rules § 3.29. Add a new subsection (c) to BBO Rules § 3.29:

(c) Hearing Testimony by a Witness from a Remote Location.

- (1) In General. For good cause shown, which shall include but not be limited to the unavailability of a witness who is ill or beyond subpoena power, or for whom travel to the hearing would impose an undue hardship, the parties may agree, or the Board, hearing committee, hearing panel, or special hearing officer may order, that a witness may testify at a hearing by contemporaneous transmission from a different location.
- (2) Appropriate safeguards. An order allowing remote live testimony may impose such appropriate safeguards as are deemed necessary. The notary public or other such person, authorized to administer oaths, must be present at the witness's location to verify the witness's identity and to swear in the witness (and if necessary, any translator or interpreter for the witness).
- (3) Responsibilities of the offering party. It shall be the responsibility of the party offering the remote witness to (1) arrange for the notary public or other officer at the location of the remote witness; (2) provide for the appropriate means of secure and stable two-way audio and visual communication between the remote witness and the hearing room; (3) provide a mechanism for the remote witness to be shown, and asked questions about, exhibits, proposed exhibits, chalks, or other documents or materials; and (4) provide, if necessary, any translator or interpreter for the witness.

Section 3.51 Content and Form of Briefs on Appeal

(a) Briefs on Appeal.

(1) The briefs on appeal shall contain:

(i) A short statement of the case.

(ii) A summary of the basic position of the party filing.

(iii) The grounds upon which the appeal rests.

(iv) The argument in support of the appeal with appropriate references to the record and legal authorities.

(2) There may also be included specific findings and conclusions proposed in lieu of those from which the appeal is being taken and any proposed additional findings and conclusions.

(3) Appeal from a recommended disposition shall specify the portions thereof from which the appeal is being taken, and may set forth a disposition suggested in lieu of that recommended by the hearing committee, hearing panel, or special hearing officer.

(b) Briefs Opposing Appeals. Briefs opposing appeals shall generally follow the same style prescribed for briefs on appeal, but may omit a statement of the case so far as it is correctly stated in the brief on appeal.

(c) Format and Number of Briefs. One original of each brief shall be filed with the Board and a copy served on the opposing party. Briefs shall be stapled, not bound.

Section 4.1 Resignation by Lawyers under Disciplinary Investigation

A lawyer who wishes to resign in accordance with Supreme Judicial Court Rule 4:01, Section 15, may reach an agreement with Bar Counsel on the language of an affidavit of resignation, which shall be filed with the Board along with a recommendation from Bar Counsel (including information sufficient to explain the recommendation) as to whether the facts admitted would typically result in disbarment or if they would typically result in a lesser public sanction. In the alternative, a lawyer may file a request for resignation and an affidavit with the Board and serve them on Bar Counsel, who shall within 14 days, or such further time as may be allowed by a Board Member, file a response.

The Board may order any hearing or investigation it deems appropriate, or may order the parties to provide further explanation. Upon reaching its determination, the Board shall file its recommendation and the entire record of any hearing with the Court. The Board may recommend that the Court reject the affidavit of resignation as submitted, accept the resignation and disbar the resigning attorney, or accept the resignation as a disciplinary sanction. If the Court accepts the resignation, reinstatement after resignation will be handled by the board in accordance with S.J.C. Rule 4:01, Sections 15 and 18.

new BBO rules section 5.5 clean

Section 5.5 The Executive Director

The Board shall appoint an Executive Director who shall perform the duties assigned by the Board and imposed by these Rules.