

Practical Advice for investigations, writing DEC reports, and other tips

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OLPR co-liaison, 4th DEC



Office of Lawyers Professional Responsibility
Protecting the Public · Strengthening the Profession

Overview

- Resources
- Writing your report
- Returning your file
- Thank you!



Resources

- New DEC Handbook
 - Handbook, checklist, flow chart, FAQs
- Training videos
- SharePoint

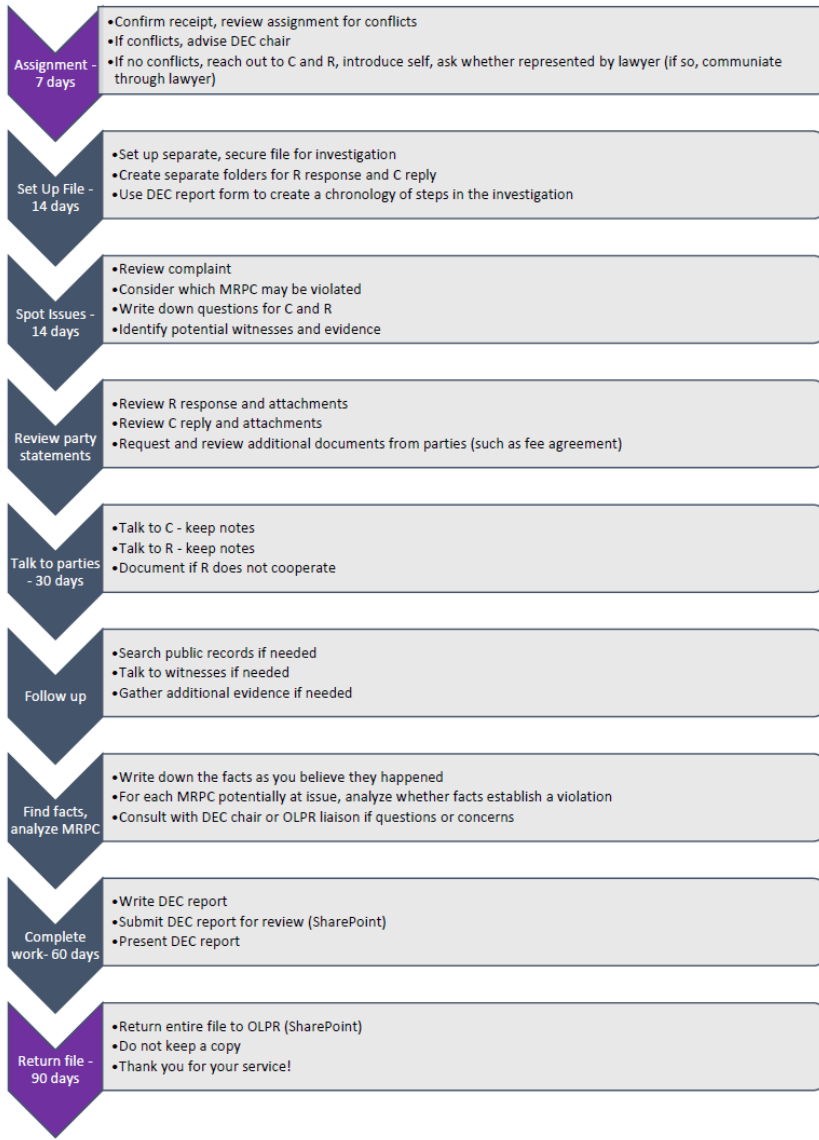
DISTRICT ETHICS COMMITTEE

HANDBOOK

(Revised July 2024)



