



**MEMORANDUM**

To: All Interested Persons

From: Anthony R. Perri

Re: Request for Public Comment on Proposal Regarding Attorney Reporting of Foreign Discipline

Date: October 11, 2022

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The Administrative Board of the Courts is seeking public comment on a proposal regarding attorney reporting of foreign discipline, involving amendments to 22 NYCRR §§ 118.1(e), 118.2 (b)(2).

Attorneys admitted to practice in New York are not currently required to advise the Departments of the Appellate Division, any Grievance Committee, or the Office of Court Administration concerning their licensure in any other jurisdiction. Nonetheless, all New York attorneys are affirmatively obligated, by Court rule of statewide applicability, to advise both the Appellate Division and the applicable Grievance Committee of any discipline imposed upon the attorney by a “foreign jurisdiction” (*see* Rules for Attorney Disciplinary Matters, 22 NYCRR § 1240.13 [d]; *see also* Rules for Attorney Disciplinary Matters, 22 NYCRR § 1240.2 [h] [defining “foreign jurisdiction” as “a legal jurisdiction of a state (other than New York State), territory, or district of the United States, and all federal courts of the United States, including those within the State of New York”]).

Due to concern that New York-licensed attorneys may be underreporting the imposition of foreign discipline to New York authorities, either as a consequence of ignorance of the existing reporting rule or due to affirmative concealment, it is proposed that information pertaining to an attorney’s foreign licensure and foreign discipline be made a part of every New York attorney’s statutory biennial registration obligation. By affirmatively requiring all New York attorneys to provide up-to-date foreign licensure and discipline information in a sworn statement every two years, it is anticipated that the Courts and Grievance Committees will be afforded more reliable

and current information which may bear upon each attorney's licensure in New York.

**Proposed Amendment of Rules of Chief Administrator of the Courts**  
**22 NYCRR § 118.1 (e)**

In order for the standardized biennial registration statement to be changed, the Rules of Chief Administrator of the Courts, 22 NYCRR § 118.1 (e), must first be amended to require the provision of the information at issue (*see* Judiciary Law § 468-a [3] [directing the Chief Administrator of the Courts to “prescribe the form in which [the] registry of attorneys shall be maintained”]).

To that end, a new subdivision (e) (14) would be enacted, as follows (additions underlined, deletions in strikethrough):

“(e) The registration statement shall be on a form provided by the Chief Administrator and shall include the following information, attested to by affirmation:

- (1) name of attorney;
- (2) date of birth;
- (3) name when admitted to the bar;
- (4) law school from which degree granted;
- (5) year admitted to the bar;
- (6) judicial department of admission to the bar;
- (7) office addresses (including department);
- (8) home address;
- (9) business telephone number;
- (10) social security number;
- (11) e-mail address(optional);
- (12) race, gender, ethnicity and employment category (optional);
- (13) compliance with child support obligations;
- (14) a list of all jurisdictions other than New York State where the attorney is admitted to practice, and an accounting of all findings of professional misconduct and/or disciplinary sanctions imposed against such attorney within the preceding two years by a jurisdiction other than New York State;
- ~~(14)~~(15) in a separate statement, filed anonymously in a manner directed by the Chief Administrator;
  - (i) a mandatory report of pro bono services and contributions, as defined in Rule 6.1 of the attorney Rules of Professional Conduct, performed or contributed by the attorney in the previous two calendar years; and
  - (ii) a report of such other pro bono service and contributions over the same period as the attorney may choose to describe.”

**Public Access to Attorney Registration Information**

Pursuant to the Rules of the Chief Administrator of the Courts, 22 NYCRR § 118.2, most of the information contained in an attorney’s biennial registration statement is presumptively available to the general public. Notably, however, certain sensitive information on the statement – i.e., “date of birth, social security number, race, gender, gender identity, sexual orientation, ethnicity and employment category of the attorney” — explicitly remains confidential (Rules of the Chief Administrator of the Courts, 22 NYCRR § 118.2[b][2]; *but see* 22 NYCRR § 118.2 [d] [making all registration information, except for anonymous pro bono reporting, readily available to Grievance Committees]). Although it could be argued that public disclosure of foreign disciplinary data would be beneficial, especially given that the purpose of the biennial registration requirement is to provide a publicly accessible “official register” of New York attorneys (Judiciary Law § 468) and thereby “protect the public from the unauthorized practice of law, . . . preserve the integrity of the legal profession [and] provide legal consumers, public officers and members of the bar with a central and readily accessible source of public information concerning the professional standing of persons who are licensed to practice law in this state” (L 1988, ch 67, § 1), other considerations militate toward making foreign disciplinary data confidential, at least until “reciprocal” discipline is imposed in New York by a Department of the Appellate Division. To wit, inasmuch as foreign discipline may be imposed confidentially in the attorney’s home jurisdiction or may be founded upon conduct which is not misconduct under New York law, it is suggested that the foreign disciplinary sanction should not be made public until it has been validated by Appellate Division review and results in a public sanction in this state (*see generally* Judiciary Law § 90 [10]). Accordingly, it is proposed that the Rules of the Chief Administrator of the Courts, 22 NYCRR § 118.2 (b) (2), be amended as follows:

“(2) The date of birth, social security number, race, gender, gender identity, sexual orientation, ethnicity and employment category of the attorney shall not be made available to the public. All findings of professional misconduct and/or disciplinary sanctions imposed against an attorney which have been reported to the Office of Court Administration pursuant to the Rules of the Chief Administrator 22 NYCRR § 118.1 (e) (14) shall also not be made available to the public, except as may be otherwise authorized pursuant to Judiciary Law § 90 (10).”

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Persons wishing to comment on the proposal should e-mail their submissions to [rulecomments@nycourts.gov](mailto:rulecomments@nycourts.gov) or write to: Anthony R. Perri, Esq., Acting Counsel, Office of Court Administration, 25 Beaver Street, 11<sup>th</sup> Fl., New York, New York, 10004. Comments must be received no later than November 23, 2022.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.