

STATE OF MINNESOTA

BOARD ON JUDICIAL STANDARDS



2024 ANNUAL REPORT

1270 Northland Drive
Suite 160
Mendota Heights, MN 55120
651-296-3999

judicial.standards@state.mn.us
www.bjs.state.mn.us

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MEMBERS AND STAFF*

Judge Members

Hon. Shereen M. Askalani
Fourth Judicial District
Minneapolis, Minnesota

Hon. Charlene Hatcher
Fourth Judicial District
Minneapolis, Minnesota

Hon. Louise Dovre Bjorkman
Minnesota Court of Appeals
St. Paul, Minnesota

Hon. Theresa M. Neo
Sixth Judicial District
Duluth, Minnesota

Attorney Members

Theresa Harris
Minneapolis, Minnesota

Timothy O'Brien, Chair
Edina, Minnesota

Public Members

Dr. Scott A. Fischer
Saint Paul, Minnesota

Debbie Toberman
Plymouth, Minnesota

Dr. Scott Sakaguchi
Edina, Minnesota

Nhia Vang
Woodbury, MN

Staff

Sara P. Boeshans
Executive Secretary

Amy Ihlan
Staff Attorney

Mary Pat Maher
Executive Assistant

*Brief biographies are appended at the end of this report.

FOREWORD FROM THE CHAIR

On behalf of the board members and staff of the Board on Judicial Standards, it is our pleasure to present this 2024 Annual Report of the Board on Judicial Standards to the citizens of Minnesota, Governor, Legislature, and the Minnesota Judiciary.

The board members take great pride in their diligent efforts to provide education, ensure compliance with the Code of Judicial Conduct, review and investigate complaints, and recommend discipline of judges.

The Minnesota Board on Judicial Standards (Board) is charged with enforcing the Minnesota Code of Judicial Conduct and with interpreting the Code for the education of judges and others. The Minnesota Legislature created the Board in 1971 and provides its operational funds. The Governor appoints all Board members, including four judges, four public members, and two lawyers. The public members and the lawyers are subject to Senate confirmation. All board members serve in a volunteer capacity. The Minnesota Supreme Court adopts rules of the Code of Judicial Conduct and adopts rules governing Board procedures.

The Judicial Code establishes a high standard for judicial conduct in the State of Minnesota. The Preamble to the Code states:

An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

Judges should maintain the dignity of judicial office at all times and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

The members of the Board take these principles to heart in carrying out their duties and make every effort to fulfill the Board's mission.

The Board's primary function is to receive, investigate, and evaluate complaints of judicial misconduct. Complaints that do not allege conduct that violates the Code are dismissed. If the Board finds that a judge has violated the Code, the Board may issue private discipline or a public reprimand. In cases involving more serious misconduct, the Board may seek public discipline by filing a formal complaint against the judge with the Minnesota Supreme Court. After a public hearing, potential discipline imposed by the

Supreme Court may include a reprimand, suspension, or removal from office. In addition to cases involving misconduct, the Board has jurisdiction to consider allegations that a judge has a physical or mental disability that impairs their judicial performance.

Education is also an important Board function. The Board and the Executive Secretary respond to judges' requests for informal advisory opinions. The Board also issues formal opinions on subjects of importance. The Board's website provides a wealth of information, including links to the Code of Judicial Conduct, the Board's procedural rules, Board opinions, public discipline cases, annual reports, and other judicial conduct resources. In addition, the Executive Secretary gives presentations on current ethics topics to newly appointed judges, at meetings of district court judges, and at state-wide judicial seminars. Finally, the Executive Secretary endeavors to maintain open and cordial relationships with the Minnesota Supreme Court, the Court of Appeals, and the Minnesota District Court Judges in an effort to maintain confidence in Board decisions and compliance with the Code.

In 2024, the Board received a total of 987 complaints. This represents an 11% increase compared to 2023, when the Board received 890 complaints, and substantially exceeds the number of complaints received in 2021 (237) and 2020 (158). The increase is likely due, in part, to the fact that the new online complaint system was in place during all of 2023 and 2024. Of the 987 complaints received in 2024, the Board summarily dismissed 934, reviewed 49 at board meetings,* authorized investigations of 26, issued discipline against 5 judges, and filed a Formal Complaint against 1 judge. The Board also issued eight letters of caution to judges regarding their conduct to point out areas in need of improvement. In addition, the Executive Secretary issued nearly 150 informal advisory opinions to individual judges at their request.

The Board accomplished many important goals in 2024. These include:

- After engaging in an open and competitive hiring process to appoint a new Executive Secretary, the Board appointed Executive Secretary Sara P. Boeshans, effective January 3, 2024.
- The Board hired Amy J. Ihlan as its Staff Attorney.
- Board staff issued approximately 150 written informal advisory opinions to judges.
- Board members provided in-person and virtual guidance and advice to judges experiencing difficulties.
- The Board engaged in outreach and education for judges at bench meetings, seminars, and conferences. The Executive Secretary and Staff Attorney gave in person and virtual presentations to judges across Minnesota, providing information about the Board and education regarding judicial ethics.
- On June 12, 2024, the Board hosted a half-day seminar on judicial election law for candidates for judicial office, including judges who were seeking re-election, challengers, and candidates for open seats.

