

1 **17-211. Discipline by consent; stipulated facts.**

2 A. **Conditional admission.** At any time [~~prior to~~] before a hearing committee
3 [~~holding~~] holds a formal hearing and [~~issuing~~] issues its findings of fact, conclusions of law, and
4 recommended discipline, an attorney against whom formal charges have been made may tender to
5 disciplinary counsel, by a sworn written statement, a conditional agreement admitting to or
6 agreeing not to contest any or all of the allegations or charges.

7 B. **Acceptance.** The tendered agreement shall be submitted to the hearing committee
8 for consideration along with the recommendations of disciplinary counsel. Within thirty (30) days
9 of the agreement being tendered to the hearing committee, the hearing committee shall issue a
10 decision either accepting or rejecting the agreement. In considering the agreement and reaching its
11 decision, the hearing committee shall take any and all steps that it deems are reasonably necessary
12 to consider the factual basis for the admission of, or agreement not to contest, any or all of the
13 allegations or charges, including the factual basis for the finding of, or agreement that, the
14 respondent-attorney has violated the New Mexico Rules of Professional Conduct and that the
15 agreed upon discipline is appropriate in light of the stipulated misconduct and the previous
16 discipline imposed in reasonably similar matters. [~~Such~~] The steps may include, but are not limited
17 to, admitting and considering stipulated exhibits, reviewing any written admissions or stipulations
18 of fact offered to the committee, reviewing memoranda or briefs submitted by either the
19 respondent-attorney or disciplinary counsel, or, in the committee's discretion, setting a hearing to
20 question and otherwise take testimony from the respondent-attorney and, if necessary, other
21 witnesses, [~~concerning~~] about the agreement. If the hearing committee rejects the agreement, it
22 shall proceed to schedule and conduct a hearing [~~pursuant to~~] under Rule 17-313 NMRA. If the
23 hearing committee accepts the agreement, it shall forward it to the board along with an explanation

1 of its reasons for recommending the acceptance and the record made by the hearing committee in
2 considering the agreement. The agreement may be approved or rejected by the board. The board
3 may convene a hearing to consider the tendered agreement and may seek the supplementation of
4 the record with any additional evidence it deems necessary to consider the agreement. If the board
5 accepts an agreement

6 (1) it shall approve the disposition provided for in the tendered agreement and:

7 (a) if the discipline agreed to by the attorney includes resignation,

8 disbarment, suspension, probation, transfer to disability inactive status, or public censure by the
9 Supreme Court, the agreement, along with the complete record of the proceedings, shall be filed
10 by the board with the Supreme Court for consideration of the entry of an order imposing the
11 discipline provided for in the agreement, rejection of the agreement, or approval of the agreement
12 with any modifications requested by the Supreme Court and agreed to by the respondent-attorney
13 and disciplinary counsel;

14 (i) if the discipline agreed to by the attorney provides for public
15 censure by the Supreme Court, the board shall also file a proposed public censure with the Supreme
16 Court in accordance with Rule 17-317 NMRA;

17 (b) if the discipline agreed to by the attorney provides for a formal
18 reprimand or probation by the board, the board shall impose the discipline provided for in the
19 agreement; or

20 (c) if the discipline agreed to by the attorney provides for an informal
21 admonition by disciplinary counsel, the board shall direct disciplinary counsel to impose the
22 discipline provided for in the agreement; or

1 (2) if the attorney admitted sufficient facts to permit a finding that the
2 allegations are true, but does not agree that the facts constitute misconduct or to a specific form of
3 discipline, the hearing committee shall conduct a hearing [~~pursuant to~~] under Rule 17-313 NMRA
4 to determine whether the facts constitute misconduct and, if they do, the appropriate form of
5 discipline, if any, to be imposed. The committee shall then file its findings, conclusions, and
6 recommendations with the board in accordance with Rule 17-313 NMRA.

7 C. **Rejection.** If the agreement is rejected by the hearing committee, board or Supreme
8 Court, the admission shall be withdrawn and the agreement, or any factual stipulations or
9 admissions made in connection with the agreement or at any hearing held to consider the
10 agreement, cannot be used against the attorney or disciplinary counsel in any subsequent
11 disciplinary proceedings or in any other judicial proceeding.

12 D. **Inquiry of attorney.** The board shall not accept an agreement without first
13 determining from the attorney that

14 (1) the attorney understands the charges against the attorney;

15 (2) the attorney understands the proposed disposition of the proceedings;

16 (3) the attorney understands that if the agreement is accepted the attorney is
17 waiving the right to a hearing before a hearing committee and the board and is waiving an appeal
18 to the Supreme Court; and

19 (4) the admission or provisions of the consent decree are voluntary and not the
20 result of force or threats or promises other than any consent decree agreement reached.

21 E. **Filing of agreement.** If the agreement is accepted by the board and if the agreement
22 provides for resignation, disbarment, suspension, probation, transfer to disability status, or public
23 censure by the Supreme Court, the chair of the board shall file the agreement with the Supreme

DISCIPLINARY RULES
RULE 17-211

Supreme Court Approved
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1 Court along with the record of the proceedings. If the discipline agreed to by the attorney provides
2 for public censure by the Supreme Court, the board shall also file a proposed public censure in
3 accordance with Rule 17-317 NMRA. [~~Upon~~] On the application of the chair, and for good cause
4 shown, the Supreme Court may order the agreement sealed and in such event it shall not be
5 disclosed or made available for use in any other proceeding except [~~upon~~] on order of the Supreme
6 Court. An order imposing discipline [~~pursuant to~~] under an agreement shall not be sealed.
7 [As amended, effective January 1, 1986 and April 1, 1988; as amended by Supreme Court Order
8 No. 06-8300-032, effective January 15, 2007; as amended by Supreme Court Order No. 13-8300-
9 045, effective December 31, 2013; as amended by Supreme Court Order No. S-1-RCR-2024-
10 00108, effective December 31, 2024.]