

**CHAPTER 115. COMPLAINTS; SCREENING; PRELIMINARY
BOARD ACTION**

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Source

The provisions of this Chapter 115 adopted March 20, 1995, effective March 20, 1995, 25 Pa.B. 1404, unless otherwise noted.

Rule 25. Complaint Preparation.

(A) When the Board receives information that a Judicial Officer may be subject to sanction pursuant to PA. CONST. Art. V, § 18, the Board shall refer the matter to Chief Counsel.

(1) When the Board receives information from a named individual, Board Counsel shall obtain a written, verified complaint from each individual containing:

- (a) the allegations upon which the complaint is based;
- (b) the complainant's name and address;
- (c) the name of the Judicial Officer against whom the complaint is made;
- (d) if applicable, the name of the court and the term and/or number of the proceedings during which the complaint arose;
- (e) the name and address of the complainant's lawyer, if any.

(2) When the Board receives information from any other source, if Chief Counsel concludes that the matter should be investigated, Chief Counsel shall prepare a written complaint and notify the Board at its next periodic meeting.

Rule 26. Screening.

(A) Board Counsel may conduct interviews and examine evidence to determine whether grounds exist to believe the allegations in the information received.

(B) Jurisdiction

Prior to submitting a complaint for preliminary Board review, Chief Counsel shall determine whether the subject of the allegations is within the jurisdiction of the Board.

(1) If Chief Counsel determines that the person against whom a complaint has been filed is not within the jurisdiction of the Board, Chief Counsel shall notify the complainant, and refer the complainant to the agency having jurisdiction, where appropriate.

(2) If Chief Counsel determines that the Board has jurisdiction, Chief Counsel shall submit the complaint for preliminary Board review.

Rule 27. Recommendation of Counsel.

When Chief Counsel submits a complaint for preliminary Board review, Chief Counsel shall report on the results of any preliminary inquiry, and recommend that the Board take one of the following actions:

- (A) dismiss the complaint;
- (B) proceed with a full investigation; or
- (C) defer action during the pendency of a criminal matter, if appropriate.

Rule 28. Preliminary Board Review and Action.

After reviewing the complaint, Chief Counsel's recommendation, and the results of any preliminary inquiry, the Board shall take one or more of the following actions:

- (A) dismiss the complaint;
- (B) request Chief Counsel to conduct additional preliminary inquiries;
- (C) direct Chief Counsel to proceed with a full investigation;
- (D) defer further action during the pendency of a criminal matter, if appropriate; or
- (E) refer the matter to another agency.

The Board's decision shall be in writing and made part of the record.

Rule 29. Reliance on Advisory Opinions.

Action taken by a Judicial Officer in reliance on and pursuant to a written advisory opinion by the Ethics Committee of the Pennsylvania Conference of State Trial Judges, or by the Ethics and Professionalism Committee of the Special Court Judges Association of Pennsylvania, as long as that opinion was issued before the conduct occurred, shall be considered by the Board in making a determination under these rules, but such advisory opinions shall not be binding on the Board.

Rule 30. Notice of Board Action.

(A) Notice of Dismissals or Referrals

(1) If the Board dismisses a complaint or refers the matter to another agency, the Board may notify the complainant.

(2) If the Judicial Officer has become aware of the complaint and notifies the Board, or if the matter has become public information, the Board may notify the Judicial Officer of the dismissal or the referral to another agency.

(B) Notice to Judicial Officer of Investigation

(1) Promptly after a Board decision to proceed with a full investigation, the Board shall notify the Judicial Officer that an investigation by the Board will be conducted.

- (2) The notice shall contain:
 - (a) the specific allegations under investigation;
 - (b) the specific provisions of the Constitution, statute, or disciplinary code which the Board has determined may have been violated, including but not limited to, the Code of Judicial Conduct, the Rules of Professional Conduct, and the Rules Governing Standards of Conduct of District Justices;
 - (c) the Judicial Officer's right to provide a written response or other information within 20 days of the receipt of the notice;
 - (d) the fact that the ongoing investigation may reveal facts concerning the allegations that could change the violations charged;
 - (e) that the Board may consider, in making its final determination, any unjustified failure of the Judicial Officer to appear or testify if directed; and
 - (f) at the discretion of the Board, the identity of the complainant.

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