**Assessment Review Board**

**RULES OF PRACTICE AND PROCEDURE**

#### **Table of Concordance**

#### for Rules effective April 1, 2021

#### compared with Rules previously in effect since April 1, 2017 (Amended May 2019)

Please note that this table contains only brief highlights of recent revisions and is not legal advice, intended to be relied on, or act as a substitute, for the Rules.

| 2017  (2019) Rule # | previous Title | 2021 Rule# | 2021 Title | NATURE OF AMENDMENTS |
| --- | --- | --- | --- | --- |
|  | **GENERAL** |  | **PART 1 – GENERAL** | - |
|  | Application of Rules | **1** | Application of Rules | - |
|  | Effective Date | **1** | Application of Rules | Combined into new Rule 1 |
|  | Definitions | **2** | Definitions | “mediation” and “practice direction” removed; “adjudicative record” and “discovery” added |
|  | Interpretation | **3** | Interpretation of Rules and Powers of the Board | - |
|  | Proportionality | **4** | Proportionality | Changes from “four year” to “assessment” cycle |
|  | Issues Not Dealt Within these Rules | **5** | Issues Not Addressed in these Rules | - |
|  | Technical Objections | **6** | Technical Objections | - |
|  | Failure to Comply with Rules and Orders | **7** | Failure to Comply with Rules and Orders | - |
|  | Communication with the Board | **8** | Communication with the Board |  |
|  | Notices | **9** | Notices in Writing | - |
|  | Adding Parties and Participants | **16** | Adding Parties and Participants | - |
|  | **REPRESENTATIVES** |  | **PART 2 – PARTIES AND REPRESENTATIVES** | - |
|  | Appearance in Person or by Authorized Representative | **12** | Appearance in Person or by Authorized Representative | Email notification under (c) |
|  | Removal of Representative | **13** | Removal of Representative | Former rule 12(c) incorporated |
|  | Advocate and Witness | **14** | Representative as Advocate and Witness | - |
|  | Notices to Representative | **15** | Notices to Representative | - |
|  | **TIME** |  |  | Section title deleted |
|  | Time | **11** | Time | - |
|  | Alteration of Time |  | No corresponding rule | - |
|  | **INITIATING PROCEEDINGS** |  | **PART 3 – COMMENCEMENT AND TERMINATION OF PROCEEDING** | - |
|  | Form of Appeal | **17** | Form of Appeal | New filing requirement (j) |
|  | No corresponding rule | **18** | Disclosure of Email Address | Disclosure of email for correspondence |
|  | Special Legislation | **19** | Special Legislation | - |
|  | **SCREENING OF APPEALS** |  |  | Section title deleted |
|  | Administrative Screening | **20** | Commencement of Appeal | Conditions clarified |
|  | Notice Before Rejecting | **21** | Compliance with Requirements | - |
|  | Service of Amended Appeals | **22** | Service of Amended Appeals | - |
|  | Deemed Filing Date | **23** | Deemed Filing Date | - |
|  | Dismissal of Appeals | **24** | Dismissal of a Proceeding | Appellant’s abandonment of appeal added |
|  | Notice before Dismissal | **25** | Notice before Dismissal | - |
|  | Late Appeals | **26** | Request to file a Late Appeal | - |
|  | Special Notices (40) | **28** | Notice to Seek a Higher Assessment | New deemed notice regarding higher assessment |
|  | **SERVICE** |  | **PART 4 – SERVICE AND FILING OF DOCUMENTS** | - |
|  | Form of Service | **30** | Service of a Document | - |
|  | Service on Corporations | **31** | Service on Corporations | - |
|  | Deemed Receipt | **32** | Deemed Receipt of Service | Fax service removed and email service time specified |
|  | No corresponding rule | **33** | Deemed Receipt of Notice | Deemed receipt of notice specified |
|  | Deemed Receipt Exception | **34** | Deemed Receipt Exception | Filing of affidavit evidence added |
|  | Proof of Service |  | No corresponding rule | - |
|  | **TYPES OF PROCEEDING** |  | **PART 5 – TYPE OF PROCEEDING AND SCHEDULES OF EVENTS** | - |
|  | Proceedings as General or Summary Proceeding | **37** | General or Summary Proceeding | Presumption of general proceeding removed |
|  | Commencement Day | **38** | Commencement Day | - |
|  | Schedule of Events | **39** | Schedules of Events | - |
|  | No corresponding rule | **41** | Obtaining Additional Expert Reports | New requirement of signed Acknowledgement  of Expert Duty to obtain late additional expert reports |
|  | No corresponding rule | **42** | Extension of Due Dates for obtaining Additional Expert Reports | 10-day limitation for Rule 41 |
|  | Summary Proceeding Hearing Events | **74** | Hearing Format | Default hearing format is electronic |
|  | **DOCUMENTS** |  |  | Section titled deleted |
|  | Electronic Filing | **36** | Electronic Filing | - |
|  | Documents to be Filed | **35** | Documents to be Filed | - |
|  |  |  | **PART 6 – ISSUES AND RESPONSES** | - |