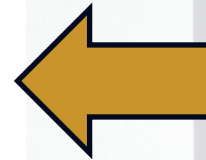
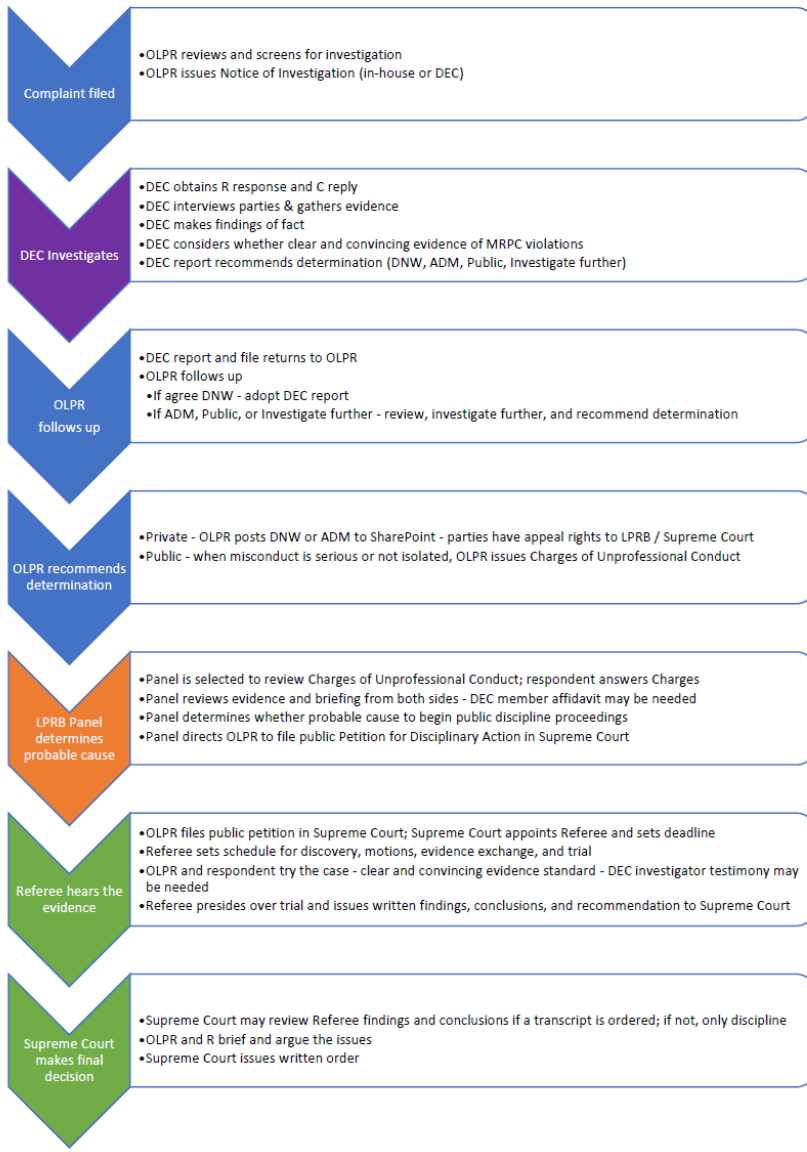
Minnesota District Ethics Committee Investigation Process



DEC Investigation Process



Minnesota Process from Complaint to Determination



DEC is here

A lot happens
after the file
comes back



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DEC SharePoint Homepage

Search this site



DEC Home Page 4th DEC

Home

How To Use This Site



- Sign In As Different User
- TOOLS FOR DEC INVESTIGATORS:
- How To Use This Site
- Investigation Forms
- DEC Handbook
- Appendices to DEC Handbook
- FAQ's
- Common Issues Arising in DEC Investigations
- Helpful Hints
- DEC Glossary
- DEC Investigation checklist
- Investigation Flow Chart
- DEC Training Materials
- 4th DEC
- Recent
 - AuditLogs
 - Site contents



MINNESOTA
Lawyers Professional Responsibility Board
Office of Lawyers Professional Responsibility

