

PRIVATE DISCIPLINE SUMMARIES

Admonitions

- Admonitions are issued for misconduct that “appears to be of an isolated and non-serious nature.” Board Rule 6(f)(5)(ii). *See also* Board Rule 6(f)(6).
- The Board has been authorized to issue private admonitions since August 1, 2009. Since that date, the Board has issued 38 admonitions. All of the admonitions are summarized below.
- Rules cited below refer to the rules in the Code of Judicial Conduct unless otherwise noted.

File no.	Conduct
2019-18	A judge assigned to a criminal matter telephoned a managing prosecutor, who was not assigned to the matter, to draw attention to the level of charges. The judge later recused from the matter. As a result of the telephone conversation, the State amended the complaint by adding a more serious charge. The judge admitted to a technical violation of the rules against ex parte communication. The Board found a violation of Rules 1.1 (Compliance with the Law) 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness), and 2.9(A) (Ex Parte Communications).
2018-12	At a sentencing hearing, a judge, who was not the presiding judge, spoke on behalf of a defendant, vouched for the defendant’s character, and stated that the defendant should receive a downward dispositional departure. The judge stated that prison was not in the defendant’s best interest even though the sentence the parties had negotiated called for prison time. The Board found a violation of Rules 1.3 (Avoiding Abuse of the Prestige of Judicial Office) and 3.3 (Testifying as a Character Witness).
2018-05, 2018-06, 2018-11	At a hearing, a judge served as the lawyer for the respondents, who are the judge’s relatives. At the hearing, the judge made statements, which at a minimum, vouched for the character of the respondents, and testified about the judge’s personal observations related to the facts of the case. The assistant county attorney objected to the testimony, and the presiding judge sustained the objections. The judge was not under subpoena. These actions violated Rule 1.3 (Avoiding Abuse of the Prestige of Judicial Office), Rule 3.3 (Testifying as a Character Witness) and Rule 3.10 (Practice of Law). Although the Board believes the judge’s misconduct to be serious, it determined that mitigating factors made a private admonition the more appropriate discipline.
2017-26	During jury deliberations, a judge answered written questions from the jury outside the presence of the parties. The questions related to substantive issues. As a result, the defendant moved for a new trial and the judge granted the request. The Board found violations of Rules 1.1 (Compliance with the Law), 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness), 2.5(A) (Competence and Diligence in the Performance of Duties), 2.6(A) (Right to Be Heard), and 2.9(A) (Ex Parte Communications) of the Minnesota Code of Judicial Conduct, along with Board Rule 4(A)(5) (Harm to the Administration of Justice) of the Rules of Board on Judicial Standards.

File no.	Conduct
2017-04	A judge imposed a monetary sanction on an attorney whose conduct placed unnecessary burdens on the court and opposing party, without providing him advance notice and without giving him an opportunity to be heard. The Board found a violation of Rule 2.6(A).
2016-32	A judge issued an order in which he made a negative statement about the character of a person associated with one of the parties. The statement related to a matter affecting the judge's personal interests. This matter was unrelated to the case before the judge. The Board found a violation of Rules 1.3, 2.4(B), and 2.10(A). In addition, the order was issued ten days after the 90-day deadline in violation of Minn. Stat. § 546.27. The Board found a violation of Rules 1.1 and 2.5(A).
2016-30	A judge issued an order eleven days after the 90-day deadline in violation of Minn. Stat. § 546.27. Two years earlier, the Board had issued a letter of caution to the judge for delayed decisions in two other cases. The Board found a violation of Rule 2.5(A).
2015-21	A judge failed to properly supervise two employees: a court reporter and paralegal. Contrary to judicial branch policy, the judge allowed one employee to take comp time and allowed the other employee to work from home without a written agreement. A judicial branch auditor found that the two employees were paid for hours not worked. The employees' annual leave balances were reduced in order to repay the judicial branch. The Board found a violation of Rules 1.2, 2.5(A), and 2.12(A).
2015-07	A judge's interest in a local controversy was personal and unrelated to judicial duties. The judge sent communications regarding the controversy to persons potentially interested in the matter. One communication connected the private controversy with an earlier official act by the judge. The Board found a violation of Rule 1.3. The admonition memorandum cited <i>Matter of Mosley</i> , 102 P.3d 555 (Nev. 2004) (disciplining a judge who, among other things, used judicial letterhead to write a letter on family members' behalf).