|  | Statement of Issues and Responses | **43** | Statements of Issues and Responses | New rule takes out “by MPAC” related to higher assessment under (g) |
|  | Deemed Consent | **60** | Deemed No Opposition to Settlement | New rule takes out the limitation to “general proceeding” |
|  | Special Notices |  | See Schedule B | - |
|  | Amendment of Documents | **44** | Amendment of Statements of Issues and Responses | - |
|  | Examination of Board Documents |  | See TO *Access to Records Policy* | - |
|  | Confidential Documents | **89** | Confidential Documents | Procedure and test for confidentiality order specified |
|  | Return of Exhibits | **90** | Return of Exhibits | Exception removed |
|  | **DISCLOSURE** |  | **PART 7 – EVIDENCE, WITNESSES AND EXPERTS** | - |
|  | Disclosure | **45** | Disclosure | Electronic copy only |
|  | No Admission | **46** | No Admission |  |
|  | Board Order for Discovery | **47** | Order for Discovery | “inspection of property” removed |
|  | No New Documents | **48** | No New Documents | Service on parties required |
|  | No New Issues | **49** | No New Issues | - |
|  | Expert Reports | **50** | Expert Reports | - |
|  | **SUMMONS** |  | **SUMMONS TO WITNESS** | - |
|  | Summons Form | **51** | Summons Form | - |
|  | Summons Issuance | **52** | Summons Issuance | - |
|  | Service of Summons | **53** | Service of Summons | - |
|  | Witness Fees | **54** | Witness Fees | - |
|  | Objection to Summons | **55** | Objection to Summons | - |
|  | **SETTLEMENT CONFERENCES** |  | **PART 8 – SETTLEMENT CONFERENCES** | - |
|  | Settlement Conference by Electronic Hearing | **74** | Hearing Format | Default hearing format is electronic |
|  | Parties Must Appear | **56** | Attendance at Settlement Conference | Expert witness also to attend |
|  | Matters Considered | **57** | Purpose of Settlement Conference |  |
|  | Confidentiality | **58** | Confidentiality of Settlement Discussions | Specification on absence of the public, the discussion, the documents and the Board’s public record |
|  | Presiding Member | **59** | Presiding Members | Approval of the Board added |
|  | **MOTIONS** |  | **PART 10 – MOTIONS** | - |
|  | Notice of Motion | **66** | Notice of Motion | Filing of an EBDF and parties’ position added |
|  | Response to Notice of Motion | **67** | Response | Requirement to respond to all matters removed |
|  | Reply to Response to Notice of Motion | **68** | Reply | - |
|  | Evidence in Motions | **69** | Evidence in Support of Motion | - |
|  | Motions in Writing | **70** | Motions in Writing | - |
|  | Time for Filing |  | No corresponding rule | - |
|  | Additional Information |  | No corresponding rule | - |
|  | Motions at Hearings |  | No corresponding rule | - |
|  | **MINUTES OF SETTLEMENT** |  | **PART 9 – MINUTES OF SETTLEMENT** | - |
|  | Schedule for Completion of Minutes of Settlement | **61** | Schedule for Completion of Minutes of Settlement | Timeframe clarified |
|  | No corresponding rule | **62** | Filing of Minutes of Settlement | Removal of signature requirement for those deemed not to oppose |
|  | No corresponding rule | **64** | Failure to File Minutes of Settlement | New Board power to dismiss with failure to file settlement minutes |
|  | Decision to Issue | **63** | Required Signatures | Change from execution of settlement to signature by parties |
|  | Contents of Minutes of Settlement | **65** | Contents of Minutes of Settlement | - |
|  | **WITHDRAWAL OF APPEALS** |  |  | Section title deleted |
|  | Withdrawal of Appeal | **27** | Withdrawal of Appeal | Removal of notice requirement to other parties and to the Board |
|  | Motion to Withdraw | **29** | Motion to Withdraw | Language simplified |
|  | **LANGUAGE OF PROCEEDINGS** |  |  |  |
|  | Use of English, French and Sign Language | **10** | Language of Proceedings | See TO *FLS Policy* and Language Services |
|  | Where French or Sign Language is Used |  | See TO *FLS Policy and Language Services* | - |
|  | Where Interpreter is Required |  | See TO *FLS Policy and Language Services* | - |
|  | Documents in English or French |  | See TO *FLS Policy and Language Services* | - |
|  | **COMBINING PROCEEDINGS** |  | **Under PART 12 – FORMAT OF HEARING EVENTS** | - |
|  | Combining Hearings or Hearing Matters Together | **84** | Combining Hearings or Hearing Matters Together | - |
|  | Effect of Combined Proceedings | **85** | Effect of Combined Proceedings | - |
|  | Effect of Hearing Matters Together | **86** | Effect of Hearing Matters Together | - |
|  | Separate Proceedings | **87** | Separate Proceedings | - |
|  | **ADJOURNMENTS** |  | **PART 11 – ADJOURNMENT OF HEARING EVENTS** | - |