445 Minnesota Street
Suite 2400
St. Paul, Minnesota 55101

651-296-3952
1-800-657-3601

Welcome to the District Ethics Committee Intranet

Announcements

Title
Order - Shoeberg - Reinstated and Probation
LAST CALL FOR REGISTRATION OF IN-PERSON 2024 SEMINAR If you are still interested in joining us, in-person, for the 2024 Seminar, please send your registration information to DECCoordinator@courts.state.mn.us by Friday, September 13 at 3pm to ensure a lunch will be included. You may register for our webinar until the day of, September 27, 2024. We hope to see you there!
ONLY 5 DAYS LEFT TO REGISTER FOR THE LAWYERS PROFESSIONAL RESPONSIBILITY SEMINAR!
Order - Horst Suspension

Links

- DEC**
 - DEC Chairs/Liaisons Roster
 - DEC Committee of LPRB
- OLPR**
 - LPRB & OLPR Website
 - Staff List
 - Client Security Board Website
 - LPRB Meeting Materials
 - Annual Reports
- Rules**
 - Rules Governing Minnesota Lawyer Discipline
 - MN Rules of Professional Conduct
 - MN Rules on Lawyers Professional



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Sign In As Different User

TOOLS FOR DEC INVESTIGATORS:

How To Use This Site

Investigation Forms

DEC Handbook

Appendices to DEC Handbook

FAQ's

Common Issues Arising in DEC Investigations

Helpful Hints

DEC Glossary

DEC Investigation checklist

Investigation Flow Chart

DEC Training Materials

4th DEC

Recent

AuditLogs

Site contents



Sync Export to Excel

How To Use This Site

Name

DEC SharePoint User Guide SP1...



Announcements

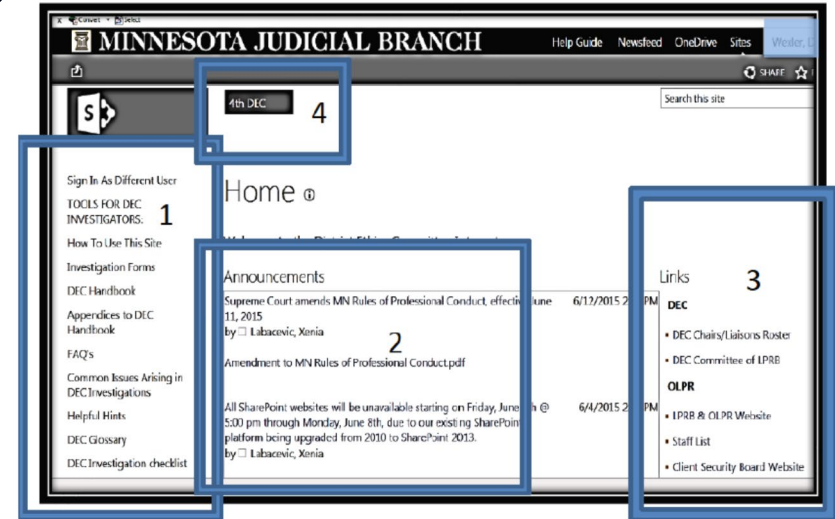
📎	Title
📎	Order - Shoeberg - R
📎	LAST CALL FOR REGIS

If you are still interested in
You may register for our w
We hope to see you there

Home Page

This is the "Home" page. It is the first screen you see after you log in. The information and links on this page are shared by all 21 DEC's, except for the link to your own DEC.

There are four main parts to this page (outlined in blue): 1) Information on conducting an investigation; 2) Announcements; 3) Useful links to the Office of Lawyers Professional Responsibility public web-site; 4) Your DEC link



Your DEC SharePoint Page

- Dec Report Review
- Reports
- Documents
- Pending Investigations
- Monthly Reports
- Determinations
- 4th DEC Training Materials
- Committee Forum
- DEC Discussion
- Committee Documents
- Lists
- Submit A Question
- Calendar
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- DEC Report Discussion
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- Completed Investigation Files
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DEC Home Page > 4th DEC

Announcements



Announcements

+ new announcement or edit this list

Current View

Title	Modified
Please mentor a new committee member!	July 2
Updated DEC Report Form	February 15
4th DEC Liaison OLPR Atty. (eff. 10.1.2023)	December 14, 2023

