

**STATE BAR COURT HEARING DEPARTMENT
GUIDELINES FOR SCHEDULING AND CONDUCTING
EARLY NEUTRAL EVALUATION CONFERENCES (ENEC)
RULE 5.30, RULES OF PROCEDURE
Effective May 31, 2019**

Scheduling:

- Use court-approved form and submit to proper venue by facsimile or mail. All requests must be on the latest version of the form dated November 1, 2015. Requests on any other form will be returned and accompanied by a request to resubmit the new form.
- Supply multiple dates agreed to by opposing counsel. In order to schedule the ENEC within 15 days, the court may not be able to accommodate requested dates.
- Court Specialists will notify requestor of the assigned ENEC Judge and ENEC date.
- Requestor to notify opposing counsel – no written notice will be given by the court.
- The parties may not request a specific ENEC Judge.

Preparation for the Conference:

- In addition to the required draft notice of disciplinary charges, the court requests the parties submit a brief statement of the case, including their settlement positions.
- A party requesting consideration of aggravating or mitigating circumstances, as reflected in Standards 1.5 and 1.6 respectively, should submit all available supporting evidence or a proffer of what such evidence would show. Copies should be served on the court and opposing counsel in advance of the ENEC for consideration at the conference.
- Documents should be submitted as early as possible, but no later than **three (3) court days in advance** of the ENEC. The ENEC may be rescheduled if the ENEC Judge is not provided sufficient time to review the material.
- In order to increase productivity, the court encourages the parties to exchange documents prior to the ENEC.

Conduct of the Conference:

- The parties should be prepared to discuss the facts, the proposed charges and the potential for the imposition of discipline.
- The ENEC Judge will address settlement of the case, and therefore, the parties should be prepared to discuss settlement positions and should have settlement authority.
- In camera inspection of documents is permissible. While this may be necessary in some cases, the final evaluation may be based on information only available to one side which may lessen the opportunity for settlement.

Conclusion:

- If a settlement is reached, all material terms should be agreed upon at the ENEC. If a stipulation is to be filed, it should be directed to the ENEC Judge. If the stipulation is not filed by an agreed upon

date, the ENEC Judge may schedule a continued ENEC prior to the filing of the notice of disciplinary charges.

- If no settlement is reached, the Office of Chief Trial Counsel may file a notice of disciplinary charges and should advise the opposing counsel when it will be filed.
- More than one ENEC may be necessary. Upon request of the parties, the ENEC Judge may permit a short continuance – the 15 day period set forth in Rule 5.30 (a) will not apply.
- The ENEC Judge will not be the Trial Judge unless both parties consent. The ENEC Judge may serve as the Settlement Judge.