* Four complaints received in 2024 were reviewed at the January 2025 Board meeting.

- The Executive Secretary and Staff Attorney gave in person and virtual presentations to attorneys around the State and to international leaders through a U.S. Department of State professional exchange program.
- Member Judge Shereen M. Askalani and Executive Secretary Boeshans presented at the Fourth Judicial District Bench Retreat.
- The Board updated the “Minnesota Judicial Ethics Outline” on the Board’s website. The Outline addresses a wide variety of subjects, including the history of judicial discipline in Minnesota, case law interpreting the Code, and summaries of the Board’s ethics opinions. The Board also updated its website with recent news and summaries of its recent disciplinary action.
- The Board issued an opinion to the Minnesota District Judges Association regarding Campaign Conduct and Social Media.
- The Board elected new officers for the 2024-2026 term as follows: Chair: Tim O’Brien, Vice-Chair: Judge Louise Dovre Bjorkman, Third Exec. Comm. Member: Scott Sakaguchi.

In 2024, Public Members Debbie Toberman and Nhia Vang, Judge Members Judge Shereen M. Askalani and Judge Theresa M. Neo, and Attorney Member Tim O’Brien were re-appointed to serve another term on the Board. The term of Court of Appeals Judge Louise Dovre Bjorkman will expire upon the appointment of her successor. Judge Bjorkman served the Board with distinction in the roles of Chair and Vice Chair.

It has been a pleasure to work with such dedicated and committed staff and board members to fulfill the Board’s important mission.

Tim O’Brien

Chair of the Board on Judicial Standard (January 2024-present)

INTRODUCTION

A society cannot function without an effective, fair, and impartial procedure to resolve disputes. In Minnesota, the Constitution and laws provide a system designed to fit these essential criteria. The preservation of the rule of law, as well as the continued acceptance of judicial rulings, depends on unshakeable public recognition that the judiciary and the court system are worthy of respect and trust.

Unlike the executive and legislative branches of government, the judiciary “has no influence over either the sword or the purse.” The Federalist No. 78, at 465 (Alexander Hamilton). “The legal system depends on public confidence in judges, whose power rests in large measure on the ability to command respect for judicial decisions. Whether or not directly related to judicial duties, misconduct by a judge brings the office into disrepute and thereby prejudices the administration of justice.” *In re Miera*, 426 N.W.2d 851, 858 (Minn. 1988).

It is the Board’s mission to promote and preserve public confidence in the independence, integrity, and impartiality of our judicial system by enforcing the Judicial Code and by educating judges and others regarding proper judicial conduct.

AUTHORIZATION

The 1971 Legislature approved an amendment to the Minnesota Constitution authorizing the Legislature to “provide for the retirement, removal or other discipline of any judge who is disabled, incompetent or guilty of conduct prejudicial to the administration of justice.” The 1971 Legislature also created the “Commission” (now “Board”) on Judicial Standards and authorized the Supreme Court to make rules to implement the legislation. (Current version at Minn. Stat. §§ 490A.01-.03.) In 1972, Minnesota voters approved the constitutional amendment (Minn. Const. Art. VI, § 9), and the Minnesota Supreme Court adopted the Code.*

* Until 1972, Minnesota appellate and district court judges could be removed or suspended from office for misconduct only by the rarely used impeachment process, which involves impeachment by the Minnesota House of Representatives and conviction by the Minnesota Senate. Since 1996, judges have also been subject to recall by the voters, although this has never happened. Minn. Const. Art. VIII, § 6.

ORGANIZATION

The Board has ten members: one Court of Appeals judge, three district court judges, two lawyers, and four citizens who are not judges or lawyers. The Board members are appointed by the Governor and, except for the judges, are subject to confirmation by the Senate. Members' terms are four years and may be extended for an additional four years.

The Board meets approximately eight times annually and more often if necessary. Non-judge members of the Board may claim standard State per diems as well as reimbursement for expenses such as mileage. Judge members are not paid per diems.

The Board is supported by a staff consisting of the Executive Secretary, an executive assistant, and a part-time staff attorney. At the direction of the Board, the staff is responsible for reviewing and investigating complaints, providing informal opinions to judges on the application of the Code, maintaining records concerning the operation of the office, preparing the budget, administering the Board funds, and making regular reports to the Board, the Supreme Court, the Legislature, and the public.

CODE OF JUDICIAL CONDUCT

The Minnesota Supreme Court has adopted the Code of Judicial Conduct to govern judicial ethics. Intrinsic to the Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system.

The Board considers only complaints involving the professional or personal conduct of judges. The Code is not construed so as to impinge on the essential independence of judges in making judicial decisions. Complaints about the merits of decisions by judges may be considered through the appellate process.

RULES AND PROCEDURES

The Rules of the Board on Judicial Standards are issued by the Minnesota Supreme Court. Under its Rules, the Board has the authority to investigate complaints concerning a judge's conduct or physical or mental condition. If a complaint provides information that furnishes a reasonable basis to believe there might be a disciplinary violation, the Board may direct the Executive Secretary to conduct an investigation.

Under the Rules, the Board may take several types of actions regarding complaints. It may dismiss a complaint if there is not reasonable cause to believe that the Code was violated. A dismissal may be accompanied by a letter of caution to the judge. If the Board

finds reasonable cause, it may issue a private admonition, a public reprimand, or a formal complaint. The Board may also defer a disposition or impose conditions on a judge's conduct, such as obtaining professional counseling or treatment.