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Reports



Reports - Please use the following format to title your reports -'File No _____, Respondents Last name - Complainants Last name'

Type	Name	Investigator	Respondent	Complainant	Screening Committee (presentation) Date
		<input type="checkbox"/> Grossman, Kurtiss	CG	EW	10/2/2024
		<input type="checkbox"/> Hackworthy, David	PS	JS	10/2/2024
		<input type="checkbox"/> Harrington, Sean	AW	LU	10/2/2024
		<input type="checkbox"/> Brockmann, Jeffery	PAT	YK	10/2/2024
		<input type="checkbox"/> Brockmann, Jeffery	APS	YK	10/2/2024
		<input type="checkbox"/> Krupinski, Amy	RC	QN	10/2/2024
		<input type="checkbox"/> Krupinski, Amy	DG	QN	10/2/2024

+ Add document


DEC Report Discussion (Discuss Your Reports Here)

DEC Links

- DEC Information**
- How to use this site
- Roster
- FAQs
- Glossary
- Investigation Forms
- 4th DEC Meeting Dates
- OLPR**
- LPRB & OLPR Website
- Staff List
- Client Security Board Website
- Rules**
- Rules Governing Minnesota Lawyer Discipline
- MN Rules of Professional Conduct
- MN Rules on Lawyers Professional Responsibility
- Panel Manual
- Board Opinions
- Articles**
- Professional Responsibility Articles



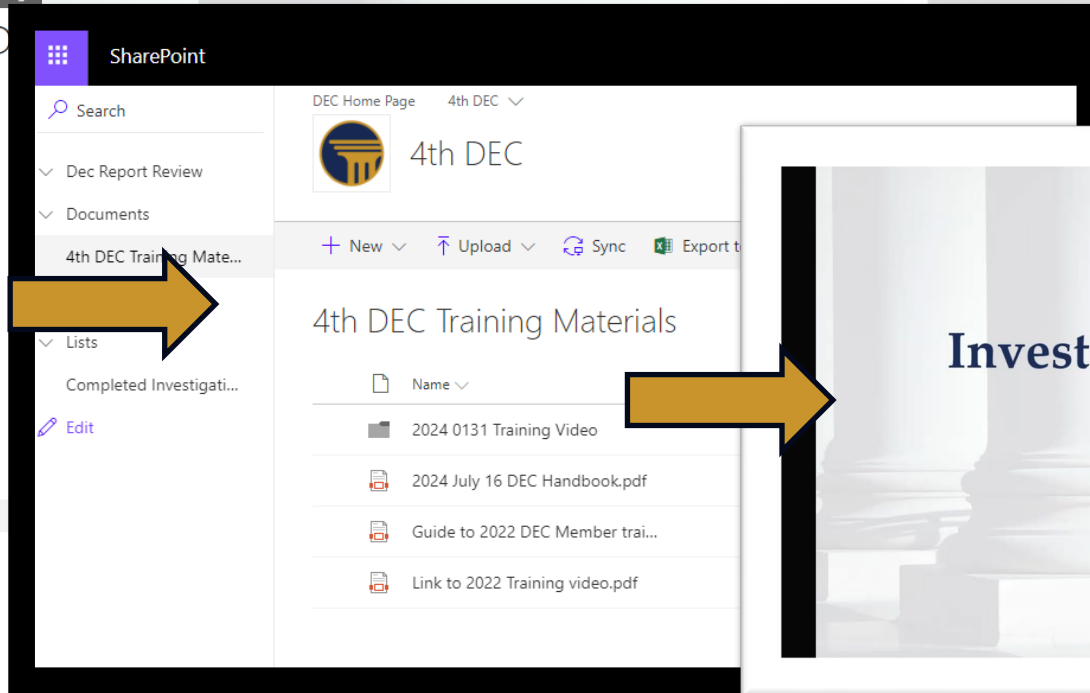
Additional resources



DEC Home Page

4th DEC

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SharePoint

DEC Home Page 4th DEC

4th DEC

4th DEC Training Materials

Name
2024 0131 Training Video
2024 July 16 DEC Handbook.pdf
Guide to 2022 DEC Member trai...
Link to 2022 Training video.pdf



4th DEC
Investigator Training 2.0

OLPR Liaisons
Karin Ciano
Kristine Fuge



SharePoint questions?

