

# Minnesota Judicial Branch Policy and Procedures

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## Bail Bond Procedures

The Bail Bond Procedures implement Judicial Council Policy 504, authorizing the State Court Administrator to establish procedures for the approval or denial of applications, and the suspension, revocation and renewal of bonding privileges statewide.

### I. Applicability

These procedures apply to SCAO and court administration and to applicants, agents, bonding agencies and sureties. The procedures affect court and jail operations by determining which agents, bonding agencies and sureties are authorized to write appearance bonds for the district courts in the state of Minnesota.

### II. Definitions

#### Appeal

As used in the context of these procedures, appeal is defined as “a formal request to a higher authority requesting a change in or confirmation of a decision”. It is not intended to confer the application of court rules or other legal authority and precedence.

#### Statewide List of Approved Bail Bond Agents (Approved List)

The list maintained by SCAO containing the name, bonding agency and surety affiliation, status and approval expiration date for bail bond agents.

### III. Bail Bond Agent Application

The procedures in this section apply to initial bail bond applications, renewal applications and changes in an agent’s bonding agency or surety affiliation. Individuals who seek approval from the Judicial Branch to issue appearance bonds within the State of Minnesota and approved agents who are renewing their approval or changing bonding companies or sureties must complete and submit the appropriate application or change of information form. All application forms are approved by the State Court Administrator.

- A. Application Requirements. Individuals who are applying for the first time, or whose approval status has expired or been inactive for more than six months must submit the following documentation with a New Agent Application form prior to approval:
  1. Proof of Resident Producer’s License
    - a. Provide license number on application form where requested; or
    - b. Provide a copy of license document received from Sircon (see attached sample);

2. A Qualifying Power of Attorney (QPOA) from all appointing sureties;
3. A complete Bureau of Criminal Apprehension background check;
4. A copy of the individual's driver's license or Minnesota ID; and
5. A current passport quality photograph.

Agents who are currently approved and renewing under the provisions of these procedures, must submit the following documentation with an Agent Renewal Application form:

1. Proof of Resident Producer's License
  - a. Provide license number on application form where requested, or
  - b. Provide a copy of license document received from Sircon;
2. A copy of the individual's driver's license or Minnesota ID; and
3. A current passport quality photograph.

B. Initial Application Process. Upon receipt SCAO staff shall review an application and determine whether the application should be approved or denied based on the Standards for Denying Application (*See* Section III(C)).

1. Approval. SCAO staff shall approve an application that is not denied under the Standards for Denying Application. An approved applicant shall be added to the Approved List. SCAO staff shall notify the applicant of the decision by first class mail and the letter shall include notice of the following:
  - a. That the approval is subject to renewal, suspension and revocation;
  - b. The grounds for removal from the Approved List; and
  - c. The date the agent is due to renew her or his approval.
2. Denial. SCAO staff shall deny an application that meets one or more of the Standards for Denying Application. SCAO staff shall notify the applicant of the denial decision by first class mail and the letter shall include the following:
  - a. The grounds for denial; and
  - b. The procedure for requesting review by the State Court Administrator as provided for in Section VIII.
3. Denial on Criminal History Basis. When an application is denied due to a current criminal charge or a conviction, the denial letter must also include:
  - a. The statement that evidence of rehabilitation will be considered upon request for review; and
  - b. The statutory definition of evidence of rehabilitation.

C. Standards for Denying Application. An application, whether initial or renewal shall be denied if:

1. The applicant is not currently authorized by the Minnesota Department of Commerce to provide bail bonds;
2. The applicant's surety is not currently authorized to do business in Minnesota by the Minnesota Department of Commerce;

3. The applicant's bonding agency or surety is currently suspended for failure to pay on a forfeited bond in Minnesota;
4. The applicant is currently charged with or convicted of:
  - a. A felony;
  - b. A gross misdemeanor or misdemeanor crime involving theft, fraud, misappropriation or conversion of funds, and other crimes of dishonesty; or
  - c. Any other crime at the gross misdemeanor or misdemeanor level that calls into question the applicant's ability, capacity and fitness to perform the duties and to discharge the responsibilities of a bail bond agent. This may include, but is not limited to assault and weapons related crimes.
5. In the event that an applicant has been convicted of any of the above crimes, State Court Administration staff shall apply the standards of rehabilitation as set forth in Minn. Stat. § 364.03, subd. 3, *Evidence of Rehabilitation*, in determining whether the application should be denied.
6. If the SCAO denies an application and the applicant seeks review by the State Court Administrator as provided in Section VIII, nothing in these standards shall limit the State Court Administrator from granting approval of a denied application.