The Board affords judges a full and fair opportunity to defend against allegations of improper conduct. If the Board issues a formal complaint or a judge appeals a public reprimand, a public hearing will be held. Hearings are conducted by a three-person panel appointed by the Supreme Court. After the hearing, the panel may dismiss the complaint, issue a public reprimand, or recommend that the Supreme Court impose more serious discipline, such as censure, suspension, or removal from office. If the panel recommends that the Court impose discipline or if the judge or the Board appeals the panel's action, the final decision is made by the Court.

If a judge appeals a private admonition, a private hearing will be held. Hearings are conducted by a three-person panel appointed by the Supreme Court. After the hearing, the panel may dismiss the complaint, affirm the admonition, or recommend that the Board issue a public reprimand or a formal complaint. If the judge appeals the panel's affirmance of an admonition, the Court makes the final decision.

All proceedings of the Board are confidential unless a public reprimand is issued, or a formal complaint has been filed with the Supreme Court. The Board notifies complainants of its actions, including dismissals and private dispositions, and provides brief explanations.

An absolute privilege attaches to any information or testimony submitted to the Board, and no civil action against a complainant, witness, or his or her counsel may be based on such information.

AUTHORITY AND JURISDICTION

The Minnesota Board on Judicial Standards has jurisdiction over complaints concerning the following judicial officials:

- State court judges, including judges of the District Courts, Court of Appeals and Supreme Court. There are 296 district court judge positions and 26 appellate judge positions.
- Approximately 112 retired district court judges, 10 retired court of appeals judges, and two retired supreme court justices in "senior" status, who at times serve as active judges/justices.
- Judicial branch employees who perform judicial functions, including referees, magistrates, and other judicial officers.

- Judges of the Minnesota Tax Court (3) and the Workers' Compensation Court of Appeals (5) and the Chief Judge of the Office of Administrative Hearings (1).*

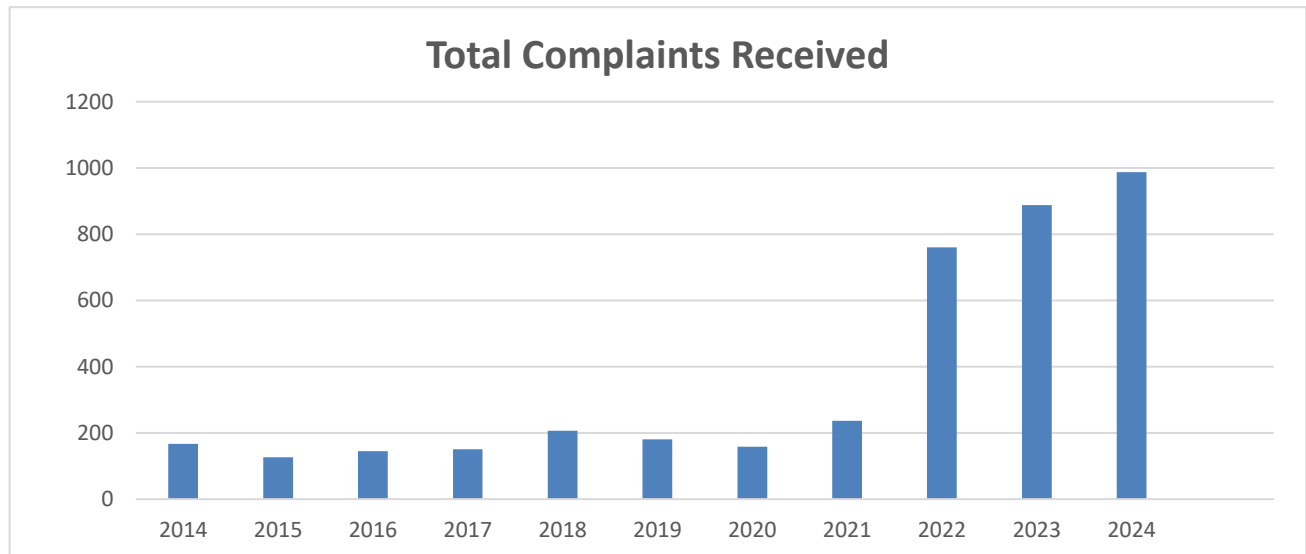
The Board does not have jurisdiction over complaints that concern the following persons:

- Court administrators or personnel, court reporters, law enforcement personnel, and other non-judicial persons.
- Federal judges. Complaints against federal judges may be filed with the Eighth Circuit Court of Appeals.
- Lawyers (except, in some circumstances, those who become judges or who were judges). Complaints against lawyers may be filed with the Office of Lawyers Professional Responsibility.

* See Rule 2, Rules of Board on Judicial Standards; Code of Judicial Conduct, "Application"; Minn. Stat. §§ 14.48, subds. 2 and 3(d), 175A.01, subd. 4, 271.01, subd. 1, 490A.03.

COMPLAINTS RECEIVED IN 2024

In 2024, the Board received and reviewed 987 complaints, the highest number of complaints ever received by the Board since its inception. In March 2022 the Board implemented an online complaint process which was intended to increase accessibility. As the table below indicates, the number of complaints received by the Board increased exponentially after the online complaint system was in place.