- Need login? DEC Coordinator
- Settings? (651) 296-3952
- How to upload? Mara Medved
- How to view reports? Sam Shanley (backup)
- How to comment? [DECCoordinator@](mailto:DECCoordinator@courts.state.mn.us)
- Reviewing final courts.state.mn.us determinations?



We welcome your feedback on
DEC resources!



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WRITING YOUR REPORT



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INVESTIGATION REPORT OF THE
DISTRICT ETHICS COMMITTEE

RESPONDENT ATTORNEY: *Click here to enter text.*

RESPONDENT'S COUNSEL: *Click here to enter text.*

COMPLAINANT: *Click here to enter text.*

OLPR FILE NO.: *Click here to enter text.*

INVESTIGATOR: *Click here to enter text.*

DEC: *Click here to enter text.*

- Word document with prompts that vanish when you click
- Adds prompts for
 - Respondent's counsel
 - OLPR File Number (12345)
 - DEC Number

What's new?



Writing Your Report: Investigation

- Sections I through III of the new form
 - Summary of Complaint
 - Complainant's perspective
 - Possible Ethical Violations
 - Rules and headings (or subheadings)
 - Chronology of Investigation
 - Dates of key events
 - Check boxes about complainant response and conversations



The complainant is/was respondent's client and was provided a copy of the respondent's response, and was invited to provide a response to the respondent's response in writing:

- Yes
- No (If no, explain below.)

Click here to enter text.



Yes



No

The complainant was not the respondent's client and was provided a written summary or redacted copy of the respondent's response, and was invited to provide a response to the respondent's response in writing:

- Yes
- No (If no, explain below.)

Click here to enter text.

Client?

***See Rule 6(d) and Rule 20(a)(5) of the RLPR regarding whether to provide the complainant with a summarized/redacted copy or a full copy.**

The investigator had at least one conversation with the complainant and at least one conversation with the respondent about the complaint:

- Yes
- No (If no, explain below.)

Click here to enter text.



Did the Respondent Cooperate?

IV. Did the respondent comply with their obligations under Rule 8.1, Minnesota Rules of Professional Conduct (MRPC), and Rule 25, RLPR?

Yes

No (If no, explain below.)

Click here to enter text.

If no response to the NOI, or to your requests for information, the answer is probably No



Writing Your Report: Memorandum

- Findings of Fact
 - Narrative summary
 - Credibility determinations
- Analysis
 - Standard of proof (leave as-is)
 - Headings for each Rule considered
 - Diligence – Rule 1.3, MRPC
 - Communication – Rule 1.4(a)(3), MRPC



MEMORANDUM

Findings of Fact:

In narrative format, present a summary of your factual findings. If the parties disagree on facts, make a determination on what you think happened and explain why. Your determination can consider credibility and motivation.

Analysis:

The standard of proof required in attorney disciplinary proceedings is “full, clear, and convincing evidence.” *In re Nelson*, 733 N.W.2d 458, 461 (Minn. 2007). This standard is met when “the truth of the facts asserted is highly probable.” *In re Dedefo*, 752 N.W.2d 523, 529 (Minn. 2008). Clear and convincing evidence is established by more than a preponderance of the evidence, but less than proof beyond a reasonable doubt. *Weber v. Anderson*, 269 N.W.2d 892, 895 (Minn. 1978).

Prepare an outline discussing each rule mentioned above in numerical order. Create a subheading for each rule (or subpart) analyzed. Under that subheading, first identify the



Example

MEMORANDUM

Summary of Complaint

In August 2023, complainant Sam Cook filed an ethics complaint with the Director's Office against respondent attorney Alison Abel, alleging Ms. Abel failed to return his calls and texts, thereby failing to protect her client (his mother Carol Cook) from alleged fraud by a third party.