D. Change of Bonding Agency

1. If an active approved agent changes bonding agency affiliation, then the agent must obtain approval from the SCAO to issue bonds for the new bonding agency and its surety or sureties by submitting the following:
  - a. A completed Change of Information form;
  - b. A QPOA for all new sureties. If a surety remains the same and the terms of the QPOA on file remain unchanged, then the surety must state this in writing.
2. Prior to approving a request to change bonding agencies, SCAO may contact the agent's prior employing bonding agency to confirm that the prior employment relationship has been terminated. If an application to change bonding agencies is denied, the review and appeal procedures in Sections VIII and IX shall apply.

E. Change or Addition of Surety

1. If an active approved agent changes or adds a surety company affiliation, then the agent must obtain approval from SCAO to issue bonds for the new surety by submitting a Change of Information form. A bonding agency may submit the form on behalf of its agents. The Change of Information form must include the following:
  - a. Name of former surety and effective date of termination of relationship with that surety if applicable;
  - b. New surety information and effective date of relationship with the new surety;
  - c. New QPOA for each agent; and
  - d. Certification that the agent, bonding agency and former surety will remain responsible for any outstanding bonds issued under the former surety if requesting a change of surety only.

2. If an application to change surety companies is denied for a reason other than that the surety is not approved by the Minnesota Department of Commerce to conduct business in Minnesota, the review and appeal procedures in Sections VIII and IX apply.
- F. Changes of Name and/or Contact Information. Bail bond agents, bonding agencies and sureties are responsible for promptly notifying SCAO of changes of name and contact information. This information must be submitted in writing to SCAO using the Change of Information form.

#### **IV. Renewal Process**

An agent's approval to issue bail bonds is subject to renewal every two years.

- A. Renewal Groups. Approved agents shall be divided into two renewal groups; Renewal Group A and Renewal Group B.
  1. Bail bond agents approved during an even numbered calendar year shall be in Renewal Group A, and those approved during an odd numbered calendar year shall be in Renewal Group B.
  2. Changing bonding agencies may result in a change in an agent's renewal group assignment. A change in or addition of a surety company will not affect a bail bond agent's renewal group.
- B. Expiration Date. Approval for all agents expires on June 30 of the year assigned to his or her Renewal Group. No agent approved in a particular year shall be subject to renewal in that same calendar year, e.g.: an agent approved in January 2006 shall be assigned to Group A, but will not be subject to renewal on June 30, 2006. Instead, the agent's expiration date will be June 30, 2008.
- C. Notification. No later than 60 days before the expiration of an agent's approval, SCAO shall send a written notice to each bail bond agent in the renewal group advising them of:
  1. The expiration of his or her approval on June 30 of that calendar year;
  2. The renewal application procedures; and
  3. The consequences of failure to submit a timely renewal application.
- D. Renewal Application Procedure. Upon receipt SCAO staff shall review a renewal application and determine whether the application should be approved or denied based on the Standards for Denying Application in Section III(C).
  1. Renewal Applications. Approved Agents seeking renewal of their approval to issue bail bonds must submit a Renewal Application and required documentation on or before June 1 of the renewal year.
  2. Renewal Application Processing
    - a. Renewal applications received on or before June 1 shall be processed as soon as possible after submission but not later than June 30 of that year.
    - b. Agents who submit a renewal application after June 1 but before June 30 must also submit a new full BCA criminal background check by using Part III of the New Agent Application form.
    - c. In the event that a renewal application is not received by June 30, the agent's status will change to *expired*. The agent will be required to submit a New Agent Application form for re-approval.

- d. Upon the expiration of an agent's bonding privileges, SCAO staff shall email an expiration notice to the Sheriffs and Court contacts. Expired agents shall remain on the Approved List showing an *expired* status for one month. Thereafter the agent's name shall be removed from the Approved List.
- E. Review Process. In the event an agent's renewal application is denied by SCAO staff, then the review procedures in Section VIII, *Review by State Court Administrator*, apply.
- F. Appeal Process. In the event of an unfavorable decision in the Review Process the agent may appeal the decision as provided in Section IX, *Appeal of Review Decision to Review Panel*.

**V. Standards of Conduct.** Bonding agencies, agents and surety companies are expected to behave ethically and professionally while conducting business in the Minnesota Courts. Each has a responsibility not only to the defendants, defendant's families and the courts, but also to the continuing improvement of bail bond services.

A. Professional and Ethical Conduct.

- 1. Responsibility to Comply with Court Policies and Procedures. It is imperative to be knowledgeable of and comply with all applicable statutes, court rules, Judicial Branch and State Court Administrator policies and bail bond program standards and notice requirements.

Actions that may be considered a violation of this standard include, but are not limited to the following:

- a. Engaging in bail bond business without approval from the SCAO;
- b. Failure to promptly provide all necessary information to the court upon receipt of notice of forfeiture, or upon personal knowledge of forfeiture or breach;
- c. Failure to promptly notify the SCAO of changes in contact information, criminal status, etc. (see separate notices document);
- d. Failure to use proper forms and provide all pertinent and required information to the court; and
- e. Soliciting business in the courtroom and court affiliated areas of the courthouse. Bail bond professionals are prohibited from soliciting business in the courtroom and other court affiliated areas of the courthouse.

