

Rule 9. Discovery

(a) Initial Disclosures. Within 20 days after the service of a response, counsel for the board and the judge shall exchange the names and addresses of all persons known to have knowledge of the relevant facts. The presider of the panel shall set a date for the exchange of the names and addresses of all witnesses the parties intend to call at the hearing.

(b) Subpoenas and Depositions. Subpoenas for inspection of documents, depositions, and the hearing may be issued only with the prior approval of the presider. Counsel for the board may take the deposition of the judge. The board and the judge may apply to the presider to take the deposition of witnesses who are unavailable to testify at the hearing. Depositions of other persons may be taken only if the presider finds that the party's need for the deposition outweighs the burdens placed on the deponent and on the other party and does not significantly delay the proceedings. The presider shall issue a protective order in accordance with Rule 26.03, Rules of Civil Procedure, when necessary to reduce the burdens on a deponent. Subpoenas shall be issued by the Ramsey County District Court upon presentation of the presider's authorization for the subpoena.

(c) Other Evidence. Counsel for the board and the judge shall exchange:

(1) non-privileged evidence relevant to the Formal Complaint, documents to be presented at the hearing, witness statements, and summaries of interviews with witnesses who will be called at the hearing; and

(2) other material only upon good cause shown to the presider.

This rule shall not limit the judge's access to the file under Rule 5(h). Upon request by the board or the judge and for good cause shown, the presider may authorize service of interrogatories and requests for production of documents and may direct the judge to sign authorizations for release of information.

(d) Exculpatory Evidence. Counsel for the board and the executive secretary shall provide the judge with exculpatory evidence relevant to the Formal Complaint.

(e) Duty of Supplementation. Both the board and the judge have a continuing duty to supplement information required to be exchanged under this rule.

(f) Completion of Discovery. All discovery shall be completed within 60 days of the service of the response or the expiration of the time for service of the response, whichever occurs first unless upon a showing of good cause, the presider extends the time.

(g) Failure to Disclose. The presider may preclude either party from calling a witness at the hearing if the party has not provided the opposing party with the witness' name and address, any statements taken from the witness or summaries of any interviews with the witness.

(h) Resolution of Disputes. Disputes concerning discovery, including subpoenas and depositions, shall be determined by the presider of the hearing panel before whom the matter is pending. The decisions of the presider may not be appealed before entry of the panel's disposition in the disciplinary proceeding.

(i) Civil Rules Not Applicable. Proceedings under these rules are not subject to the Rules of Civil Procedure regarding discovery except that Rules 26.03, 30.02-.07, 32.04-.05, and 37.04 are applicable to the extent that they are consistent with these rules.

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