

CHAPTER 2. SPECIAL DEPUTY TRIAL COUNSEL

Rule 2201. APPOINTMENT AND AUTHORITY

- (a) The Chief Trial Counsel or designee may appoint one or more Special Deputy Trial Counsel when the Office of the Chief Trial Counsel receives an inquiry or complaint regarding the following:
 - (1) A member employed by the State Bar of California;
 - (2) An attorney member of the Board of Trustees;
 - (3) An attorney member of the governing board of any other entity of the State Bar; or
 - (4) A member who has a current or recent personal, financial, or professional relationship to the State Bar, its employees, or a member of the Board of Trustees, or in other appropriate circumstances to avoid the appearance of any impropriety.
- (b) A Special Deputy Trial Counsel shall have all of the powers and duties of the Chief Trial Counsel and shall act entirely in his or her place or stead with regard to such an inquiry or complaint and any resulting investigation. A Special Deputy Trial Counsel may be removed by the Chief Trial Counsel only for good cause or any other condition that substantially impairs the performance of such Special Deputy Trial Counsel's duties.
- (c) A Special Deputy Trial Counsel must be an active member of the State Bar, but may not be an employee of the State Bar, a member of the Board of Trustees, or a Judge Pro Tempore of the State Bar Court.
- (d) A Special Deputy Trial Counsel shall not receive compensation for services unless the Chief Trial Counsel has contracted in advance with that Special Deputy Trial Counsel to receive compensation.
- (e) A Special Deputy Trial Counsel shall comply with the written or other established policies of the State Bar of California and the Office of the Chief Trial Counsel, except to the extent that compliance would be inconsistent with the purposes of this rule.
- (f) A Special Deputy Trial Counsel may request that the Chief Trial Counsel or designee authorize the payment of reasonable expenses and for investigative, administrative and legal support. The Chief Trial Counsel or designee shall have discretion to determine the amount of financial, investigative, administrative and legal assistance to be provided.

- (g) The Chief Trial Counsel or designee shall conduct a preliminary review of an inquiry regarding a member described in paragraph (a) to determine whether to appoint a Special Deputy Trial Counsel to investigate the matter.
- (1) If the Chief Trial Counsel or designee determines that the factual allegations of the inquiry are not sufficiently specific, that the inquiry is not from a credible source or that the factual allegations contained therein, if proven, would not result in discipline of the member, the Chief Trial Counsel or designee shall close the matter.
 - (2) If the Chief Trial Counsel or designee determines that the factual allegations of the inquiry are sufficiently specific, that the inquiry is from a credible source and that the factual allegations contained therein, if proven, may result in discipline of the member, the Chief Trial Counsel or designee shall appoint a Special Deputy Trial Counsel to conduct an investigation and such other proceedings as necessary or appropriate with respect to the inquiry.
 - (3) If the Chief Trial Counsel or designee is unable to determine whether the factual allegations of the inquiry are sufficiently specific and from a credible source, or that the factual allegations of the inquiry, if proven, may result in discipline of the member, the Chief Trial Counsel or designee shall appoint a Special Deputy Trial Counsel to make those determinations and, as warranted, to conduct an investigation and such other proceedings as necessary or appropriate.
- (h) The preliminary review required by paragraph (g) shall be completed within sixty (60) days after the written inquiry is first received; provided, however, that such time limit is not jurisdictional.
- (i) The Chief Trial Counsel shall recuse himself or herself with respect to an inquiry received by the Office of the Chief Trial Counsel if:
- (1) The inquiry involves the Chief Trial Counsel;
 - (2) The Chief Trial Counsel believes, for any reason, that his or her recusal would further the interests of justice;
 - (3) The Chief Trial Counsel believes there is a substantial doubt as to his or her capacity to be impartial; or
 - (4) A person aware of the facts might reasonably entertain a doubt that the Chief Trial Counsel would be able to be impartial.

ATTACHMENT A

In the event of the Chief Trial Counsel's recusal, the inquiry shall be referred to the Chair of the Board's Committee on Regulation, Admissions and Discipline Oversight, who shall appoint a Special Deputy Trial Counsel to determine whether the factual allegations of the inquiry are sufficiently specific, from a credible source and whether, if the factual allegations contained therein, if proven, may result in discipline of the member. If the Special Deputy Trial Counsel determines that the factual allegations of the inquiry are sufficiently specific and from a credible source and that the allegations, if proven, may result in discipline of the member, the Special Deputy Trial Counsel shall conduct an investigation and such other proceedings as necessary and appropriate.

- (j) Upon the request of the Board Committee on Regulation, Admissions and Discipline Oversight, the Chief Trial Counsel shall submit a report to the Committee in closed session regarding the number, nature and disposition of inquiries, complaints or investigations involving the members described in paragraph (a), other than the Chief Trial Counsel.