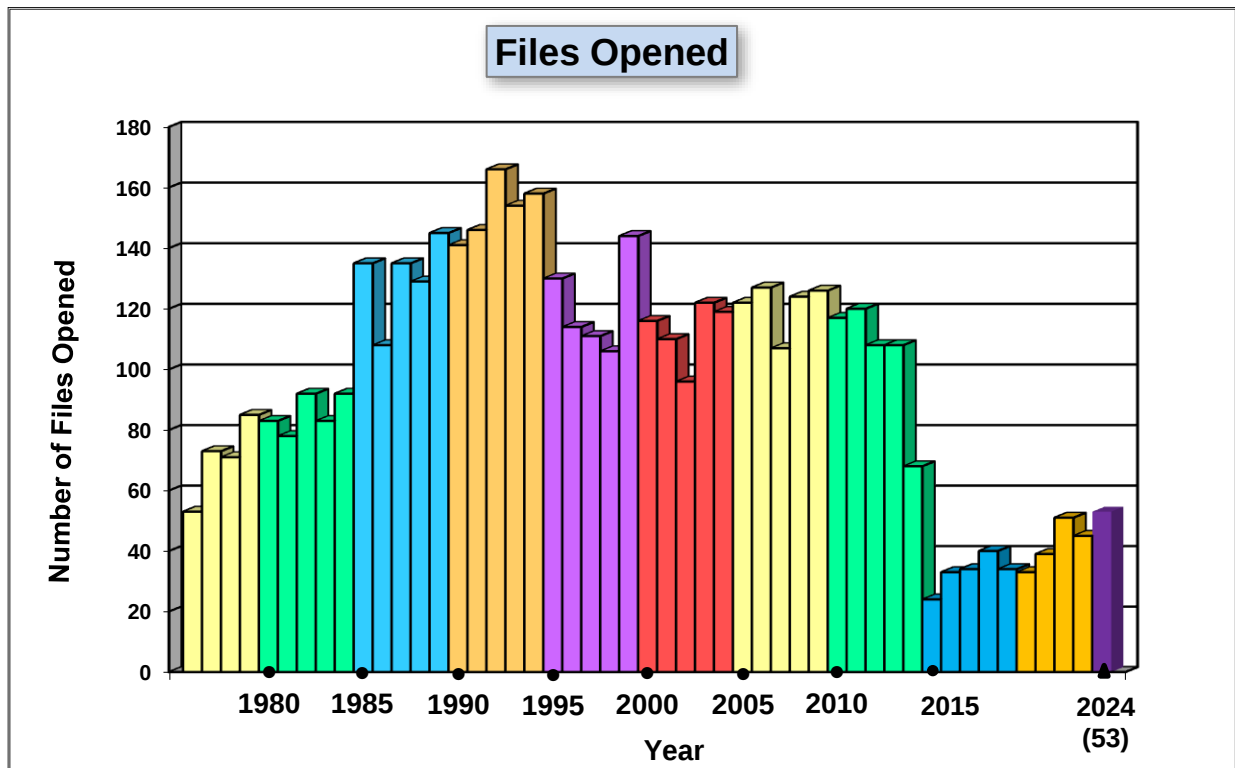


Complaints can be submitted online, via email, U.S. Mail, fax, or through personal delivery. If the person has a disability that prevents them from submitting a complaint in writing, a complaint can be submitted over the phone. Below is a table which summarizes the methods by which complaints were received in 2024.

Method by Which Complaint Was Received	Number Received	% of Total
Online Complaint System	787	80%
Mail	147	15%
Email	27	3%
Fax	17	2 %
Hand Delivered	5	<1%
Phone	4	<1%
Total:	987	100%

2024 COMPLAINT STATISTICS

In 2024, the Board opened 53 files based on written complaints alleging matters within the Board’s jurisdiction. The number of files opened annually by the Board since 1975 are set forth below:



This chart shows a decline in the number of files opened beginning in 2014. The decline appears to be due to at least two factors.

First, in 2014, the Legislature transferred primary responsibility for enforcing the “90-day rule” from the Board to the chief judges of the judicial districts. The 90-day rule generally requires a judge to rule within 90 days after a case is submitted. Minn. Stat. § 546.27. Judicial Branch case-tracking reports of possible violations are now sent to the chief judges rather than to the Board.

Second, the chart reflects only matters that were reviewed by the full Board and does not reflect complaints that were summarily dismissed. If a complaint does not fall within the Board’s jurisdiction, the complaint may be summarily dismissed by the Executive Secretary, subject to the approval of a single Board member. This procedure avoids the inefficiency of requiring the full Board to review complaints that are not within its jurisdiction.

For example, complaints that merely express dissatisfaction with a judge's decision are summarily dismissed because they do not provide a reasonable belief that a judge may have engaged in misconduct. In recent years, larger numbers of complaints have been summarily dismissed, as shown in the next table:

<u>SUMMARY DISMISSALS</u> (BY YEAR)	
2015	102
2016	112
2017	117
2018	167
2019	147
2020	125
2021	198
2022	709
2023	845
2024	934

As reflected in the following table, most complaints that were reviewed by the Board were filed by litigants:

<u>SOURCES OF COMPLAINTS</u> <u>AND REPORTS – 2024</u>	
Litigant	21
Attorney	10
Self-Report	8
Judge	6
Other	3
Board	2
Anonymous	1
Law Enforcement	1
Prosecutor	<u>1</u>
TOTAL	53

The next table outlines the judges who were the subject of complaints in 2024. The majority of the complaints filed and opened in 2024 were against district court judges.

