

BEFORE THE  
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

COMMENTS OF THE SECTION ON COURTS  
LAWYERS AND THE ADMINISTRATION OF JUSTICE  
OF THE DISTRICT OF COLUMBIA BAR  
REGARDING AMENDMENTS TO CHAPTER 9 OF  
THE "STANDARDS AND PROCEDURES FOR  
THE SELECTION AND TENURE OF HEARING COMMISSIONERS"

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Participated in this Report

Steering Committee of the  
Section on Courts, Lawyers  
and the Administration  
of Justice

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STANDARD DISCLAIMER

"The views expressed herein represent only those of the  
Section on Courts, Lawyers and the Administration of Justice of  
the District of Columbia Bar and not those of the District of  
Columbia Bar or of its Board of Governors."

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## SUMMARY

The Board of Judges of the Superior Court of the District of Columbia has recently adopted amendments to Chapter 9 of the "Standards and Procedures of the Selection and Tenure of Hearing Commissioners," concerning the handling of complaints against hearing commissioners. Former Section 9-9(a)(3) provided that the Board of Judges would "immediately provide written notice to the complainant and to the hearing commissioner of" any dismissal of or action taken on a complaint. The amendments eliminate mandatory notice to a complainant, except to let the complainant know that the complaint has been resolved.

The Section on Courts, Lawyers, and the Administration of Justice is filing comments proposing a middle ground: complainants would be informed briefly of the grounds for dismissal of a complaint; notified of any public disciplinary action; or informed that the matter had been "resolved" in the event of private censure or reprimand. This proposal is intended to enhance the appearance of fairness by informing a complainant generally that a complaint has been dismissed or found to be well taken, while preserving the confidentiality of discipline by private communication.

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The Board of Judges of the Superior Court has recently adopted amendments to Chapter 9 of the "Standards and Procedures for the Selection and Tenure of Hearing Commissioners." The amendments provide that all proceedings on complaints about the conduct or disability of a hearing commissioner shall be kept confidential, except in specified circumstances, even from the complainant. Former Section 9-9(a)(3) provided that the Board of Judges would "immediately provide written notice to the complainant and to the hearing commissioner of" the dismissal of, or action taken upon, a complaint. This provision has been eliminated, and the only mandatory provision for notice to a complainant is new Section 9-9(b), which provides:

Following any action of the Board of Judges taken pursuant to subsection (a)(2) of this section, the Chief Judge shall immediately notify the commissioner of the action taken and shall notify the complainant that the complaint has been resolved.

This provision does not give the complainant any indication whether the Board of Judges found the complaint to be well taken; notice that the complaint has been resolved pursuant to subsection (a)(2) can mean either that the complaint has been dismissed or that some sort of disciplinary action has been taken.

munication. The modification reduces the risk that a complainant will fear that a complaint has been ignored or unjustly denied. It will also diminish the risk that an attorney will be unaware of disciplinary action taken against a commissioner which might prompt concern about retaliation against the attorney. A clear understanding of the outcome of the disciplinary process will facilitate informed decisions concerning motions for recusal.