

**RULES FOR
DISABILITY INACTIVE STATUS
OF THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF LOUISIANA**

Adopted November 17, 2016

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA
RULES FOR DISABILITY INACTIVE STATUS

1. General Provisions.
 - 1.1. Jurisdiction. This court (referred to herein as the “court” or the “*en banc* court”) has jurisdiction over disability proceedings for any lawyer admitted to practice before this court.
 - 1.2. Default Application of Federal Rules of Civil Procedure. Unless otherwise provided by these rules, all proceedings regarding disability inactive status, including discovery, are governed by the Federal Rules of Civil Procedure and this *en banc* court’s local rules.
 - 1.3. No Effect on Power of Court to Control Proceedings. Nothing contained in these Rules restricts this court in exercising the power to maintain control over proceedings, such as contempt proceedings.
 - 1.4. Service. When service of any pleading, order, notice, or other document is directed by these rules to be made by certified mail, return receipt requested, such service is deemed to have been made on the day the document is mailed to the lawyer named in the complaint (“respondent”) at the lawyer’s most recent address in the Roll of Attorneys maintained by the clerk of court or mailed to counsel of record for respondent in the disciplinary proceedings.
2. Action Number. The clerk of court must assign a Miscellaneous Action Number to every proceeding commenced regarding disability inactive status. The clerk of court shall forward a copy of the submission and attachments to the Chief Judge.
3. Involuntary Commitment or Adjudication of Incompetency. If a lawyer has been judicially declared incompetent or is involuntarily committed on the grounds of incompetency or disability, the Chief Judge, upon proper proof of the fact, shall enter an order immediately transferring the lawyer to disability inactive status for an indefinite period until the further order of the court. A copy of the order transferring the lawyer to disability inactive status shall be sent to the respondent or his or her legal representative by email and served on the lawyer or the lawyer’s legal representative, or the director of the institution to which the lawyer has been committed, if applicable, by United States certified mail, return receipt requested.
4. Transfer to Disability Inactive Status When No Disciplinary Proceeding is Pending. Any lawyer claiming that he or she should be transferred to disability inactive status, when there is no disciplinary proceeding or investigation pending, shall file an appropriate pleading in this court. The lawyer shall append to the pleading pertinent information, documentation, and evidence which supports the lawyer's claim that he or she should be transferred to disability inactive status. The lawyer shall also certify in the pleading that there is no disciplinary proceeding or investigation pending against him or her. The pleading and attachments shall be filed under seal. The *en banc* court

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may then summarily transfer the lawyer to disability inactive status, without the need for a hearing, or take any other action the court deems appropriate. A copy of the order transferring the lawyer to disability inactive status shall be sent to the respondent or his or her legal representative by email and served on the lawyer or the lawyer's legal representative by United States certified mail, return receipt requested.

5. Transfer to Disability Inactive Status When Disciplinary Proceeding is Pending.
 - 5.1. When a disciplinary proceeding is pending, a lawyer may not apply for disability inactive status unless he or she alleges an inability to assist in his or her defense due to mental or physical incapacity. When such an allegation is made, the Chief Judge shall immediately transfer the lawyer to interim disability inactive status pending a hearing to determine the validity of the claim, and all disciplinary proceedings shall be stayed pending this determination.
 - 5.2. The hearing shall be conducted before a judge randomly allotted the case on expedited basis and shall be confidential. Within fifteen (15) days of the hearing, or as soon thereafter as is practicable, the allotted judge shall file an internal report to the *en banc* court.
 - 5.3. If, after reviewing the internal report of the allotted judge and materials submitted by the lawyer, the *en banc* court determines the claim of inability to defend is valid, the disciplinary proceeding or investigation shall be deferred and the respondent shall be transferred to disability inactive status until the court subsequently considers a petition for transfer to active status. In the event the respondent is transferred back to active status, the interrupted disciplinary proceeding or investigation may be resumed.
 - 5.4. If, after receiving the internal report of the allotted judge and materials submitted by the lawyer, the *en banc* court determines the claim of inability to defend to be invalid, the disciplinary proceeding or investigation shall resume immediately. A finding by the *en banc* court that the lawyer's claim of an inability to assist in his/her defense due to mental or physical incapacity was frivolous may be considered in recommending discipline in the underlying proceeding.
6. Notification to Clients. Within 21 days from entry of an order placing a lawyer on disability inactive status, the lawyer assuming inactive status, or the lawyer's legal representative, must notify by certified mail, return receipt requested, each of the clients the lawyer represents in this court of the fact that the lawyer cannot continue to represent them.
7. Respondent's Affidavit. Within 28 days from entry of the order placing the lawyer on disability inactive status, the lawyer assuming inactive status, or the lawyer's legal representative, must file with the clerk of court an affidavit stating that the lawyer has fully complied with these rules. The affidavit must set forth the lawyer's residence or other address to which subsequent communications may be addressed. The lawyer must maintain records evidencing the lawyer's compliance with this Rule.
8. Transfer to Active Status from Disability Inactive Status.
 - 8.1. Generally. No respondent transferred to disability inactive status may resume

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active status except by order of this court.

- 8.2. Petition. A lawyer who has been placed on disability inactive status may file to be placed on active status at any time.
- 8.3. Examination. Upon the filing of a petition for transfer to active status, the *en banc* court may take or direct whatever action it deems necessary or proper to determine whether the disability has been removed, including a direction for an examination of the respondent by qualified medical experts designated by the court. In its discretion, the *en banc* court may direct that the expense of the examination be paid by the respondent.

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