<u>JUDGES SUBJECT TO COMPLAINTS AND REPORTS – 2024</u>	
District Court Judge	42
Other Judicial Officer	7
Conciliation Court Referee	1
Administrative Law Judge	1
Senior Judge	1
Child Support Magistrate	<u>1</u>
TOTAL	53

The types of allegations are set forth below. The total exceeds 53 because many complaints contained more than one allegation.

<u>ALLEGATIONS REPORTED – 2024</u>	
General demeanor or decorum	31
Bias, discrimination or partiality	22
Ex parte communication	11
Improper conduct on the bench	9
Failure to follow the law or procedure	7
Loss of temper	7
Other	4
Criminal behavior	3
Abuse of authority or prestige	2
Delay in handling court business	2
Health; physical or mental capacity	2
Political activity	2
Failure to perform duties	1
Reputation of judicial office	1
Willful misconduct in office	1

Of the 53 new complaints that were opened in 2024, 49 of them were considered by the Board in 2024. Four complaint files were opened in late 2024 and were considered by the Board at the January 2025 board meeting. Of the 49 new complaints considered in 2024, the Board determined that 26 of the matters warranted formal investigation. A formal investigation includes asking the judge to submit a written response to the Board. In addition, a formal investigation typically includes review of court records and interviews with court participants and may include reviewing audio recordings of the hearings. A judge or the Board may request the judge appear before the Board to discuss the allegations of judicial misconduct.

The majority of the complaints and Board-initiated investigations (34) were dismissed in 2024. Many complaints are dismissed because they concern a judge's rulings or other discretionary decisions that are generally outside the Board's purview. The reasons for dismissal are set forth below. The total count of dismissal reasons differs from the number of complaints dismissed in 2024 because some complaints are dismissed for more than one reason. Also, in 2024, the Board considered seven complaints that were opened in 2023, and still under investigation in 2024. And, at the end of 2024, 18 complaints were still under investigation and thus remained open.

DISMISSAL REASONS – 2024

No misconduct; no violation	19
Frivolous, no grounds	7
Unsubstantiated after investigation	6
Insufficient evidence	4
No issue left to resolve	4
Corrective action by judge	1

As shown in the table below, in 2024, five matters resulted in discipline and eight matters were resolved with a letter of caution to the judge.

<u>DISPOSITIONS – BY YEAR ISSUED</u>					
Year	Letter of Caution	Admonition	Deferred Disposition Agreement	Public Reprimand	Supreme Court Discipline
2015	1	2	1	1	1
2016	3	1	3	1	0
2017	5	3	0	0	0
2018	9	4	0	1	0
2019	4	2	1	0	0
2020	7	0	1	1	0
2021	4	4	1	1	0
2022	3	4	0	0	0
2023	7	0	3	0	0
2024	8	0	2	3	0

CASE DISPOSITIONS

In 2024, the Board issued one formal complaint, three public reprimands, two deferred disposition agreements, and eight letters of caution. A letter of caution is a non-disciplinary disposition. A sampling of the disciplinary actions and letters of caution are summarized below.

PUBLIC DISPOSITIONS

Public dispositions are posted on the Board's website at <http://www.bjs.state.mn.us/board-and-panel-public-reprimands>. There was one formal complaint and three public reprimands in 2024.

Formal Complaint

On April 26, 2024, the Board filed a formal complaint against Tenth District Judge John P. Dehen. The complaint alleged that Judge Dehen, without authority, issued a peremptory writ ordering the district administrator to rehire his court reporter at the top of the pay range. The district administrator sought review of the peremptory writ, and the court of appeals issued a writ of prohibition which found that Judge Dehen's peremptory writ setting the court reporter's salary was unauthorized. *In re Lindahl-Pfieffer*, I, No.A23-1405 Special Term Order (Minn. Ct. App. Oct. 24, 2023). One week later, Judge Dehen, again without authority, issued an Order and Alternative Writ of Mandamus, ordering the district administrator rehire his court reporter at a specific rate of pay. The district administrator again sought review, and the court of appeals again issued a writ of prohibition which found that,

The record establishes that the judge in this case (a) initiated a proceeding in district court and assigned it to himself; (b) filed additional documents in a closed file after this court vacated the judge's decision and did not remand; (c) filed an "information" containing numerous factual allegations and then adopted those allegations as the court's findings of fact in a matter known to be contested; and (d) twice filed orders and writs setting the salary of the court reporter he has directly supervised for years. It was a conflict for the judge to initiate a proceeding involving the salary of his own court reporter and to decide it.

The district court lacked inherent authority to set the court reporter's salary by order; this court previously decided that legal issue and that determination became the law of the case. Prohibition is also appropriate because the judge acted improperly by circumventing consideration of the matter in an adversary proceeding before an impartial and disinterested court.

In re Lindahl-Pfieffer, II, No.A23-1655 Special Term Order (Minn. Ct. App. Nov. 15, 2023).

