

Rule 2. Jurisdiction and Powers of Board**(a) Powers of the Board.**

(1) Disposition of Complaints. The board shall have the power to receive complaints, investigate, make certain dispositions, and make recommendations to the Supreme Court concerning:

- (i) Allegations of judicial misconduct;
- (ii) Allegations of physical or mental disability of judges; and
- (iii) Matters of voluntary retirement for disability.

(2) Advisory Opinions. The board, and as delegated by the board, the executive secretary, may issue advisory opinions on proper judicial conduct with respect to the provisions of the Code of Judicial Conduct. An advisory opinion may be requested by a judge or a candidate for judicial office.

(i) A request that the board issue an individual written advisory opinion shall relate to prospective conduct only, and shall be submitted in writing and contain a complete statement of all facts pertaining to the intended conduct and a clear, concise question of judicial ethics. The board shall issue a written opinion within 30 days after receipt of the written request, unless the time period is extended by the board.

(ii) The board may issue opinions of general applicability.

(iii) The executive secretary may provide informal opinions to judges.

(iv) The board and the Office of Lawyers Professional Responsibility may disclose to each other confidential information concerning opinion requests in order to promote consistency in their opinions.

(v) The fact that the judge or judicial candidate requested and relied on an advisory opinion shall be taken into account in any subsequent disciplinary proceedings. The advisory opinion shall not be binding on the hearing panel or the Supreme Court in the exercise of their judicial-discipline responsibilities.

(b) Jurisdiction Over Judges. The board shall have jurisdiction over allegations of misconduct and disability for all judges.

(c) Conduct Prior to Assuming Judicial Office. The board's jurisdiction shall include conduct that occurred prior to a judge assuming judicial office. The Office of Lawyers Professional Responsibility shall have jurisdiction to consider whether discipline as a lawyer is warranted in matters involving conduct of any judge occurring prior to the assumption of judicial office.

(d) Jurisdiction Over Former Judge. The board shall have jurisdiction over an inquiry, investigation, Formal Complaint, or Formal Statement of Disability Proceeding commenced before a judge left judicial office provided the conduct at issue occurred while the judge was in judicial office and the conduct at issue occurred in the judge's judicial capacity. The board may at any time dismiss a matter involving a former judge if the board determines that pursuing the matter further is not a prudent use of the board's resources. The Office of Lawyers Professional Responsibility shall have jurisdiction over a lawyer who is no longer a judge to consider whether discipline is warranted with reference to allegedly unethical conduct that occurred during the time when the lawyer held judicial office. The board shall notify the Office of Lawyers Professional Responsibility if a judge leaves judicial office while an inquiry, investigation, Formal Complaint, or Formal Statement of Disability Proceeding is pending.

(e) Subpoenas and Depositions During Investigation.

(1) Subpoenas and Depositions Limited. Subpoenas and depositions during the board's investigation shall not be allowed, except as provided in this Rule. Subpoenas and depositions in panel proceedings are governed by Rules 7(b) and 9(b).

(2) Subpoenas for Investigation. During the investigative stage of a proceeding, prior to a finding of reasonable cause to proceed, the executive secretary may make application to the board to authorize the issuance of a subpoena compelling any person, including a judge, to attend and give testimony, and to produce documents, books, accounts and other records. The board may authorize the subpoena upon a finding that the information sought appears reasonably calculated to lead to the discovery of evidence of possible misconduct by a judge or the absence of such misconduct.

(3) Issuing Subpoenas. The District Court of Ramsey County shall issue subpoenas upon presentation of a resolution of the board.

(4) Motions. The District Court of Ramsey County shall have jurisdiction over motions arising from Rule 2(e) subpoenas and depositions. The judge shall be denominated by number or randomly selected initials in any District Court proceedings. Any resulting order of the District Court may not be appealed before entry of the hearing panel's disposition in accordance with Rule 11.

(f) Cooperation. A judge who is the subject of investigation or a disciplinary proceeding shall comply with the board's reasonable requests to furnish a full and complete explanation covering the matter under consideration and to appear for conferences. A judge who is the subject of disciplinary action under these rules shall comply with the terms and conditions of any order or disposition imposing discipline.

(g) Impeachment. Nothing in these rules shall affect the impeachment of judges under the Minnesota Constitution, Article 8.

(Amended effective January 1, 1996; amended effective March 30, 1999; amended effective July 1, 2009; amended effective July 1, 2016.)