- 2. Responsibility to Uphold Professional Behavior. All individuals engaged in bail bond business shall conduct themselves consistent with the dignity of the court while interacting with the court and while present in court premises.

Actions that may be considered a violation of this standard include, but are not limited to the following:

- a. Failure to observe local court protocols, rules and procedures;
- b. Engaging in behavior that does not comport with the dignity and decorum of the court;
- c. Failure to dress professionally and in appropriate courtroom attire;
- d. Engaging in any kind of distracting activity in the courtroom, such as having unnecessary conversations, loud whispering, reading newspapers and magazines; and
- e. Engaging in activity that calls attention inappropriately to the agent in the courthouse.

3. Responsibility to the Court. Bonding agencies, agents and surety companies shall be honest with the court in all matters and shall always strive to provide complete and accurate information to court administration, judges, attorneys in the court, bailiffs and SCAO.

Actions that may be considered a violation of this standard include, but are not limited to the following:

- a. Intentional misrepresentation of a fact to court administration, judges, attorneys in the court, bailiffs or SCAO;
- b. Providing information to the court without verifying it with law enforcement or defendants as appropriate; and
- c. Engaging in conduct that is not within the best interest of the court and court users.

4. Responsibility to Court Users. Because agents are responsible only for providing bail bond services to defendants and defendant's families, they should limit themselves to the activities required to provide such services.

Actions that may be considered a violation of this standard include, but are not limited to the following:

- a. Engaging in activities that could be construed as legal practice;
- b. Personally performing official acts that are the official responsibility of court officials including, but not limited to, court clerks, attorneys and judges; and
- c. Making comments and representations which may lead the public to believe that the agent is practicing law or is a member of the court staff.

- B. Sanctions. A failure to comply with, or a direct violation of, any provision in the Standards of Conduct may be the basis for removal from the Statewide List of Approved Bail Bond Agents or other sanctions as provided in Section VI, *Complaint and Investigation Process*.

**VI. Complaint and Investigation Process.** Bail bond applicants, agents and agencies are subject to the procedures in this section. Any person who believes an applicant, agent or bonding agency has violated the *Standards of Conduct* in Section C may initiate a complaint by filing it in accordance with this provision. Complainants may include, but are not limited to; defendants and principals, other court users, court personnel, judges and judicial officers, other agents and members of the public.

- A. Grounds for Discipline. Complaints against agents may be filed for alleged violations of the Standards of Conduct as set forth in Section V of these procedures.

B. Filing of a Complaint

1. A complaint must be submitted in writing or an acceptable alternative format, signed by the complainant, and mailed or delivered to the following address: Bail Bond Program, Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King, Jr. Blvd., Suite 105, St. Paul, Minnesota 55155-1500.
2. The complaint shall state the date, time, place and nature of the alleged improper conduct. If possible, the complaint should also include the name, title and telephone number of possible witnesses. Finally, the complaint shall state why the complainant believes the alleged improper activity should be sanctioned.

3. If the complainant is unable to communicate in written English, s/he may contact SCAO to determine an acceptable alternative format for the complaint.
- C. Evaluation of Complaint
1. Acceptance of Complaint. SCAO staff shall review the complaint and determine whether the allegations, if true, would constitute grounds for discipline. If the staff determines that the complaint alleges conduct that would be grounds for discipline, an investigation shall proceed according to Section D below.
  2. Dismissal of Complaint. If the SCAO staff determines that the complaint does not allege conduct that would be grounds for discipline, the staff shall dismiss the complaint and notify the complainant via first class mail. The notification shall include an explanation of the reason(s) for the determination.
  3. Review of Dismissal. If the complainant disagrees with the staff's determination to dismiss the complaint, the complainant may request a review of the dismissal decision by the State Court Administrator.
    - a. The complainant's request must be in writing and submitted within fifteen (15) days of date of the notification.
    - b. The State Court Administrator shall review the written submissions and make a decision within fifteen (15) days of receipt of the complainant's request.
    - c. If the State Court Administrator determines that the complaint does allege conduct that would be grounds for discipline, the staff shall proceed to investigate the complaint as provided in Section D below.
    - d. If the State Court Administrator determines that the complaint does not allege conduct that would be grounds for discipline, the State Court Administrator shall dismiss the complaint and notify the complainant via first class mail. The notification shall include an explanation of the reason(s) for the State Court Administrator's determination. Such a determination by the State Court Administrator shall be final.
- D. Investigation. When a complaint is determined to allege conduct that violates the Standards of Conduct herein, State Court Administration staff shall investigate or refer the complaint to a qualified agency or individual as appropriate given the nature of the complaint.
1. Notice to Agent. As part of the investigation, staff shall notify the agent and inform him or her of the complainant's allegations via first class mail. The agent shall be given 20 days to respond and the response shall be included in the staff's investigative report.