The Board alleged that in these cases, Judge Dehen had a clear disqualifying conflict of interest because he both initiated the proceedings and decided the matters, and that he failed to provide the district administrator a meaningful opportunity to be heard.

On June 17, 2024, the Board filed an amended formal complaint against Judge Dehen, which alleged that Judge Dehen failed to remain impartial, manifested prejudice, and failed to comply with the law in multiple At-Risk Juvenile Guardianship cases. The Board further alleged that Judge Dehen failed to promote confidence in the judiciary and failed to maintain decorum and dignity by presiding over a juvenile court calendar from a vehicle while traveling out of town.

On September 16 and 17, 2024, a hearing panel, appointed by the Supreme Court, held a hearing in order to make findings of fact and conclusions of law as to whether there is clear and convincing evidence that Judge Dehen committed misconduct and to recommend sanctions.

The hearing panel issued Findings of Fact, Conclusions of Law, and a Recommendation, which are available on the Board's website. The hearing panel recommended that the Supreme Court censure Judge Dehen and suspend him without pay. Judge Dehen appealed the hearing panel's recommendation.

The Supreme Court will issue an opinion and judgment in 2025.

Public Reprimands

Judge Douglas Clark

The Board issued a public reprimand with conditions to Judge Clark. File No. 23-23 (May 17, 2024). The Board found that during hearings, Judge Clark raised his voice, failed to remain impartial, and inappropriately interrupted questioning of witnesses on numerous occasions. The Board also found that Judge Clark ignored timelines and failed to follow the law in Child in Need of Protection or Services cases. The Board imposed conditions of Judge Clark, including meeting with a Board Member and the Executive Secretary, utilizing a mentor judge, employing an executive coach, and attending education regarding Child in Need of Protection or Services statutes, rules, and timelines.

The Board found that Judge Clark violated the following provisions of the Code of Judicial Conduct: Rule 1.1 (Compliance with the Law) and Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.2 (Impartiality and Fairness), Rule 2.5 (Competence, Diligence, and Cooperation) Rule 2.6(A) (Right to Be Heard), and Rule 2.9(B) (Demeanor). The reprimand is posted on the Board's website at <http://www.bjs.state.mn/us/board-and-panel-public-reprimands>.

Judge Matthew M. Quinn

The Board issued a public reprimand to Judge Quinn. File No. 23-32 (June 27, 2024). Without authority, based on his own research and analysis, Judge Quinn began issuing probation sentencing orders on October 12, 2023, ruling *sua sponte* that Minnesota Statutes section 201.014, subdivision 2a is unconstitutional and restricting the voting rights of defendants. Judge Quinn issued at least five sentencing orders that restricted defendants' voting rights and deprived them of the restored voting rights available to them under the statute. Three of those cases were appealed, and the Court of Appeals granted writs of prohibition against enforcement of Judge Quinn's probation sentencing orders in those cases.

The Minnesota Court of Appeals agreed with the defendants' arguments that "the district court exceeded its lawful authority by independently raising and deciding an issue

involving the constitutionality of a statute without the issue being raised by a party and without giving the parties notice and an opportunity to be heard.” *In re Weyaus*, A23-1565 and *In re Trevino*, A23-1570, *3-4 (Minn. Ct. App. Nov. 2, 2023). The Court of Appeals further agreed that Judge Quinn’s *sua sponte* orders violated the principle of “party presentation,” where parties raise the issues to be decided; and where judges play the “role of neutral arbiter” and “should not” look “for wrongs to right,” but “wait for cases to come to [them.]” *Id.*, at *4 (quoting *Greenlaw v. United States*, 554 U.S. 237, 244 (2008)).

The Board found that Judge Quinn violated the following provisions of the Code of Judicial Conduct: Rule 1.1 (Compliance with the Law) and Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.1 (giving Precedence to the Duties of Judicial Office), Rule 2.2 (Impartiality and Fairness), Rule 2.4 (External Influences on Judicial Conduct), Rule 2.6(A) (Right to Be Heard), and Rule 2.10 (Statements on Pending and Impending Cases). The reprimand is posted on the Board’s website at <http://www.bjs.state.mn.us/board-and-panel-public-reprimands>.

Judge Michael Mayer

The Board issued a public reprimand to Judge Mayer, based on his conduct and conviction for driving while impaired by alcohol. File Nos. 24-17, 24-18 (Sept. 6, 2024.) The Board found that Judge Mayer violated the following provisions of the Code of Judicial Conduct: Rule 1.1 (Compliance with the Law) and Rule 1.2 (Promoting Confidence in the Judiciary). The reprimand is posted on the Board’s website at <http://www.bjs.state.mn.us/board-and-panel-public-reprimands>.

PRIVATE DISCIPLINE

Summaries of the private discipline the Board has issued since 2009 are available on the Board’s website at <http://www.bjs.state.mn.us/file/private-discipline/private-discipline-summaries.pdf>. The purpose of providing summaries of the private dispositions is to educate the public and to help judges avoid improper conduct. The Board issued two deferred disposition agreements and eight letters of caution in 2024.