Example

Findings of Fact

In September 2020 Carol Cook (Carol)¹ retained attorney Alison Abel to probate Ms. Cook's sister's estate in Minnesota. Carol was an interested party and proposed personal representative. Carol and her adult son, Sam Cook (Sam), were both residents of South Dakota and traveled to Minnesota to meet with Ms. Abel. Sam was with Carol at the initial meeting with Ms. Abel. At that meeting, Carol and Ms. Abel decided that Carol would be Ms. Abel's client. Ms. Abel told Sam that he was not her client, and asked him to wait in the lobby, which he did. Ms. Abel took notes of the meeting; those notes reflect that Ms. Abel's only client was Carol, and that Sam was not a client.



Writing Your Report: Memorandum

- Go through each Rule or subpart
 - Numerical order
 - Violations first
 - Other logical order
- Paraphrase the Rule
- Set out the relevant facts from your investigation
- Conclude: is there clear and convincing evidence of a violation?



Example

Rule 1.16(d), MRPC – Steps to Protect Client’s Interests Upon Withdrawal

Rule 1.16(d), MRPC, requires a lawyer whose representation is terminated to “take steps to the extent reasonably practicable to protect a client’s interests” such as “giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fees or expenses that has not been earned or incurred.”

Mr. Cloud alleges Mr. Anderson did not return Mr. Cloud’s entire client file at the termination of representation. Mr. Anderson insists that he did. The evidence reflects that Mr. Anderson delivered Mr. Cloud’s entire client file, including all the original documents Mr. Anderson had received, to Mr. Cloud’s home on May 5, 2022. Although Mr. Cloud refused to sign the receipt Mr. Anderson had prepared, Mr. Anderson used



it to make contemporaneous notes indicating that he had delivered the file. Mr. Cloud did not raise any objection at the time that any documents were missing, and did not raise the issue again until his ethics complaint more than a year later. Mr. Anderson credibly stated that after the ethics complaint was filed he and his staff conducted a search for any additional documents that might belong to Mr. Cloud, but did not find anything. Even in his complaint to the Director Mr. Cloud has not identified or described any particular documents that he believes are missing, nor has he articulated a reason why Mr. Anderson might have retained such documents.

Although 20 days passed between Mr. Cloud's termination letter and Mr. Anderson's personal delivery of the file, that timeframe was reasonable given the circumstances. Mr. Anderson and his staff promptly made reasonable efforts to contact Mr. Cloud to arrange transfer of the file, but were stymied by Mr. Cloud's lack of a phone and his mother's unwillingness to communicate. Mr. Anderson's decision to personally drive to Mr. Cloud's home hoping to find him there and return the file—which both parties agree did in fact occur—is evidence of his willingness to take reasonably practicable steps to protect Mr. Cloud's interests. There is no clear and convincing evidence of any violation of Rule 1.16(d), MRPC.