Except for good cause shown, the investigation process shall continue without the agent's response if the agent fails to respond in writing to the notice within 20 days.
  2. Process. SCAO staff will conduct a thorough examination of the violations alleged in the complaint. Upon review of the written complaint staff will determine what additional actions are necessary to complete the investigation. Additional actions may include, but are not limited to:

- a. Contact the complainant;
  - b. Contact the applicant/agent;
  - c. Contact witnesses, if identified in complaint, and obtain a statement;
  - d. Contact court staff that may have knowledge of the situation; and
  - e. Review applicable statutes, rules, policies and procedures.
3. Report of Findings. At the conclusion of the investigation, SCAO staff shall make a determination of the need for discipline. A written report of findings shall be submitted to the State Court Administrator for review. The report of findings shall at a minimum, include the following information:
- a. The written complaint;
  - b. The response submitted by the applicant/agent;
  - c. A list of witnesses and other individuals consulted during the investigation;
  - d. Written notes memorializing conversations with above individuals;
  - e. Any formal witness statements received; and
  - f. A detailed summary of the investigation, including a recommendation for dismissal or discipline and sanctions.
- E. Determination of Need for Discipline. Upon completion of the investigation by SCAO staff, the report of findings and recommendation shall be provided to the State Court Administrator for a determination of need for discipline.
1. Dismissal. If the State Court Administrator determines that disciplinary action is not warranted, the complaint shall be dismissed and the applicant/agent and the complainant shall be notified of the decision by first class mail. The notification shall include an explanation of the reason(s) for the determination. Such a determination by the State Court Administrator shall be final.
  2. Acceptance. If the State Court Administrator determines that disciplinary action is warranted, the State Court Administrator may impose the sanctions as recommended in the report of findings and/or any additional sanctions s/he deems appropriate. The agent shall receive written notification of the decision via first class mail.
    - a. If the State Court Administrator determines that one or more of the sanctions provided in sections F(1), (3), (6) and (7) below are appropriate, then the decision is final and the agent may not request a review of the decision.
    - b. If the State Court Administrator determines that any of the other sanctions set forth in section F below are appropriate, then the agent is entitled to a hearing as provided in Section VIII, *Review by State Court Administrator*.
- F. Sanctions. If the State Court Administrator finds that the agent has engaged in conduct which violates Section C, *Standards of Conduct*, of these procedures, s/he shall impose such discipline or sanctions as deemed appropriate. In determining the type of sanction, the State Court Administrator shall consider the recommendation in the report of findings, the nature and seriousness of the violation, any pattern of improper activity, the effect of the improper activity on the bail bond industry and/or the complainant, and any other mitigating or aggravating information presented.

Sanctions that may be imposed include, but are not limited to:

1. Issuing a private reprimand;



2. Issuing a public reprimand;
3. Issuing a corrective order with which the agent must comply in order to remain on the Approved List;
4. Imposing costs and expenses incurred by the State Court Administrator and/or Review Panel in connection with the proceeding, including investigative costs, if any;
5. Prohibiting the agent from entering the courtroom or court affiliated areas for a specified amount of time;
6. Requiring that restitution be paid;
7. Requiring that certain education courses be taken;
8. Requiring that the agent work with a mentor, or that the agent's work be supervised;
9. Suspension of the agent for a designated period of time; or
10. Permanent Revocation of Approval.

If the sanction(s) include suspension or revocation of the agent's approval, the State Court Administrator shall specify the conditions and timeframe, if any, within which the agent may be reinstated.

- G. **Review of Decision.** An agent may request a review of the State Court Administrator's disciplinary decision and recommended sanction(s) if:
1. The recommended sanctions are other than those referenced in section E(2)(a) above; and
  2. The agent submits a timely request for review in as provided in Section VIII, *Review by State Court Administrator*.

When a review of the decision by the State Court Administrator is requested Section VIII shall apply.

- H. **Appeal to Review Panel.** An agent may appeal a Review decision only if:
1. The recommended sanction(s) are those listed in sections F(2), (4), (5), (8) and (9) above; and
  2. The agent submits a timely appeal request as provided in Section IX, *Appeal by Review Panel*.

When an appeal to the Review Panel is requested Section IX shall apply.

- I. **Designee.** The State Court Administrator may appoint another individual to act on her/his behalf in carrying out any of the duties in this section.
- J. **Publication of Disciplinary Actions**
1. If a complaint and investigation results in a disciplinary action and the sanction(s) imposed results in a change to the agent's approval status, the status change will be available to judicial officers, court administrators,

corrections staff and the Minnesota Department of Commerce via email notice, and to the public via the court's public website.