Deferred Disposition Agreement Issued in 2024

- A judge failed to timely manage the judge’s workload, which potentially impacted litigants, court staff and justice partners. The Board issued a letter of caution to the judge and noted that failing to timely sign documents in the judge’s signing folder could violate Rule 1.1 (Compliance with the Law), Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.5 (Competence, Diligence, and Cooperation), and Rule 2.7 (Responsibility to Decide) of the Code of Judicial Conduct. The judge failed to take adequate actions to timely manage the workload and failed to dispose of matters promptly. The Board and the judge entered into a deferred disposition agreement, which will end upon the judge’s retirement. If the Board does not learn of any further violations within that time, the judge will receive a letter of caution.

Letters of Caution Issued in 2024

- In a family law matter, one party did not appear due to an emergency. The judge granted a continuance but went on the record. The judge gave the Guardian ad Litem a platform to engage in ex parte communications by asking, “Is there anything you wish to inform the court of at this time?” The Guardian ad Litem then offered substantive information regarding the matter. Such conduct violates the following Rules of the Code of Judicial Conduct: Rule 1.1 (Compliance with the Law), Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.2 (Impartiality and Fairness), Rule 2.6(A) (Right to Be Heard), and Rule 2.9(A) (Ex Parte Communications) of the Code of Judicial Conduct. The Board cautioned the judge that even when the ex parte communication provides minimal information, and the judge does not take immediate action on the information, a short exchange can unknowingly influence a judge’s decision.
- During a hearing, a judge did not permit a party an opportunity to answer questions that the judge asked of the party, and the judge had an angry and impatient tone. The Board cautioned the judge that such conduct could violate Rules 1.1 (Compliance with the Law), 1.2 (Promoting Confidence in the Judiciary), 2.2 (Impartiality and Fairness), 2.3 (Bias, Prejudice, and Harassment), 2.6 (Right to Be Heard), and 2.8 (Demeanor) of the Code of Judicial Conduct.
- The Board cautioned a judge that internal electronic communications with court staff involving comments about attorneys and parties appearing in court could violate Minnesota Code of Judicial Conduct Rule 1.1 (Compliance with the Law), Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.2 (Impartiality and Fairness), and Rule 2.8(A) (Decorum and Demeanor). Judges must act as leaders and set an example in their communications with court staff. Electronic communications between a judge and court staff that are undignified and discourteous, even if they are not made public, may violate the Code.
- The Board cautioned a judge that even when an ex parte communication or independent fact investigation provides minimal information, a short conversation or cursory research can unknowingly influence a judge’s decision. “Ex Parte communications are prohibited generally because they undermine the adversary system, threaten the fairness of a proceeding, and create an appearance of bias and partiality.” Arthur Garwin et al., *Annotated Model Code of Judicial Conduct* 195 (3d ed. 2016). Independent investigations by a judge also create an appearance of partiality and may provide a judge with personal knowledge of disputed facts, which is a specific ground for judicial disqualification. Such conduct could violate the following Rules of the Code of Judicial Conduct: Rule 1.1 (Compliance with the Law), Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.2 (Impartiality and Fairness), Rule 2.6(A) (Right to Be Heard), and Rule 2.9(A) (Ex Parte Communications).

- After a judge self-reported to the Board that the judge had viewed a criminal pretrial evaluation in connection with a child protection case and, as a result, subsequently recused, the Board cautioned the judge that initiating, permitting, or considering ex parte communications could violate the following Rules of the Code of Judicial Conduct: Rule 1.1 (Compliance with the Law), Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.2 (Impartiality and Fairness), Rule 2.6(A) (Right to Be Heard), and Rule 2.9(A) (Ex Parte Communications).
- The Board cautioned a judge that the judge's comments and body language may show bias after multiple witnesses reported the judge would roll their eyes and sigh during hearings, and that such conduct could violate the following Rules of the Code of Judicial Conduct: Rule 1.2 (Promoting Confidence in the Judiciary), Rule 2.2 (Impartiality and Fairness), Rule 2.3 (Bias, Prejudice, and Harassment), and Rule 2.8 (Demeanor).

PUBLIC INQUIRIES

The staff receives frequent inquiries about judges' conduct. The inquiries are often from parties involved in court proceedings. Callers are provided with information about the Board and how to file a complaint.

Board staff often receives requests for information, complaints that concern persons over whom the Board has no jurisdiction, and complaints that do not allege judicial misconduct. Callers are given appropriate referrals when other resources are available.

ADVISORY OPINIONS

The Board is authorized to issue advisory opinions on proper judicial conduct with respect to the provisions of the Code. The Board encourages judges who have ethical questions to seek its guidance. The Board provides three types of advisory opinions:

- The Board issues *formal opinions* on issues that frequently arise. These opinions are of general applicability to judges.
- A *Board opinion letter* is given to an individual judge on an issue that requires consideration by the full Board.
- The Board's Executive Secretary issues *informal opinions* to judges as delegated by the Board pursuant to Board Rule 1(e)(11). Judges regularly contact the Executive Secretary for informal opinions on ethics questions. Depending on the nature of the request, the Executive Secretary may consult the Board Chair or another Board member.

The Board began issuing formal opinions in 2013. The Board's current practice is to ask for public comments on its proposed formal opinions before the opinions are made

final. Formal opinions are sent to the chief judges of the Minnesota courts and are posted on the Board's website at <http://www.bjs.state.mn.us/formal-opinions>. The Board did not issue a formal opinion in 2024. The Board issued one opinion letter in 2024.

