

Order

Michigan Supreme Court
Lansing, Michigan

March 9, 2022

Bridget M. McCormack,
Chief Justice

ADM File No. 2021-11

Proposed Amendment of
Rule 9.116 of the Michigan
Court Rules

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 9.116 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will also be considered at a public hearing. The notices and agendas for public hearing are posted on the [Public Administrative Hearings](#) page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 9.116 Judges; Former Judges

- (A) [Unchanged.]
- (B) Former Judges. Except as otherwise provided in this subrule, the administrator or commission may not take action against a former judge for conduct where the Michigan Supreme Court imposed a sanction less than removal or the Judicial Tenure Commission has taken any action under MCR 9.223(A)(1)-(5). The administrator or commission may take action against a former judge:
- (1) for conduct resulting in removal as a judge; ~~and~~
 - (2) if the former judge does not hold judicial office at the time the Court issues its decision under MCR 9.252(A), and the Court finds that the conduct would have resulted in removal as a judge had the former judge still held judicial office at that time; or

- (3) for any conduct ~~that which~~ was not the subject of a disposition by the Judicial Tenure Commission or by the Court.

~~The administrator or commission may not take action against a former judge for conduct where the court imposed a sanction less than removal or the Judicial Tenure Commission has taken any action under MCR 9.223(A)(1)-(5).~~

- (C) [Unchanged.]

Staff Comment: The proposed amendment of MCR 9.116 would allow the Attorney Grievance Commission to initiate disciplinary proceedings against a former judge who, but for his or her departure from the bench, would have been removed from office based on misconduct that was the subject of judicial disciplinary proceedings.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be submitted by July 1, 2022 by clicking on the “Comment on this Proposal” link under this proposal on the [Court’s Proposed & Adopted Orders on Administrative Matters](#) page. You may also submit a comment in writing at P.O. Box 30052, Lansing, MI 48909 or via email at ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2021-11. Your comments and the comments of others will be posted under the chapter affected by this proposal.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 9, 2022

Clerk