2. If a complaint and investigation results in a disciplinary action and the sanction imposed does not result in a change to the agent's approval status, the decision will not be disseminated but shall remain accessible to the public upon request as provided in Section XII, *Confidentiality*.

**VII. Removal from the Statewide List of Approved Bail Bond Agents (Approved List).**

A. Grounds for Removal from Approved List. The following are grounds for removal from the Approved List:

1. Immediately upon receipt by SCAO of:
  - a. Written notice of termination by a sole surety;
  - b. Written notice of termination by employing bonding agency;
  - c. Written request from an agent to be removed from the Approved List; or
  - d. Written notice of an agent's death.
2. Failure of the agent to maintain bail bond licensure through the Minnesota Department of Commerce.
3. The agent's sole surety is no longer authorized to do business in Minnesota by the Minnesota Department of Commerce.
4. An agent is charged with or convicted of any of the crimes as outlined in Section III(C)(4) under the Standards for Denying Application;
5. An agent fails to report to SCAO that s/he has been charged with or convicted of a crime.
6. An agent is found to have violated the provisions in Section V, *Standards of Conduct*.
7. An agent made a misrepresentation as to a material fact on his/her application and but for this misrepresentation, the application would have been denied.
8. Any other conduct that calls into question the agent's ability, capacity and fitness required to perform the duties and to discharge the responsibilities of a bail bond agent.

B. Notice. If SCAO staff determines that one or more grounds exist to remove an agent from the approved list then:

1. Notice of Removal. Upon the occurrence of any of the grounds enumerated in sections A(1)-(3) above, or when there is a reasonable basis to believe that there is a threat of immediate and/or grave harm if the agent were allowed to continue to write bonds, the agent shall immediately be removed from the Approved List. Written Notice of Removal shall be sent via first class mail to the agent, bonding agency and surety.
  - a. The review and appeal procedures do not apply when an agent is removed from the list on the grounds identified in sections A(1)-(3).
  - b. When an agent is removed from the Approved List due to a threat of immediate and/or grave harm if allowed to continue to write bonds, the Notice of Removal shall include:

- i. The grounds for removal;
    - ii. The nature of threat of immediate and/or grave harm;
    - iii. Notice of the Review and Appeal procedures;
    - iv. The timeframe, as provided in Section VIII, within which a request for review must be received; and
    - v. The statement that all relevant evidence will be considered upon request for review.
  - 2. Notice of Intent to Remove. Upon the occurrence of any of the grounds enumerated in sections A(4)-(8) above, the agent shall be sent written notice of SCAO's intent to remove the agent from the Approved List.
    - a. The Notice of Intent to Remove shall be sent via first class mail to the agent, bonding agency and surety, and shall include:
      - i. The grounds for removal;
      - ii. Notice of the Review and Appeal procedures;
      - iii. The timeframe, as provided in Section VIII, within which a request for review must be received; and
      - iv. The statement that all relevant evidence of will be considered upon request for review.
- C. Removal Process
  - 1. In the event an agent is given a Notice of Removal or a Notice of Intent to Remove as provided in sections B(1) and (2), the review procedures in Section VIII apply.
  - 2. If the agent fails to submit a timely request for review, as provided in Section VIII the agent's name shall immediately be removed from the Approved List.
- D. Appeal Process
  - 1. If an agent receives an unfavorable review decision, the agent may appeal the decision as provided in Section IX.
  - 2. If the agent fails to submit a timely appeal request to the Review Panel, the Review decision becomes final and the agent's name shall immediately be removed from the Approved List. The condition(s) and timeframe determined by the State Court Administrator shall be imposed.

## **VIII. Review by State Court Administrator**

- A. Applicability. The procedures in this section apply to the following bail bond program actions:
  - 1. An initial application, renewal application or change of information form is denied by SCAO staff;
  - 2. An applicant or agent is found to have engaged in conduct that warrants discipline as provided in Section III. *Standards of Conduct*; and
  - 3. An agent receives a Notice of Removal or Notice of Intent to Remove as provided in Section VII.
- B. Request for Review
  - 1. Request. Any applicant or agent whose application or approval status falls into one of the categories listed above may request that the State

Court Administrator review the underlying facts that led to the proposed action by filing a written request for review within thirty (30) days from the date of the notice.

2. Form of Request. The request for review may be filed via first class mail, facsimile, e-mail or hand-delivery. If filed via facsimile or e-mail the original must be submitted within five (5) days. Filing is complete upon receipt by SCAO.