The Executive Secretary gave nearly 150 informal advisory opinions to judges in 2024. This continues the trend of a significant increase over prior years, reflecting the increased assistance the Board is providing to judges who are faced with ethics issues. The opinions cover a wide range of subjects, including disqualification standards and permissible extrajudicial activities. In many cases, the judge requests the opinion by telephone and the opinion is given orally. Since 2014, however, opinions are usually confirmed by e-mail and include analysis and citation to legal authority.

BUDGET

The Board's current base budget is \$520,000 per year, which is used to pay staff salaries, rent, and other expenses. The staff consists of the Executive Secretary, a part-time staff attorney, and an executive assistant.

In addition, a special account funded at \$125,000 per year is available to the Board to pay the expenses of major cases, which often require the Board to retain private counsel, resulting in significant expenditures for attorney fees.

FURTHER INFORMATION

For additional information regarding the Minnesota Board on Judicial Standards, please feel free to contact the Executive Secretary at (651) 296-3999.

Dated: April 9 , 2025

Respectfully submitted,

/s/ **Timothy O'Brien**

Timothy O'Brien
Chair, Minnesota Board on
Judicial Standards

/s/ **Sara P. Boeshans**

Sara P. Boeshans
Executive Secretary, Minnesota
Board on Judicial Standards

BOARD AND STAFF BIOGRAPHIES

Honorable Shereen M. Askalani

Judge of District Court (Fourth District). Appointed to the bench in 2016. Assistant Ramsey County Attorney from 2002 to 2016. Appointed to the Board on Judicial Standards in 2020.

Honorable Louise Dovre Bjorkman

Board Vice Chair and Judge of Minnesota Court of Appeals. Appointed to the Court of Appeals in 2008. Judge, Second Judicial District Court, 1998-2005. Private practice of law, 1985-1998 and 2005-2008. Appointed to the Board on Judicial Standards in 2017.

Scott A. Fischer, PhD., LP, ABPP

Public Member. Dr. Fischer is a forensic psychologist in private practice in Saint Paul. He is the former chair of the Minnesota Board of Psychology. Appointed to the Board on Judicial Standards in 2022.

Theresa M. Harris, ESQ.

Attorney Member. In-house counsel at a corporation providing legal advice regarding complex business contracts, product labeling and advertising claims, marketing-related regulations, and legal compliance. Appointed to the Board on Judicial Standards in 2022.

Honorable Charlene W. Hatcher

Judge of District Court (Fourth District). Appointed to the bench in 2016. Past employment includes Chief Civil Deputy Hennepin County Attorney; Managing Attorney, Human Services Division, Hennepin County Attorney's Office; and Special Assistant Attorney General, Office of the Minnesota Attorney General. Appointed to the Board on Judicial Standards in 2022.

Honorable Theresa M. Neo

Judge of District Court (Sixth District). Appointed to the bench in 2014. Assistant Duluth City Attorney 2010-2014. Staff Attorney Indian Legal Assistance Program 2005-2010, Attorney Safe Haven Shelter 2002-2005. Appointed to the Board on Judicial Standards in 2020.

Timothy O'Brien, ESQ.

Board Chair and Attorney Member. Retired partner, Faegre Baker Daniels LLP. Served as a member of the Lawyers Professional Responsibility Board from 1997-2003, as a member of the Minnesota Client Security Board from 2007-2013, and as a member of the Minnesota Commission on Judicial Selection from 2011-2018. Appointed to the Board on Judicial Standards in 2019.

Dr. Scott Sakaguchi

Executive Committee Member and Public Member. Dr. Sakaguchi was trained as a cardiologist and, in 2019, retired from practice as a Professor of Medicine at the University of Minnesota. Appointed to the Board on Judicial Standards in 2021.

Debbie Toberman

Public Member. Claim Supervisor at Minnesota Lawyers Mutual Insurance Company since 2006. Previously, Ms. Toberman was a Claim Representative at Minnesota Lawyers Mutual from 1986 to 2006, and she served as a public member on the Lawyers Professional Responsibility Board from 2005 - 2011 and the Fourth District Ethics Committee from 1997 - 2009. Appointed to the Board on Judicial Standards in 2020.

Nhia Vang

Public Member. Ms. Vang works for the City of Saint Paul and has more than 20 years' experience in public service in the areas of administration, budget, and policy. Appointed to the Board on Judicial Standards in 2019.

Sara P. Boeshans

Executive Secretary. Admitted to practice in 2007. Ms. Boeshans clerked for Judge Marybeth Dorn, Second Judicial District, after which she was employed in the Minnesota Attorney General's Office. Prior to being appointed as Executive Secretary, Ms. Boeshans served as the Board's staff attorney.

Amy Ihlan

Staff Attorney. Ms. Ihlan clerked for the District of Columbia Court of Appeals, and for former Minnesota Court of Appeals Judge Marianne Short. Prior to joining the Board, Ms. Ihlan worked for Briol & Benson, PLLC as an attorney and for Macalester College as a visiting associate professor of philosophy.

Mary Pat Maher

Executive Assistant. Prior to joining the Board, Ms. Maher served as Executive Director of Project Remand - Ramsey County Pretrial Services for 26 years, where she collaborated with her justice partners to improve the pretrial justice system in Ramsey County and statewide.