

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
EXECUTIVE COMMITTEE
POLICY AND PROCEDURE NO. 3

COMMUNICATION WITH BOARD MEMBERS

The Executive Committee reminds Board members, and advises the OLPR and its staff, as well as complainants, about the following Rule of Lawyers Professional Responsibility 29, regarding *ex parte* communications.

Ex parte communications to any adjudicatory body including panels, referees and this Court are strongly disfavored. Such communications should not occur except after first attempting to contact the adversary and then only if the adversary is unavailable and an emergency exists. Such communications should be strictly limited to the matter relating to the emergency and the adversary notified at the earliest practicable time of the prior attempted contact and of the ex parte communication.

If a Board member receives an *ex parte* communication, then the Board member should alert the party that the communication is inappropriate and inform any other parties of the communication. All such communications shall be provided to the Director's Office to ensure the file is complete.

The Executive Committee does not interpret Rule 3.5(g), Minnesota Rules of Professional Conduct, to prohibit private communication between the OLPR, a respondent attorney, and/or a complainant. That rule governs private contact between a lawyer and "the judge or an official before whom a proceeding is pending." The OLPR and its staff are not "official[s] before whom a proceeding is pending" because the OLPR investigates and makes recommendations.

The Executive Committee likewise does not interpret Rule 3.5(g), Minnesota Rules of Professional Conduct, to prohibit communication between the OLPR and the Board to facilitate the exchange of information necessary for the Board to review complainant appeals.

Dated: Jan. 27, 2023

LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD

/s/ Jeanette Boerner

By: Jeanette Boerner
Chair