

1 **Rule 11-523. OPC investigative subpoenas.**

2 **(a) Power to subpoena.** The OPC may request that the Committee chair approve
3 serving on a Respondent or third party a subpoena to produce documents,
4 electronically stored information, or tangible things in the possession, custody, or
5 control of that person.

6 **(b) Requesting a subpoena.** The OPC must file a written request with the Committee
7 chair for a subpoena and attach a copy of the proposed subpoena. The OPC must mail
8 or email a copy of the request and proposed subpoena to the Respondent's address
9 according to the Bar's records. The request must describe the purpose for seeking the
10 subpoena. Any objections to the request must be filed with the chair within seven days
11 after the subpoena request is sent. Within seven business days after the time for filing
12 an objection expires, the Committee chair will grant or deny the subpoena request,
13 without a hearing, based on weighing:

14 (1) the materiality and necessity of the requested documents, electronically
15 stored information, or tangible things; and

16 (2) the burden to the custodian of producing the documents, electronically stored
17 information, or tangible things.

18 **(c) Serving the subpoena.** If the Committee chair grants the request, the OPC may sign
19 and serve the subpoena in accordance with Rule 45 of the Utah Rules of Civil
20 Procedure ~~on the Respondent or third party.~~

21 **(d) ~~Witnesses and fees~~ Costs.** ~~Subpoena fees, witness fees, and mileage~~ Costs are
22 reimbursed by the OPC as provided under Rule 45 of the Utah Rules of Civil Procedure.

23 **(e) Quashing or enforcing a subpoena.** A district court in the district in which the
24 attendance or production is being sought may, upon proper application, quash the
25 subpoena, or enforce ~~the attendance and testimony of any witnesses and~~ the production
26 of any documents subpoenaed as provided for in Rule 45 of the Utah Rules of Civil

- 27 Procedure. Any resulting order is not appealable before the entry of a final order in the
28 disciplinary proceeding.
- 29 Effective December 15, 2020