

Rule 6. Screening and Investigation

(a) Initiation of Inquiry. An inquiry may be initiated as follows:

- (1) An inquiry relating to conduct of a judge may be initiated upon a complaint.
- (2) The board may on its own motion make an inquiry into the conduct of a judge.
- (3) Upon request of the Chief Justice of the Supreme Court, the board shall make an inquiry into the conduct of a judge.
- (4) An inquiry relating to the physical or mental condition of a judge may be initiated pursuant to Rule 16.

(b) Screening. The executive secretary shall review the complaint or information received by the board. If the complaint or information does not contain a basis for a reasonable belief that a judge may have engaged in misconduct or may have a disability, the executive secretary shall dismiss the complaint or end the inquiry, subject to review and approval by a board member as assigned by the chair, or, if appropriate, refer the matter to another agency or court.

(c) Evaluation. Upon a reasonable belief that a judge may have engaged in misconduct or may have a disability, the executive secretary shall conduct an evaluation. The results of all evaluations shall be routinely submitted to the board.

(d) Investigation; Notice.

(1) Upon review of the preliminary evaluation, or on its own motion, the board may, by resolution:

- (i) stay proceedings pending action by another agency or court;
- (ii) dismiss the complaint or end the inquiry; or
- (iii) authorize an investigation.

(2) Within ten (10) business days after an investigation has been authorized by the board, the executive secretary shall give the following notice to the judge whose conduct is being investigated:

(i) a specific statement of the allegations and possible violations of the Code of Judicial Conduct being investigated, including notice that the investigation can be expanded if appropriate;

(ii) the judge's duty to respond under Rule 6(d)(5);

(iii) the judge's opportunity to appear before the board or panel of the board under Rule 6(d)(6); and

(iv) the name of the complainant or informant, unless the board determines there is good cause to withhold that information.

Except as provided in clause (3), the executive secretary shall not commence an investigation until such notice is sent to the judge.

(3) The board may defer notice for specific reasons, but when notice is deferred, the executive secretary shall give notice to the judge before making a recommendation as to discipline.

(4) Notice shall be sent immediately upon request of the judge whose conduct or physical or mental condition is the subject of the inquiry if the inquiry has been made public.

(5) Upon request of the executive secretary, the judge shall file a written response within thirty (30) days after service of the notice under Rule 6(d)(2).

(6) Before the board determines its disposition of the inquiry, either the board or the judge may request that the judge appear before the board or a panel of the board to respond to questions. The appearance shall be granted. If the board requests the judge's appearance, the executive secretary shall give the judge 20 days' notice. The board may require that the judge's testimony be sworn.

(e) Investigation of Complaints Filed During an Election. The board may expedite its investigation into a complaint against a judge who is a candidate for judicial office if the complaint was filed after the statutory filing period for judicial office has opened. If after investigation the board determines the complaint has no merit, the board may dismiss the complaint and issue an appropriate public statement under Rule 5(e)(2).

(f) Disposition After Investigation.

(1) Upon conclusion of an investigation or determination by another agency or court, the executive secretary may recommend disposition to the board.

(2) The board shall review the results of the investigation or determination by another agency or court and the recommendations of the executive secretary and determine whether there is reasonable cause to believe the judge committed misconduct.

(3) A finding of reasonable cause shall require the concurrence of a majority of the non-recused members of the board.

(4) Upon determination that there is not reasonable cause to believe the judge committed misconduct, the board shall dismiss the complaint or end the inquiry. Upon dismissal or termination of the inquiry, the board may issue a letter of caution that addresses the judge's conduct.

(5) If the board finds there is reasonable cause to believe the judge committed misconduct, it may:

(i) enter into a deferred disposition agreement for a period of time, and the agreement may specify the disposition upon completion;

(ii) if the misconduct appears to be of an isolated and non-serious nature, issue a private admonition, which may include conditions;

(iii) issue a public reprimand, which may include conditions; or

(iv) issue a Formal Complaint.

(6) Prior to issuance of a private admonition, the board shall serve the judge with a copy of the proposed private admonition and a notice stating that within 14 days after service of the proposed private admonition, the judge may serve the board with either a written demand for a private hearing in accordance with Rule 7 or the written comments and criticisms of the judge regarding the proposed admonition. If no timely demand for a hearing is made, the board may consider the comments and criticisms, if any, but may in its discretion issue the private admonition as originally prepared.

(7) Prior to issuance of a public reprimand, the board shall serve the judge with a copy of the proposed reprimand and a notice stating that within 14 days of service of the proposed reprimand, the judge may serve the board with either a written demand for a formal hearing as provided in Rule 8, or the written comments and criticisms of the judge regarding the proposed reprimand. If the judge makes a timely demand for a formal hearing, the board shall comply with Rule 8. If no

timely demand for a hearing is made, the board may consider the comments and criticisms, if any, but may in its discretion issue the reprimand as originally prepared.

(8) After the board has determined to issue a Formal Complaint, the judge shall be given the opportunity to meet with a representative of the board, but the board is not required to delay filing the Formal Complaint.

(9) The board shall notify the judge of its action and shall disclose the names of the board members who did not participate in the action.

(g) Representation by Counsel. A judge may be represented by counsel, at the judge's expense, at any stage of the proceedings under these rules.

(h) Access to Transcripts and Recordings. Upon request by the board, the judge shall order and provide a transcript of the portions of hearings requested by the board. See Minnesota Statutes, section 486.06. Notwithstanding Rule 4, subdivision 3, of the Rules of Public Access to Records of the Judicial Branch, the board may also obtain audio recordings of court proceedings.

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