The request must be in writing and signed by the applicant or agent. The request must include:

- a. The reason(s) the applicant or agent disagrees with the proposed action;
  - b. A description of any rehabilitative evidence an applicant wishes to have considered if the proposed action is a denial of approval;
  - c. Any other information or documentation not previously provided in support of his or her position; and
  - d. A written request for an informal hearing if so desired.
3. Stay of Proposed Action. The imposition of the proposed action may be stayed pending a final decision in the following instances:
    - a. The proposed action is the result of a violation of the Standards of Conduct as provided in Section III;
    - b. The proposed action is authorized under Section VII(A)(4)-(8) except when there is a reasonable basis to believe that there is a threat of immediate and/or grave harm if the agent is allowed to continue to write bonds.

- C. SCAO Staff Response. The SCAO staff shall submit a response to the Request for Review to the State Court Administrator within twenty (20) days after receipt of the Request. The response should set forth the reason(s) for the proposed action and address any legal arguments raised in the Request. A copy of the response must be provided to the applicant or agent.
- D. Review by State Court Administrator
  1. If an informal hearing is requested, then Section E below is applicable.
  2. If an informal hearing is not requested, then the State Court Administrator shall conduct the review based on written submissions only.
  3. If an application is denied due to a current criminal charge or conviction then the State Court Administrator shall consider evidence of rehabilitation (*See* [Minn. Stat. § 364](#)) in reaching a decision.
- E. Informal Hearing. If an informal hearing is requested, notice of the informal hearing date shall be sent to the applicant/agent via first class mail. The informal hearing should be held as soon as possible, but not later than forty-

five (45) days after receipt of the Request, unless otherwise requested or agreed to by the applicant/agent.

1. The following shall apply to the administration of an informal hearing:
  - a. Discovery shall not be permitted unless expressly authorized by the State Court Administrator in response to a written request;
  - b. The applicant may be represented by counsel;
  - c. All informal hearings will be held at the Minnesota Judicial Center, shall be recorded electronically and shall be private and confidential, except upon request of the applicant/agent;
  - d. Strict rules of evidence shall not apply. The State Court Administrator may, in his or her discretion, consider any evidence presented, including affidavits, giving such evidence the weight s/he deems appropriate;
  - e. SCAO staff and the applicant/agent shall be afforded the opportunity to introduce documents and other relevant evidence, and to elicit sworn testimony;
  - f. If the proposed action is due to a current criminal charge or conviction, the State Court Administrator shall apply the guidelines set forth in [Minn. Stat. § 364](#), *Criminal Offenders, Rehabilitation* in reaching his or her decision; and
  - g. The State Court Administrator may, in his or her discretion call witnesses and consider or clarify any evidence presented, giving such evidence the weight s/he deems appropriate.

F. State Court Administrator's Decision.

1. The State Court Administrator shall notify the applicant/agent by first class mail of the decision on the Request for Review within:
  - a. Thirty (30) days after the receipt of the SCAO response to the request for review when no informal hearing is requested; or
  - b. Twenty (20) days after the informal hearing.
2. The decision shall specify the basis for approving or dismissing the proposed action. In the event that the proposed action is confirmed, the decision shall also include:
  - a. The sanction(s) to be applied to the applicant/agent and the condition(s) and timeframe for reinstatement if the decision includes suspension or revocation of an agent's approval status;
  - b. The conditions and timeframe within which an applicant may reapply; and
  - c. Notice of the opportunity to appeal the decision to the Review Panel as provided for in Section IX.

- G. Delegation. The State Court Administrator may appoint a designated officer to act on his or her behalf in carrying out any of the aforementioned duties in this section.

## **IX. Appeal to Bail Bond Review Panel**

- A. **Applicability.** The procedures in this section apply in the event that an applicant/agent receives an unfavorable decision under Section VIII, *Review by State Court Administrator*.
- B. **Bail Bond Review Panel.** The Bail Bond Review Panel shall be composed of two district court judges and one court administrator appointed by the Chief Justice. Members of the panel shall serve for a period to also be determined by the Chief Justice. Any Review Panel member who has a conflict of interest shall recuse her/himself from the proceedings.
- C. **Appeal Process.** A written appeal request must be received no later than twenty (20) days after the date of the State Court Administrator's Review decision.
  1. **Statement of Appeal.** The Statement of Appeal shall include the applicant's specific written objections to the decision. The appeal may be filed via first class mail, facsimile, e-mail or hand-delivery. If filed via facsimile or e-mail, the signed original must be submitted within five (5) days. Filing is complete upon receipt in SCAO.
  2. **Response.** The State Court Administrator, or designee, shall submit a written response to the Statement of Appeal to the Review Panel within ten (10) days after receipt of a copy of the Statement of Appeal. A copy of the response must be provided to the applicant/agent.
  3. **Record for Appeal.** An appeal of a Review decision shall be a paper process based only on the record of the Review, the applicant's/agent's statement of appeal and the SCAO response. The record of the Review shall include all documents and evidence presented during the Review process. A transcript of an informal hearing may also be provided upon written request and at the expense of the applicant/agent.
  4. **Stay.** The imposition of the proposed action may be stayed pending a final decision except when there is a reasonable basis to believe that there is a threat of immediate and/or grave harm if the agent is allowed to continue to write bonds.
  5. **Designee.** The State Court Administrator may appoint a designated officer to act on behalf of the State Court Administrator in the appeal process.
- D. **Review by Bail Bond Review Panel.** Within sixty (60) days after receipt of the State Court Administrator's submission the Review Panel shall review the record and reach a conclusion about whether or not the decision reached by the State Court Administrator and the sanctions imposed are appropriate.
  1. When the appeal is from the denial of an application, nothing in Section III(C), *Standards for Denying Bail Bond Application* shall limit the Review Panel from granting approval on the application.