|  | No corresponding rule | **71** | Adjournment Request | New 10-day notice |
|  | Dates Fixed | **40** | Extension of Schedule of Events Due Dates | - |
|  | Motion for Adjournment of a Hearing Event | **72** | Motion for Adjournment | - |
|  | Factors to Consider | **73** | Factors to Consider | Relevant considerations updated |
|  | Powers of the Board upon Adjournment Request |  | No corresponding rule | - |
|  | **MEDIATION** |  |  | Section deleted, see Part 8 |
|  | Mediation |  | No corresponding rule | - |
|  | Authority to Bind |  | No corresponding rule | - |
|  | Confidentiality |  | No corresponding rule | - |
|  | Mediator and Adjudicator |  | No corresponding rule | - |
|  | **ELECTRONIC HEARINGS** |  | **PART 12 – FORMAT OF HEARING EVENTS** | - |
|  | Hearing Events by Teleconference or Videoconference | **74** | Hearing Format | Hearings electronic unless otherwise ordered |
|  | Same rule as above | **75** | Electronic Hearings | - |
|  | Objection to the Electronic Format | **76** | Objection to the Electronic Format | - |
|  | Response to Notice of Objection | **77** | Response to Notice of Objection | Responses within 5 days |
|  | Procedure When Objection | **78** | Procedure When Objection | - |
|  | Factors the Board May Consider |  | No corresponding rule | - |
|  | Directions for the Electronic Hearing |  | No corresponding rule | - |
|  | **WRITTEN HEARINGS FOR EVENTS OTHER THAN MOTIONS** |  | **Under PART 12 – FORMAT OF HEARING EVENTS** | - |
|  | Hearing Events in Writing | **79** | Hearing Events in Writing | - |
|  | Factors Board May Consider | **80** | Factors the Board May Consider | Considerations updated |
|  | Objections | **81** | Objections | 10-day limitation removed |
|  | Ruling on Objections | **82** | Ruling on Objections | - |
|  | Time for Written Material |  | No corresponding rule | - |
|  | Contents of Written Materials |  | No corresponding rule | - |
|  | Requirement for Affidavit Evidence | **83** | Requirement for Affidavit Evidence | - |
|  | **CONDUCT OF PROCEEDINGS** |  | **PART 13 – PUBLIC ACCESS TO HEARINGS AND DOCUMENTS** | - |
|  | Hearings to be Public | **88** | Hearings to be Public | See Rule 58 re Settlement Conferences Confidentiality |
|  | Non-Attendance |  | No corresponding rule | - |
|  | No Re-opening Without Leave |  | No corresponding rule | - |
|  | Authorization to Record Hearing Event | **91** | Authorization to Record Hearing Event | Authorization requirements clarified |
|  | Conditions of Approval | **92** | Conditions of Approval | Conditions clarified |
|  | Withdrawal of Approval | **93** | Withdrawal of Approval | Conditions clarified |
|  | Qualified Verbatim Reporters | **94** | Qualified Verbatim Reports | - |
|  | Transcripts by a Party | **95** | Transcripts by a Party | - |
|  | Transcripts by the Board | **96** | Transcripts by the Board | Reference to a copy to the parties removed |
|  | **BOARD DECISIONS AND WRITTEN REASONS** |  | **PART 14 – BOARD DECISIONS** | - |
|  | Request Required | **97** | Requesting Written Reasons | - |
|  | Issuing Decisions | **98** | Decisions Effective on Issuance | - |
|  | Correcting Minor Errors | **99** | Correcting Minor Errors | - |
|  | Processing Request as a Review Request | **100** | Deemed Request for Review | - |
|  | **COSTS** |  | **PART 16 – COSTS** | - |
|  | Board May Order Costs | **106** | Board May Order Costs | - |
|  | Timing of Costs Request | **107** | Timing of Costs Request | - |
|  | Response to Costs Request |  | No corresponding rule | - |
|  | Content of Submissions | **108** | Content of Submissions | - |
|  | **REVIEW OF A BOARD DECISION OR ORDER** |  | **PART 15 – REVIEW OF A BOARD DECISION OR ORDER** | - |
|  | Request for Review | **101** | Request for Review | Removal of reference to reinstatement and requirement of a copy of decision to be reviewed |
|  | Grounds for Review | **102** | Grounds for Review | Reference to reinstatement removed |
|  | Reinstatement by Request for Review | **104** | Request to Reinstate an Appeal | - |
|  | Review Order | **103** | Review Order | Removal of references to reinstatement and motion to decide the review |
|  |  | **105** | Reinstatement Order | Formerly Rule 123 (b) |
|  | SCHEDULE A – Schedule of Events for General Proceedings |  | SCHEDULE A – Schedule of Events for General Proceedings | - |
|  | SCHEDULE B – Schedule of Events for Summary Proceedings |  | SCHEDULE B – Schedule of Events for Summary Proceedings | - |
|  | SCHEDULE C – Acknowledgement of Expert Duty |  | SCHEDULE C – Acknowledgement of Expert Duty | - |
|  | SCHEDULE D – Summons to Witness |  | SCHEDULE D – Summons to Witness | - |
|  | SCHEDULE E – Affidavit of Service |  | No corresponding schedule | - |