

ELC 10.10
PREHEARING DISPOSITIVE MOTIONS

(a) Respondent Motion. A respondent lawyer may move for dismissal of all or any portion of one or more counts of a formal complaint for failure to state a claim upon which relief can be granted.

(b) Disciplinary Counsel Motion. Disciplinary counsel may move for an order finding misconduct based on the pleadings. In ruling on this motion, the hearing officer may find that all or some of the misconduct as alleged in the formal complaint is established, but will determine the sanction after a hearing.

(c) Time for Motion. A motion under subsection (a) of this rule must be filed within the time for filing of the answer to a formal complaint or amended formal complaint, and may be filed in lieu of filing an answer. If the motion does not result in the dismissal of the entire formal complaint or amended formal complaint, the respondent must file and serve an answer to the remaining allegations within 10 days of service of the ruling on the motion. A motion under subsection (b) of this rule must be filed within 30 days of the filing of the answer to a formal complaint or amended formal complaint.

(d) Procedure. Rule 10.8 and CR 12 apply to motions under this rule. No factual materials outside the answer and complaint may be presented. If the motion results in dismissal of part but not all of a formal complaint, the Board must hear an interlocutory appeal of the order by either party. The appeal must be filed within 15 days of service of the order.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]