File no.	Conduct
2014-64	<p>In connection with a child welfare proceeding, a judge interviewed the 12 year old child. The judge denied the county attorney’s request to be present, contrary to Minn. Stat. § 260C.163, subds. 6, 7 (2014) and Minn. R. Juv. Pro. P. 27.04. The Board found a violation of Rule 2.9(A) and (C). The child was moved from one family to a second family for a pre-adoption placement.</p> <p>The second family had the right to be heard in any hearing in the case. Minn. R. Juv. Pro. P. 22.02, subd. 2. When the judge was informed of a therapist’s recommendation that the child remain with the first family, the judge scheduled a hearing on three and a half hours’ notice. The judge did not attempt to learn whether the second family could participate in the hearing. Court staff informed the second family’s mother and gave her a dial-in number. The mother was able to listen to only part of the hearing and did not otherwise participate, and the judge was not aware that she was on the call. At the hearing, the judge ordered that the child be returned to the first family immediately. The Board found the judge violated Rule 2.6(A) by not giving the second family a reasonable opportunity to be heard.</p>
2014-54	Using the judge’s official position to obtain and retain the judge’s own divorce file, which the judge then lost, in violation of Rules 1.2, 1.3, 2.1, 2.4(B), 2.5(A), and 3.1(E).
2014-20	During a trial, a judge asked one of the parties argumentative and sarcastic questions. During an attorney’s cross-examination of a party, as the attorney was part way into his next question, the judge interjected: “I’ll be right back. Just continue without me.” The judge got up and walked out of the courtroom. Later, the judge returned to the courtroom, stating, “I’ve never done that before. It felt good.” Sometime later, the judge asked the courtroom clerk to give him another file and said to the attorneys: “Do whatever you want. This is nothing but a cat fight, slinging mud. I am no longer participating in it. Have at it.” The Board found a violation of Rules 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness), 2.5(A) (Competence, Diligence, and Cooperation), and 2.8(B) (Decorum, Demeanor, and Communication with Jurors).
2014-15	Not ruling on a habeas corpus petition for more than four and a half months after the case was submitted, 51 days beyond the statutory 90-day period, despite receiving notice from court administration that the case was aging, in violation of Rule 2.5(A) and Minn. Stat. § 546.27.
2014-11	Ordering judgment in favor of a landlord in an eviction case without receiving any evidence and without affording a trial to the tenants who contested the eviction, in violation of Rules 1.2, 2.5(A), and 2.6(A). The admonition is available in redacted form at http://www.bjs.state.mn.us/file/private-discipline/1411PrivAdmonRedacted.pdf .
2013-70	Contacting a police chief to criticize a plea agreement proposed by the city attorney in a case that was pending before the judge, in violation of Code Rules 1.1, 1.2, 2.1, and 2.4(B) and Board Rule 4(a)(5) and (6).

File no.	Conduct
2013-38	Engaging in a pattern of disparaging comments about other judges, attorneys, parties, and court staff that served no legitimate purpose and reasonably appeared to the targeted attorneys and parties to be close-minded about their cases, in violation of Rules 2.2, 2.5(A), 2.6(A), and 2.8(B). The admonition is available in redacted form at http://www.bjs.state.mn.us/file/private-discipline/1338PrivAdmonRedacted.pdf .
2013-01	Not ruling on a submitted case for 171 days after the case was submitted, 81 days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.
2012-60	Presiding in a criminal trial without disclosing to the defendant that a retainer contract to act as an expert witness was at that time in existence with the county in which the trial was taking place, in violation of Rules 1.1, 1.2, 2.1, 2.2, and 2.11(A) and Board Rule 4(a)(5) and (6).
2012-48	Not ruling on a submitted case for 97 days, seven days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.
2012-15, 2012-16	Following a hearing in a CHIPS proceeding, the judge, without giving the parties timely notice and opportunity to be heard, initiated and engaged in an ex parte communication with a social worker who had previously acted as a witness in the case. The Board found a violation of Rules 1.1, 1.2, 2.2, and 2.9(A) and Board Rule 4(a)(5) and (6).
2012-13	Not ruling on a submitted case for 110 days, 20 days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.
2012-07	Issuing a warrant for the arrest of a party who failed to comply with an order to remain in court for an indefinite period because her cell phone accidentally rang in court during proceedings, in violation of Rules 1.1, 1.2, 2.2, and 2.8(A) and (B) and Board Rule 4(a)(5) and (6).
2011-05	Not ruling on a submitted case for 101 days, 11 days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.
2010-113	Not ruling on a submitted case for 96 days, six days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.
2010-73, 2010-74	Not ruling on one submitted case for 97 days and a second submitted case for 100 days, respectively seven days and ten days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.