Discipline Recommendation

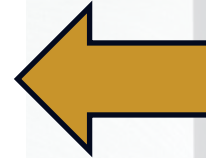
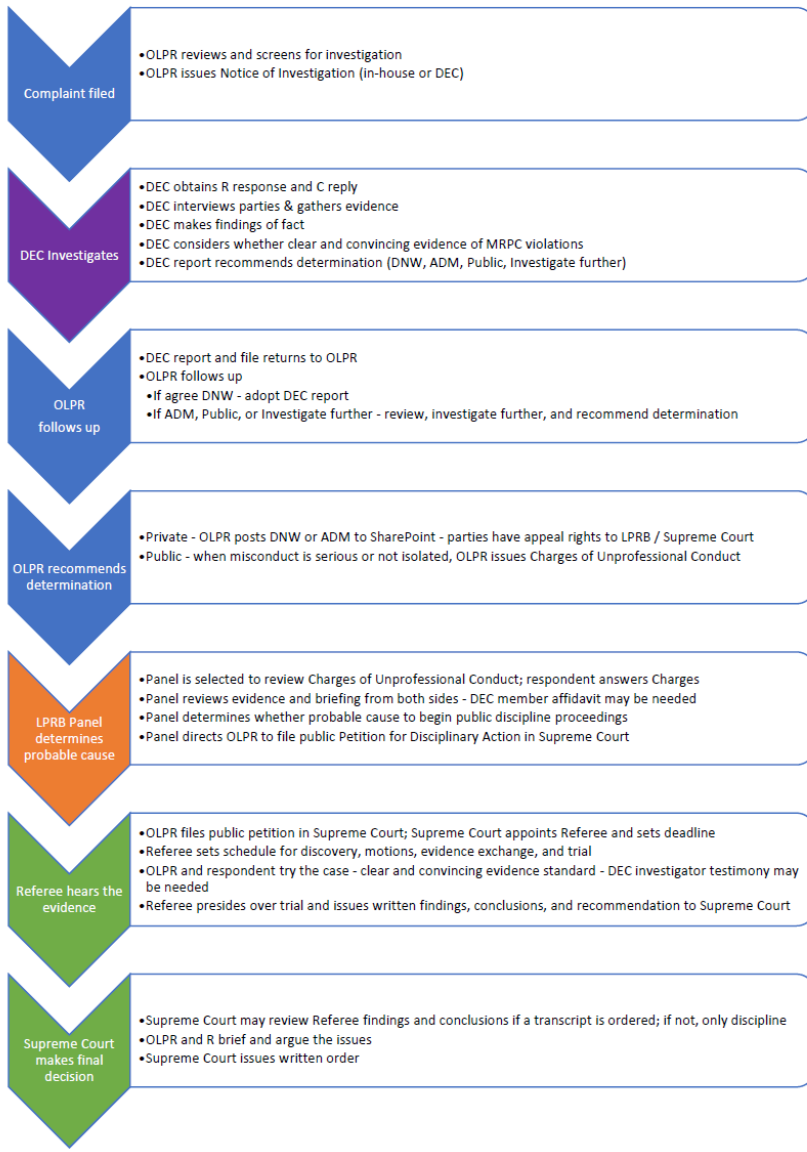
V. Recommendation pursuant to Rule 7(b), RLPR:

- Discipline not warranted (no violations)
- Private Admonition
- Public Discipline
- Ask the OLPR to further investigate:

If you recommend further investigation, list each rule at issue and identify what more should be investigated.



Minnesota Process from Complaint to Determination



DEC is here

DNW or Private ADM

Public



At 45 days

- You should have R response and C reply
 - If R not communicating, let us know
 - Other issues to investigate?
- Expect a 45-day check in from DEC Coordinator
 - How's it going – on track?
 - Any questions, roadblocks or needs?
 - DECCoordinator@courts.state.mn.us



60-90 days

- Finish writing report
 - Save to computer and PDF
 - **File No. 12345 – RLname - CLname**
- Finish organizing file
- Schedule presentation
- Upload report and file to SharePoint
 - At least 48 hours before presenting
- Present report to DEC



Uploading
a report?
Click here
on Reports



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Announcements

[+](#) [new announcement](#) or [edit this list](#)

Current View ...

✓	Title	Modified
	Please mentor a new committee member!	... July 2
	Updated DEC Report Form	... February 15
	4th DEC Liaison OLPR Atty. (eff. 10.1.2023)	... December 14, 20

1 - 3 ▶

Reports - Please use the following format to title your r

Type Name



[+](#) Add document

Not here





Reports

Reports page opens: NOW click Add document

Dec Report Review

Overdue Reports

Reports

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All Active Reports

Type



Investigator Resp

Grossman, Kurtiss CG

Hackworthy, David PS

Harrin

Krupinski, Amy DG



Krupinski, Amy DG

Add document



YK 9/27/2024 9/20/2024 4:08 PM Brockmann, Jeffery 9/20/2024 4:07 PM Brockmann, Jeffery 10/2/2024



