

ETHICS BOARD

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subpoena named individuals to appear as witnesses at the hearing, if such action is necessary to compel their attendance."

Section 13.31 provides, in part: "The attendance of witnesses before any committee of the legislature, or of either house thereof, appointed to investigate any subject matter, may be procured by subpoenas signed by the presiding officer and chief clerk of the senate or assembly."

Section 19.48 (4) notwithstanding, section 885.01 (4) provides that a subpoena may be issued by any board or by any member of a board authorized to take testimony.

This rule provides that the board may issue subpoenas in accordance with that general authority to compel the attendance of witnesses under section 885.01.

Section 19.48 (5) provides that " * * * Prior to any hearing . . . , the accused . . . shall be afforded full discovery rights, including adverse examination of witnesses who will testify at the hearing. * * * "

Although the law expressly grants discovery rights to the accused, it is silent with respect to the board's investigatory powers. This rule interprets the law to mean that the board's designee may also take the deposition of a potential witness.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76.

Eth 3.21 Oath. Before testifying, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered by the presiding officer or any member of the board.

Note: This section repeats the statutory requirement that witnesses be under oath and establishes by whom the oath may be administered.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

REQUESTS FOR ADVICE

Eth 3.30 Requests for written advice. In instances where delay is of substantial inconvenience or detriment to a party requesting the board's written advice regarding the propriety of any matter to which he or she is or may become a party, the board's executive director may, with the advice and consent of the chair, or if he or she is unavailable with the advice and consent of the next ranking officer of the board, or if he or she is unavailable, with the advice and consent of the secretary or other member of the board, advise the state public official. Written advice prepared by the executive director pursuant to this rule shall have the full force and effect of written advice given by the board, except that at its next meeting, the board may rescind or modify that written advice.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. Register, September, 1976, No. 249, eff. 10-1-76.