File no.	Conduct
2010-21	The judge stated to a criminal defendant that the judge automatically disqualified himself from all matters involving his lawyer and that the judge had “absolutely no faith in any representations” made by the lawyer. The judge was motivated in whole or in part by the lawyer’s filing complaints about the judge with the Board. The Board found violations of Rules 1.1, 1.2, 1.3, 2.8(A), and 2.16 and Board Rule 4(a)(5) and (6).
2010-17	Not ruling on two submitted cases for 98 days, eight days beyond the statutory 90-day period, in violation of Rules 1.1, 1.2, and 2.5, Board Rule 4(a)(5) and (6), and Minn. Stat. § 546.27.
2010-08	The judge permitted staff to search the Internet for a video that was the subject of the case. Then, without first hearing from either party, the judge viewed the video and made a preliminary determination that one of the parties and his attorney may not have been truthful with the court. The Board found violations of Rules 1.1, 1.2, 2.6(A), and 2.9(A)(3) and (C) and Board Rules 4(a)(5) and (6).
2010-03	Frequently interrupting a party, questioning her in an aggressive tone, and not allowing her an adequate opportunity to address the court, in violation of Rules 1.1, 1.2, 2.6(A), and 2.8(A) and Board Rule 4(a)(5) and (6).
2010-02	Offering to bet a defendant that he would not prevail in a trial of his case, in violation of Rules 1.1, 1.2, and 2.8(a) and Board Rule 4(a)(5) and (6).
2009-126	Making inappropriate comments and failing to treat a party with appropriate courtesy, in violation of Rules 1.1, 1.2, and 2.8(A) and Board Rule 4(a)(5) and (6).
2009-120	Ordering newspaper reporter to leave the courtroom without providing the newspaper company an opportunity to be heard and treating the reporter discourteously, in violation of Rules 1.1, 1.2, 2.2, 2.6(A), and 2.8(B) and Board Rule 4(a)(5) and (6).
2009-113	A judge sought to promote his business of presiding at weddings for a fee. The audience for the judge’s promotional activity was the general public, especially persons interested in weddings. The judge appeared as an exhibitor at a wedding trade show event, where he personally solicited attendees to hire him. The judge also created and maintained a website to promote his wedding service. He was identified and pictured as a judge on the website. The website flashed the phrases “strong eloquent voice,” “professional and dignified,” “friendly and flexible,” and contained testimonials from satisfied customers. The Board found violations of Rules 1.1, 1.2, 1.3, 3.1(A) 3.11(C), and 4.2(A)(1) and Board Rule 4(a)(5) and (6).
2009-101	Issuing a final order without providing one of the parties an opportunity to be heard, in violation of Rules 1.1, 1.2, 2.2, 2.3, 2.6(A), and 2.9(A) and Board Rule 4(a)(5) and (6).
2009-92	Meeting separately with the parties in an effort to settle a case despite the objection of one of the parties, in violation of 1.1, 1.2, 2.2, 2.3, and 2.9(A)(4) and Board Rule 4(a)(5) and (6).

File no.	Conduct
2009-65, 2009-66	After he was removed from a case, the judge initiated an ex parte communication with the newly assigned judge in an attempt to influence the latter's decision, in violation of Rules 1.1, 1.2, 1.3, 2.2, 2.3, and 2.9 and Board Rule 4(a)(5) and (6).
2009-59	Making inappropriate comments at a hearing and issuing a final order without providing one of the parties an opportunity to be heard, in violation of Rules 1.2, 2.8(A) and (B), and 2.9 and Board Rule 4(a)(5) and (6).
2009-58	Conducting himself in an impatient, undignified, and discourteous manner toward court participants, in violation of Rules 1.1, 1.2, 1.3, 2.2, 2.3, and 2.8 and Board Rule 4(a)(5) and (6).
2008-99	Conducting himself in an impatient, undignified, and discourteous manner toward court participants, in violation of Rules 1.1, 1.2, 2.2, 2.3, and 2.8 and Board Rule 4(a)(5) and (6).