2. When the appeal is from the denial of an application due to a current criminal charge or conviction, the Review Panel shall apply the guidelines set forth in [Minn. Stat. § 364](#), *Criminal Offenders, Rehabilitation*, in reaching its decision.

E. Review Panel's Decision.

1. Notice of Decision. The Review Panel shall notify the applicant/agent by first class mail and SCAO by first class mail, interoffice mail or email of the decision on the appeal within thirty (30) days after reaching a conclusion.
2. Form of Decision. The decision shall include findings, and if it confirms the Review decision it shall also include sanctions. If the sanctions include a suspension or revocation of an agent's approval the Review Panel shall specify the conditions and timeframe under which the applicant may reapply or be reinstated on the Approved List.
3. The decision of the Review Panel is final.

X. **Reinstatement of Bonding Privileges.**

- A. The bonding privileges of an agent who was removed from the Approved List as the result of the procedures in Sections VI – IX, shall be reinstated as follows:
  1. Remedy. The agent remedies the ground(s) for removal in sections VII(A)(1)-(3);
  2. State Court Administrator Dismissal. The agent was removed from the Approved List under the authority of section VII(A)(1)-(3) or because s/he posed an immediate threat of harm and the State Court Administrator determines in the Review process that such grounds for removal do not exist;
  3. Review Panel Dismissal. The agent was removed from the Approved List under the authority of sections VIII(A)(1)-(3) or because s/he posed an immediate threat of harm and the Review Panel determines in the Appeal process that such grounds for removal do not exist;
  4. Time Expiration. Upon expiration of a disciplinary action which includes suspension from the Approved List where a timeframe is the only condition imposed, the agent's suspension will end automatically on the first business day following the expiration of the time; or
  5. Conditions Met. Upon completion of a disciplinary action where imposed sanctions include suspension from the Approved List for a specified timeframe and additional conditions, the agent shall submit written proof of completion of the conditions within the timeframe established in the suspension decision or order issued by the State Court Administrator or Review Panel.

The State Court Administrator, or his or her designated officer, shall have sole discretion in determining whether the conditions for reinstatement have been satisfied.

- B. The bonding privileges of an agent and surety who was removed from the Approved List as the result of a forfeiture and suspension action under Section XI shall be reinstated upon the first of the following events to occur:
  - 1. Reinstatement of the Bond by the Court;
  - 2. Thirty (30) days after payment of the bond; or
  - 3. Entry of a court order under Minn. R. Gen. Pract. 1.02
- C. Notification of Reinstatement. Upon reinstatement of bonding privileges SCAO staff shall:
  - 1. Send written notice of reinstatement to the agent, bonding agency and surety;
  - 2. Email notice of the reinstatement to sheriffs and court administration; and
  - 3. Change the status of the agent and surety on the Approved List to “Active.”

**XI. Forfeiture and Suspension Procedures.** The procedures in this section are applicable to both local court administration staff and State Court Administration staff in the event of a non-appearance by the defendant and non-payment of a forfeited bond.

- A. Forfeiture Procedures. When a defendant fails to appear for a court hearing as secured by the surety bond posted with the court, the following forfeiture procedures shall apply:
  - 1. Notice of Forfeiture. When a bond is forfeited by court order, the court administrator shall promptly serve upon the agent, bonding agency and surety:
    - a. Written notice of the forfeiture; and
    - b. A copy of the order of forfeiture.
  - 2. Service of Notice of Forfeiture. Notice should be served by first class mail, addressed to the individual or entity’s most current address on file with SCAO on CourtNet at <http://courtnet.courts.state.mn.us/bailbondsCourtNet/>.
    - a. Service by Facsimile may be utilized if requested in writing by the bonding agency. Service by facsimile to the bonding agency does **not** constitute notice to the agent or surety company.
    - b. Notices must be served on each individual or entity separately. Do not place the notice to the agent and the bonding agency in the same envelope.
  - 3. Form of Notice of Forfeiture. The following information must be included in the Notice of Forfeiture:
    - a. Name and last known address of the agent, bonding agency and surety;
    - b. Reference to the attached forfeiture order;
    - c. Statement that payment must be made within 90 days from the date of order of forfeiture (advisable to compute the date and state it in the notice, e.g.: “no later than 4:30 p.m. on dd/mm/yyyy”); and
    - d. Statement that unless payment is received by the deadline, the surety and bail bond agent will be suspended from writing bonds throughout the State of Minnesota as provided in Minn. R. Gen. Pract. 702(f).