QN 9/12/2024 9/5/2024 9:02 PM Krupinski, Amy 9/5/2024 9:02 PM Krupinski, Amy 10/2/2024



QN 9/12/2024 9/5/2024 9:02 PM Krupinski, Amy 9/5/2024 9:01 PM Krupinski, Amy 10/2/2024

Add document



nt Complainant EW JS LU YK YK

Add a document

Choose a file No file chosen

Add as a new version to existing files

Version Comments

OK Cancel

Screening Co
10/2/2024
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9/27/2024 9/20/2024 4:08 PM Brockmann, Jeffery 9/20/2024 4:07 PM Brockmann, Jeffery 10/2/2024



complainant

Add a document ✕

Choose a file File No 12345 - Ciano - Fuge.pdf

Add as a new version to existing files

Version Comments

Screening Co
en 10/2/2024
avid 10/2/2024
an 10/2/2024
fery 10/2/2024



Add a document



EDIT

Check In Cancel Paste Cut Copy Delete Item

Commit Clipboard Actions

i The document was uploaded successfully and is checked out to you. Check that the fields below are correct and that all required fields are filled out. The file will not be accessible to other users until you check in.

Name * .pdf

Investigator *
Type your username without the dmz\ and press ENTER key

Respondent *
Respondent Initials Only

Complainant *
Complainant Initials Only

Screening Committee (presentation) Date
Choose the date you plan to present your report. Screening meetings are scheduled for every other Wednesday. Please see meeting schedule for dates.

Complete
Voting has been completed and investigation is no longer active

Version: 1.0
Created at 9/26/2024 12:43 PM by Ciano, Karin
Last modified at 9/26/2024 12:43 PM by Ciano, Karin

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9/12/2024 9/5/2024 9:02 PM Krupinski, Amy 9/5/2024 9:01 PM Krupinski, Amy 10/2/2024



All Active Reports

Type	Name	<input type="checkbox"/> Investigator	Respondent	Complainant	Comment Deadline	
	File No 12345 - Ciano - Fuge NEW	<input type="checkbox"/> Ciano, Karin	KC	KF	10/3/2024	9



RETURNING YOUR FILE



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Organizing Your File

- Have a system
 - Logical, chronological
- When in doubt, PDF
 - Including emails
 - Keep emails with their attachments
 - Convert Word or Excel docs to PDF
 - Scan paper notes



Examples

Logical (by significance)

- DEC Report
- NOI and Complaint
- R response
 - Materials from R
- C reply
 - Materials from C
- Communications
- Notes of interviews
- Research & analysis

Chronological (by date)

- Timeline
 - 2022 0322 R fee agreement
 - 2022 0415 C email to R
 - 2022 0416 R email to C
 - 2022 0501 R cert of rep
- Communications
 - 2024 0926 email A to R granting more time to respond
 - 2024 1005 R response



Create a Zip Folder

- Locate your investigation folder
- Right click on investigation folder
- Select “Send to”
- Click “Compressed (zipped) folder”
- Name folder
 - File No 12345 Ciano Investigation
- Save folder



Uploading Your File to SharePoint

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Upload DEC Reports Here

Upload file at same time as DEC Report or within 1 week





Upload Completed Investigation Files Here





+ New ▾ ↑ Upload ▾ ↻ Sync 📄 Export to Excel ⋮

Completed Investigation Files

 Name ▾	Modified ▾	Modified By ▾	+ Add column
 Demo Investigation File	June 27	Ciano, Karin	

Choose “upload file,” select your zipped folder, and click “open”



We can't do it without you!

- DEC File must be uploaded so OLPR Lawyer can review & move case forward
 - R response
 - C reply
 - Notes of interviews
 - Important documents



Closing

Feedback—how can the OLPR support you
in your investigations?

Questions?