Deferred Disposition Agreement(s)

- The Board has the authority to enter into a private deferred disposition agreement with a judge under Board Rule 6(f)(5)(i). After the period of time provided in the agreement, the Board issues a specified disposition. The specified disposition may be public discipline, private discipline, or no discipline, depending on the seriousness of the original misconduct and whether there has been further misconduct.
- The Board has been authorized to issue deferred disposition agreements since August 1, 2009. Since that date, the Board has entered into four deferred disposition agreements. Only one of these agreements contemplated that the judge would receive discipline after the period of time provided in the agreement. That matter is summarized below.

File no.	Conduct
2019-19	<p>A Board investigation showed that during a hearing, a judge and a respondent’s attorney engaged in a heated exchange regarding whether the respondent was legally entitled to a continuance. In fact, the respondent was entitled to a continuance. The judge held the attorney in contempt of court, and ordered the bailiff to handcuff and take the attorney into custody. The attorney was released eight minutes later. The judge required the attorney to apologize for the attorney’s conduct in order to be released from custody.</p> <p>The Board concluded that the interactions between the Court and the attorney were insufficient to find the attorney in contempt and take the attorney into custody, requiring an apology to be released from custody. In this case, the judge overreacted to a minor incident. The judge abused the contempt power.</p> <p>The Board found a violation of Rules 1.1 (Compliance with the Law), 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness), Rule 2.6(A) (Right to Be Heard), and Rule 2.8(B) (Demeanor) of the Code of Judicial Conduct and entered into a deferred disposition agreement with the judge, which includes mentorship with another judge. If the Board does not learn of any further violations within two years, the judge will receive a private admonition.</p>
2019-17	<p>A Board investigation showed that a referee participated in an ex parte communication with the petitioner of a harassment restraining order, in court, after the hearing had concluded, and after the respondent and legal counsel had left the courtroom. At a minimum, the referee’s comments to the petitioner created an appearance of bias and undermined the adversary system. The Board found a violation of Rules 1.1 (Compliance with the Law), 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness) and 2.9(A) (Ex Parte Communications) of the Code of Judicial Conduct and entered into a deferred disposition agreement with the referee. If the Board does not learn of any further violations within two years, the referee will receive a letter of caution.</p>

File no.	Conduct
2015-05	<p>A mother filed a petition for an order for protection regarding the father of her children. The mother did not present evidence sufficiently supporting the petition. At the hearing, the judge stated to the mother: “You need counseling badly, because your kids are suffering. Not because of [their father]. Because of you. . . . I don’t believe your children are afraid of their father. I think they’re afraid of you.” The record did not support the statements that the children were afraid of the mother or were suffering because of her. The judge had a previous disciplinary history. The Board found violations of Rules 1.2, 2.2, and 2.8(B) and entered into a deferred disposition agreement with the judge. If the Board does not learn of any further violations within two years, the judge will receive an admonition for the judge’s conduct in the OFP case. If the Board learns of further violations within two years, the Board may seek public discipline.</p>

Letter(s) of Caution

- The Board has the authority to issue a letter of caution.

File no.	Conduct
2019-28	A letter of recommendation a judge wrote in 2017, on behalf of a candidate for police chief, abused the prestige of judicial office in its tone and content. In response to the Board, the judge recognized that the format and nature of the letter of recommendation did not comply with Rule 1.3 of the Code of Judicial Conduct.
2019-09	A judge self-reported that the judge signed two letters seeking private and governmental funding for a non-profit organization. The Board cautioned the judge to not seek private funding for a governmental entity, nor to seek either private or governmental funding for a non-governmental entity. Such conduct is a violation of Rules 1.3 (Avoiding Abuse of the Prestige of Judicial Office), 3.1 (Extrajudicial Activities in General), and 3.7(A)(2) (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities) of the Code of Judicial Conduct.
2018-13	The complainant alleged that a judge initiated an ex parte discussion with a juvenile defendant and his attorney; that the judge interrupted their private conversation; that the judge asked them questions about their attorney-client privileged discussion; and that the judge attempted to improperly interject himself into plea negotiations. The Board's investigation did not show that the judge asked questions about attorney-client privileged communications. The Board cautioned the judge that such conduct could have violated Rules 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness), 2.6 (Right to Be Heard), and 2.9(A)(4) (Ex Parte Communications) of the Code of Judicial Conduct. The Board also cautioned the judge that involvement in any future plea negotiations should be on the record with both parties and their attorneys present. The judge must be mindful of the Minnesota Supreme Court decision in Wheeler v. Minnesota, No. A16-0835 (Minn. March 21, 2018).