

27 NCAC 01D .1523 NONCOMPLIANCE

- (a) **Failure to Comply with Rules May Result in Suspension.** A member who is required to file a report of CLE credits and does not do so or who fails to meet the minimum requirements of these rules, including the payment of duly assessed penalties and attendee fees, may be suspended from the practice of law in the state of North Carolina.
- (b) **Notice of Failure to Comply.** The board shall notify a member who appears to have failed to meet the requirements of these rules that the member will be suspended from the practice of law in this state, unless the member shows good cause in writing why the suspension should not be made or the member shows in writing that he or she has complied with the requirements within the 30-day period after service of the notice. Notice shall be served on the member by mailing a copy thereof by registered or certified mail or designated delivery service (such as Federal Express or UPS), return receipt requested, to the last known address of the member according to the records of the North Carolina State Bar or such later address as may be known to the person attempting service. Service of the notice may also be accomplished by (i) personal service by a State Bar investigator or by any person authorized by Rule 4 of the North Carolina Rules of Civil Procedure to serve process, or (ii) email sent to the email address of the member contained in the records of the North Carolina State Bar if the member sends an email from that same email address to the State bar acknowledging such service.
- (c) **Entry of Order of Suspension Upon Failure to Respond to Notice to Show Cause.** If a written response attempting to show good cause is not postmarked or received by the board by the last day of the 30-day period after the member was served with the notice to show cause upon the recommendation of the board and the Administrative Committee, the council may enter an order suspending the member from the practice of law. The order shall be entered and served as set forth in Rule .0903(d) of this Subchapter.
- (d) **Procedure Upon Submission of a Timely Response to a Notice to Show Cause**
- (1) **Consideration by the Board.** If the member files a timely written response to the notice, the board shall consider the matter at its next regularly scheduled meeting or may delegate consideration of the matter to a duly appointed committee of the board. If the matter is delegated to a committee of the board and the committee determines that good cause has not been shown, the member may file an appeal to the board. The appeal must be filed within 30 calendar days of the date of the letter notifying the member of the decision of the committee. The board shall review all evidence presented by the member to determine whether good cause has been shown or to determine whether the member has complied with the requirements of these rules within the 30-day period after service of the notice to show cause.
 - (2) **Recommendation of the Board.** The board shall determine whether the member has shown good cause why the member should not be suspended. If the board determines that good cause has not been shown or that the member has not shown compliance with these rules within the 30-day period after service of the notice to show cause, then the board shall refer the matter to the Administrative Committee that the member be suspended.
 - (3) **Consideration by and Recommendation of the Administrative Committee.** The Administrative Committee shall consider the matter at its next regularly scheduled meeting. The burden of proof shall be upon the member to show cause by clear, cogent, and convincing evidence why the member should not be suspended from the practice of law for the apparent failure to comply with the rules governing the continuing legal education program. Except as set forth above, the procedure for such hearing shall be as set forth in Rule .0903(d)(1) and (2) of this Subchapter.
 - (4) **Order of Suspension.** Upon the recommendation of the Administrative Committee, the council may determine that the member has not complied with these rules and may enter an order suspending the member from the practice of law. The order shall be entered and served as set forth in Rule .0903(d)(3) of this Subchapter.
- (e) **Late Compliance Fee.** Any member to whom a notice to show cause is issued pursuant to Paragraph (b) above shall pay a late compliance fee as set forth in Rule .1522(d) of this Subchapter; provided, however, upon a showing of good cause as determined by the board as described in Paragraph (d)(2) above, the fee may be waived.

History Note: Authority - Order of the North Carolina Supreme Court, October 7, 1987, 318 N.C. 711; Readopted Eff. December 8, 1994; Amended Eff. August 23, 2012; October 9, 2008; October 1, 2003; February 3, 2000; March 6, 1997; March 7, 1996.