

Rule 9. Panel Proceedings

(a) Charges. If the matter is to be submitted to a Panel, the matter shall proceed as follows:

(1) The Director shall prepare charges of unprofessional conduct, assign them to a Panel by rotation, and notify the lawyer of the Charges, the name, address, and telephone number of the Panel Chair and Vice Chair, and the provisions of this Rule. Within 14 days after the lawyer is notified of the Charges, the lawyer shall submit an answer to the Charges to the Panel Chair and the Director and may submit a request that the Panel conduct a hearing. Within ten days after the lawyer submits an answer, the Director and the lawyer may submit affidavits and other documents in support of their positions.

(2) The Panel shall make a determination in accordance with paragraph (j) within 40 days after the lawyer is notified of the Charges based on the documents submitted by the Director and the lawyer, except in its discretion, the Panel may hear oral argument or conduct a hearing. If the Panel orders a hearing, the matter shall proceed in accordance with subdivisions (b) through (i). If the Panel does not order a hearing, subdivisions (b) through (i) do not apply.

(3) The Panel Chair may extend the time periods provided in this subdivision for good cause.

(b) Setting Pre-Hearing Meeting. If the Panel orders a hearing, the Director shall notify the lawyer of:

(1) The time and place of the pre-hearing meeting; and

(2) The lawyer's obligation to appear at the time set unless the meeting is rescheduled by agreement of the parties or by order of the Panel Chair or Vice-Chair.

(c) Request for admission. Either party may serve upon the other a request for admission. The request shall be made before the pre-hearing meeting or within ten days thereafter. The Rules of Civil Procedure for the District Courts applicable to requests for admissions govern, except that the time for answers or objections is ten days and the Panel Chair or Vice-Chair shall rule upon any objections. If a party fails to admit, the Panel may award expenses as permitted by the Rules of Civil Procedure for District Courts.

(d) Deposition. Either party may take a deposition as provided by the Rules of Civil Procedure for the District Courts. A deposition under this Rule may be taken before the pre-hearing meeting or within ten days thereafter. The District Court of Ramsey County shall have jurisdiction over issuance of subpoenas and over motions arising from the deposition. The lawyer shall be denominated by number or randomly selected initials in any District Court proceeding.

(e) Pre-Hearing meeting. The Director and the lawyer shall attend a pre-hearing meeting. At the meeting:

(1) The parties shall endeavor to formulate stipulations of fact and to narrow and simplify the issues in order to expedite the Panel hearing; and

(2) Each party shall mark and provide the other party with a copy of each affidavit or other exhibit to be introduced at the Panel hearing. The genuineness of each exhibit is admitted unless objection is served within ten days after the prehearing meeting. If a party objects, the Panel may award expenses of proof as permitted by the Rules of Civil Procedure for the District Courts. No additional exhibit shall be received at the Panel hearing without the opposing party's consent or the Panel's permission.

(f) Setting Panel hearing. Promptly after the prehearing meeting, the Director shall schedule a hearing by the Panel on the charges and notify the lawyer of:

(1) The time and place of the hearing;

(2) The lawyer's right to be heard at the hearing; and

(3) The lawyer's obligation to appear at the time set unless the hearing is rescheduled by agreement of the parties or by order of the Panel Chair or Vice-Chair.

The Director shall also notify the complainant, if any, of the hearing's time and place. The Director shall send each Panel member a copy of the charges, of any stipulations, and of the prehearing statement. Each party shall provide to each Panel member in advance of the Panel hearing, copies of all documentary exhibits marked by that party at the prehearing meeting, unless the parties agree otherwise or the Panel Chair or Vice-Chair orders to the contrary.

(g) Referee probable cause hearing. Upon the certification of the Panel Chair and the Board Chair to the Court that extraordinary circumstances indicate that a matter is not suitable for submission to a Panel under this Rule, because of exceptional complexity or other reasons, the Court may appoint a referee with directions to conduct a probable cause hearing acting as a Panel would under this Rule, or the Court may remand the matter to a Panel under this Rule with instructions, or the Court may direct the Director to file with this Court a petition for disciplinary action under Rule 12(a). If a referee is appointed to substitute for a Panel, the referee shall have the powers of a district court judge and Ramsey County District Court shall not exercise such powers in such case. If the referee so appointed determines there is probable cause as to any charge and a petition for disciplinary action is filed in this Court, the Court may appoint the same referee to conduct a hearing on the petition for disciplinary action under Rule 14. If a referee appointed under Rule 14 considers all of the evidence presented at the probable cause hearing, a transcript of that hearing shall be made part of the public record.

(h) Form of evidence at Panel hearing. The Panel shall receive evidence only in the form of affidavits, depositions or other documents except for testimony by:

(1) The lawyer;

(2) A complainant who affirmatively desires to attend; and

(3) A witness whose testimony the Panel Chair or Vice-Chair authorized for good cause.

If testimony is authorized, it shall be subject to cross-examination and the Rules of Evidence and a party may compel attendance of a witness or production of documentary or tangible evidence as provided in the Rules of Civil Procedure for the District Courts. The District Court of Ramsey County shall have jurisdiction over issuance of subpoenas, motions respecting subpoenas, motions to compel witnesses to testify or give evidence, and determinations of claims of privilege. The lawyer shall be denominated by number or randomly selected initials in any district court proceeding.

