

July 24, 2023

Larry S. Royster  
Clerk of the Court  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

**RE: ADM File No. 2022-26: Proposed Amendment of Rule 6.425 of the Michigan Court Rules**

Dear Clerk Royster:

At its July 21, 2023 meeting, the Board of Commissioners of the State Bar of Michigan considered ADM File No. 2022-26. In its review, the Board considered recommendations from the Access to Justice Policy Committee and Criminal Jurisprudence & Practice Committee. The Board voted unanimously to support the proposed amendment.

Recognizing the importance of the right to allocution, the Board supports amending Rule 6.425 to require that the court personally address a defendant regarding this right before imposing sentence, in order to ensure that the defendant (or the defendant's attorney) has the opportunity to present any information relevant to mitigation, while also specifying how the prosecutor and any victim of crime<sup>1</sup> are to participate at this stage of a criminal proceeding. While personal address is common practice in many Michigan courts today, adopting the proposed amendment will ensure consistency across courtrooms and promote clarity for both bench and bar, as demonstrated by the success of the federal counterpart to this proposed rule. FR Crim P 32(i)(4). This proposed amendment will also specifically address any question raised about the proper interpretation of Rule 6.425 following the Court of Appeals opinion in *People v Edwards*, unpublished per curiam opinion of the Court of Appeals, issued December 2, 2021 (Docket No. 351389).

Thank you for the opportunity to comment on the proposed amendment.



Peter Cunningham  
Executive Director

cc: Sarah Roth, Administrative Counsel, Michigan Supreme Court  
James W. Heath, President

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<sup>1</sup> The Access to Justice Policy Committee identified what they perceived to be a potential ambiguity in the proposed language of MCR 6.425(D)(1)(c)(iv), as noted in the Committee's public policy position appended to this letter.

**Public Policy Position**  
**ADM File No. 2022-26: Proposed Amendment of MCR 6.425**

**Support with Amendment**

**Explanation:**

The Committee voted unanimously (16) to support the proposed amendment to MCR 6.425 with an amendment to (D)(1)(c)(iv) to read: “address any victim of the crime who is present at sentencing and permit the victim the opportunity to speak or be reasonably heard, as the victim prefers to be reasonably heard.” This amendment is intended to remove any ambiguity in the proposed amendment, as published, that suggests that a crime victim must personally appear and address the court, as opposed to submitting a written statement or having their attorney or designee make a statement.

**Position Vote:**

Voted For position: 16

Voted against position: 0

Abstained from vote: 0

Did not vote (absent): 11

**Contact Persons:**

Katherine L. Marcuz [kmarcuz@sado.org](mailto:kmarcuz@sado.org)

Lore A. Rogers [rogersl4@michigan.gov](mailto:rogersl4@michigan.gov)