

4525.0340 SUBMISSION TO BOARD; BOARD-INITIATED INVESTIGATIONS AND MATTERS NOT RESOLVED BY CONCILIATION AGREEMENT.

Subpart 1. [Repealed, L 2018 c 119 s 34]

Subp. 2. **Board action on submission.** When it receives a submission under Minnesota Statutes, section 10A.022, subdivision 3d, the board must take one of the following actions:

- A. provide guidance and direct the executive director to begin or to continue a staff review;
- B. dismiss the matter without prejudice;
- C. order a formal investigation of the matter; or
- D. issue findings, conclusions, and an order resolving the matter.

The board must consider the evidence in the executive director's submission and the information and arguments in any statement submitted by the respondent.

In making its determination, the board must consider the type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied; and any other similar factor necessary to decide whether the matter under review warrants a formal investigation.

Unless the board directs the executive director to continue an existing staff review, the board's determination must be made in writing. The executive director must promptly notify the respondent of the board's determination.

Subp. 3. **Formal investigation ordered.** An order for a formal investigation must describe the alleged violations to be investigated, the scope of the investigation, and the discovery methods available for use by the board in the investigation.

When the board orders a formal investigation, the executive director must promptly notify the respondent that the board has ordered a formal investigation into the matter.

The notice to the respondent must:

- A. include a copy of the order initiating the investigation;
- B. explain how the investigation is expected to proceed and what discovery methods are expected to be used;
- C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response and the right to counsel; and
- D. state that the respondent will be given an opportunity to be heard by the board prior to the board's determination as to whether any violation occurred.

Statutory Authority: *MS s 10A.02*

History: *39 SR 757; L 2018 c 119 s 34*

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