- B. Suspension Procedures. When payment on a forfeited bond has not been received or the bond has not been reinstated within the ninety (90) days, the following procedures apply:
1. Notification from court administrator. Court administration shall promptly notify SCAO staff and provide the following information:
    - a. Copies of:
      - i. The Order forfeiting bond;
      - ii. Clerk's notice of mailing or similar service documentation; and
      - iii. Form 702 and Bond instrument.
    - b. Written statement of non-payment.
    - c. Status of any motion for reinstatement of bond.
    - d. Copy or description of any notice of delinquency given by the court administrator's office.
  2. Determination of Delinquency by SCOA Staff. The following facts must exist in order to make a determination of delinquency:
    - a. An order forfeiting the bond was issued by the court;
    - b. Written notice of the order forfeiting bond was sent to the last known address for the agent, the bonding agency, and the surety;
    - c. Payment of the forfeited bond was not received by the court administrator's office;
    - d. More than ninety (90) days have elapsed since the order forfeiting bond was issued; and
    - e. The forfeited bond has not been reinstated by the court.
  3. Pre-Suspension Notice by SCAO Staff. If a determination of delinquency can be made based on the information provided by the court administrator's office, then SCAO staff must make a reasonable effort to contact the bail bond agent, bonding agency or surety to determine if payment has been made. Contact may be made by telephone, email or first class mail.
    - a. In the event payment has not been made at the time of contact, SCAO staff has the authority to extend a reasonable grace period, up to 3 business days, during which the forfeited bond may be paid or a petition for reinstatement filed before a suspension is implemented.
    - b. In the event there is a dispute as to whether payment has been made, and the bonding agency makes a good faith showing that payment was sent, then reasonable attempts to locate the payment should be made before a suspension is issued. If the payment is not located within three (3) business days, then the bonding agency shall be given a reasonable grace period, up to three (3) business days, to re-submit payment of the bond to the court administrator's office. If payment is not received within the grace period, then SCAO may implement the suspension.
  4. Notification of Suspension. If a determination of delinquency is made and payment has not been received or a motion for reinstatement filed prior to the expiration of a grace period, then SCAO staff shall:
    - a. Send written notice of suspension, by certified mail, to the agent, bonding agency and surety;
    - b. Send written notice of the suspension action to the bonding agencies and agents who are also authorized to write bonds for the suspended surety company;

- c. Email notice of the suspension to sheriffs and court administration; and
  - d. Change the status of the agent and surety to “Suspended” on the Approved List.
5. Notice of Payment or Reinstatement of the Bond. Court administration shall promptly notify SCAO staff of:
- a. The receipt of payment of the forfeited bond;
  - b. The reinstatement of the forfeited bond by the Court; and
  - c. The entry of a Court order under Minn. R. Gen. Pract. 1.02.

## **XII. Confidentiality**

- A. Denials and Removals. All actions related to the denial of an application and a removal from the Approved List shall be confidential, except that when a final determination is made to deny an application or remove an agent from the Approved List. In this event, the final determination, including the grounds for the decision and the facts cited in support of the decision, shall be accessible to the public.

For purposes of this section, a final determination occurs at the conclusion of an appeal before the Review Panel under Section IX; upon failure of the applicant or agent to appeal the State Court Administrator's decision under Section VIII; or upon the failure of the applicant or agent to request review by the State Court Administrator.

- B. Violations of Standards of Conduct. All complaints and investigations shall be confidential, except that when a final determination is made to impose any of the sanctions listed in Section V, the final determination, including the grounds for the sanction(s) and the facts cited in support of the decision, shall be accessible to the public.

For purposes of this section a final determination occurs at the conclusion of the appeal proceedings before the Review Panel under Section IX, or upon failure of the agent to appeal the State Court Administrator's decision to impose sanctions within the time provided in Section IX.

## **RELATED DOCUMENTS**

[Judicial Council Policy 504, Bail Bonds](#)

General Rules of Practice for District Courts, [Rule 702](#)

## **REVISION HISTORY**

**May 2006:** New procedures to implement Judicial Council Policy 504

**September 2009:** Rewrite of Procedures to update process and fill in gaps. Addition of Section IV, *Standards of Conduct* and Section V, *Complaint and Investigation Process*.