(i) Procedure at Panel hearing. Unless the Panel for cause otherwise permits, the Panel hearing shall proceed as follows:

(1) The Chair shall explain the purpose of the hearing, which is:

(i) to determine whether there is probable cause to believe that public discipline is warranted, and the Panel will terminate the hearing on any charge whenever it is satisfied that there is or is not such probable cause;

(ii) if an admonition has been issued under Rule 8(d)(2) or 8(e), to determine whether the Panel should affirm the admonition on the ground that it is supported by clear and convincing evidence, should reverse the admonition, or, if there is probable cause to believe that public discipline is warranted, should instruct the Director to file a petition for disciplinary action in this Court; or

(iii) to determine whether there is probable cause to believe that a conditional admission agreement has been violated, thereby warranting revocation of the conditional admission to practice law, and that the Panel will terminate the hearing whenever it is satisfied there is or is not such probable cause.

(2) The Director shall briefly summarize the matters admitted by the parties, the matters remaining for resolution, and the proof which the Director proposes to offer thereon;

(3) The lawyer may respond to the Director's remarks;

(4) The parties shall introduce their evidence in conformity with the Rules of Evidence except that affidavits and depositions are admissible in lieu of testimony;

(5) The parties may present oral arguments;

(6) The complainant may be present for all parts of the hearing related to the complainant's complaint except when excluded for good cause; and

(7) The Panel shall either recess to deliberate or take the matter under advisement.

(j) Disposition. The Panel shall make one of the following determinations:

(1) In the case of charges of unprofessional conduct, the Panel shall:

(i) determine that there is not probable cause to believe that public discipline is warranted, or that there is not probable cause to believe that revocation of a conditional admission is warranted;

(ii) if it finds probable cause to believe that public discipline is warranted, instruct the Director to file in this Court a petition for disciplinary action. The Panel shall not make a recommendation as to the matter's ultimate disposition;

(iii) if it concludes that the attorney engaged in conduct that was unprofessional but of an isolated and nonserious nature, the Panel shall state the facts and conclusions constituting unprofessional conduct and issue an admonition. If the Panel issues an admonition based on the parties' submissions without a hearing, the lawyer shall have the right to a hearing de novo before a different Panel. If the Panel issues an admonition following a hearing, the lawyer shall have the right to appeal in accordance with Rule 9(m); or

(iv) if it finds probable cause to revoke a conditional admission agreement, instruct the Director to file in this Court a petition for revocation of conditional admission.

(2) If the Panel held a hearing on a lawyer's appeal of an admonition that was issued under Rule 8(d)(2), or issued by another panel without a hearing, the Panel shall affirm or reverse the admonition, or, if there is probable cause to believe that public discipline is warranted, instruct the Director to file a petition for disciplinary action in this Court.

(k) Notification. The Director shall notify the lawyer, the complainant, if any, and the District Committee, if any, that has the complaint, of the Panel's disposition. The notification to the complainant, if any, shall inform the complainant of the right to petition for review under subdivision (l). If the Panel affirmed the Director's admonition, the notification to the lawyer shall inform the lawyer of the right to appeal to the Supreme Court under subdivision (m).

(l) Complainant's petition for review. If not satisfied with the Panel's disposition, the Complainant may within 14 days file with the Clerk of the Appellate Courts a petition for review. The complainant shall, prior to or at the time of filing, serve a copy of the petition for review upon the respondent and the Director and shall file an affidavit of service with the Clerk of the Appellate Courts. The respondent shall be denominated by number or randomly selected initials in the proceeding. This Court will grant the review only if the petition shows that the Panel acted arbitrarily, capriciously, or unreasonably. If the Court grants review, it may order such proceedings as it deems appropriate. Upon conclusion of such proceedings, the Court may dismiss the petition or, if it finds that the Panel acted arbitrarily, capriciously, or unreasonably, remand the matter to the same or a different Panel, direct the filing of a petition for disciplinary action or a petition for revocation of conditional admission, or take any other action as the interest of justice may require.

(m) Respondent's appeal to Supreme Court. The lawyer may appeal a Panel's affirmance of the Director's admonition or an admonition issued by a Panel by filing a notice of appeal, with proof of service, with the Clerk of Appellate Courts and by serving a copy on the Director within 30 days after being notified of the Panel's action. The respondent shall be denominated by number or randomly selected initials in the proceeding. The Director shall notify the complainant, if any, of the respondent's appeal. This Court may review the matter on the record or order such further proceedings as it deems appropriate. Upon conclusion of such proceedings, the Court may either affirm the decision or make such other disposition as it deems appropriate.

(n) Manner of recording. The Director shall arrange for a court reporter to make a record of the proceedings as in civil cases.

(o) Panel Chair authority. Requests or disputes arising under this Rule before the Panel hearing commences may be determined by the Panel Chair or Vice-Chair. For good cause shown, the Panel Chair or Vice-Chair may shorten or enlarge time periods for discovery under this Rule.

(Amended July 22, 1982; amended October 22, 1984; amended July 1, 1986; amended effective July 1, 1987; amended effective January 1, 1989; amended effective March 1, 1991; amended to govern all lawyer disciplinary actions commenced on or after January 1, 1995; amended effective June 13, 1996; amended effective June 24, 1996; amended effective for lawyer discipline matters pending or commenced after August 1, 1999; amended effective September 1, 2005; amended effective July 1, 2009; amended effective October 1, 2014.)