

ATTORNEY COMPLAINT INFORMATION

This brochure answers some common questions about the State Bar's attorney disciplinary system. If you have any questions about this process that are not answered in this brochure, please call the Grievance Information Helpline of the State Bar of Texas at 1-800-932-1900.



All Texas attorneys have an obligation to maintain a high standard of ethical conduct toward their clients and others. To enforce this standard, the State Bar of Texas investigates and prosecutes complaints of Professional Misconduct against attorneys licensed in Texas, pursuant to the Texas Rules of Disciplinary Procedure as promulgated by the Supreme Court of Texas.

What rules are attorneys required to follow?

For purposes of attorney discipline, the ethical rules that attorneys must follow are called the Texas Disciplinary Rules of Professional Conduct. These rules may be found online at texasbar.com.

Should I file a grievance?

Reporting unethical behavior of Texas attorneys helps reduce and prevent harm to the public and the legal profession. In order for the State Bar to investigate the attorney's conduct, the person seeking to complain about the attorney must file a written grievance describing the attorney's alleged Professional Misconduct with the State Bar's Office of Chief Disciplinary Counsel. If you are not a client or former client of the attorney you are reporting, the Texas Rules of Disciplinary Procedure set forth limitations regarding who may file a grievance.

You might find it helpful to speak with the State Bar's Client Attorney Assistance Program staff in determining whether to report the conduct of the attorney and/or whether other resources might be beneficial. The Client Attorney Assistance Program is a statewide dispute resolution program which assists clients and attorneys in resolving minor grievances affecting their relationship. The Bar's Grievance Information Helpline (1-800-932-1900) is answered by staff of this Program.

Is there a statute of limitations on filing a grievance?

Yes. With a few exceptions, there is a four-year statute of limitations on filing a grievance.

Do I have to be the client or former client in order to file a grievance against an attorney?

No. However, the Texas Rules of Disciplinary Procedure set forth limitations regarding who may file a grievance.

How do I file a grievance?

The first step in filing a grievance is to complete a grievance form either through the Bar's

online submission system, located at <https://sbotsservices.texasbar.com/eservices/home.page>, or by submitting a completed grievance form by mail or fax to:

State Bar of Texas
Chief Disciplinary Counsel's Office
P.O. Box 13287
Austin, Texas 78711
Fax: (512) 427-4315

The form is available on the Bar's website, texasbar.com, in pdf format in both English and Spanish, or a form can be mailed to you at your request by calling 1-877-953-5535.

NOTE: Use of the State Bar's most current grievance form is required. All questions on the grievance form must be answered completely. If a question doesn't apply to your situation, you must state "not applicable" or "N/A." If you don't know the answer to a question, state that you don't know. **Do not leave any section blank.** Old versions of grievance forms, or grievance forms that are not complete with required information, will be automatically rejected and returned.

Include with your grievance form **copies** of all supporting documents such as letters, pleadings (court documents), emails, etc. **Do not send original documents, as they will not be returned. Additionally, please do not use staples, post-it notes, or binding.**

If you are reporting the conduct of your current or former attorney, it is important to know that signing the grievance form waives the attorney-client privilege that would otherwise keep discussions between you and your attorney confidential. The form must be signed by the complainant and dated.

Can I submit my grievance by e-mail?

No, grievances are accepted through the online portal, fax, or US Postal Service only.

Can someone at the State Bar help me fill out a grievance form?

No. If you need assistance in filling out the grievance form, we recommend that you have a family member or friend assist you. Because we are required to maintain impartiality throughout the grievance process, employees of the State Bar of Texas are not permitted to assist you with filling out a grievance form. The State Bar can

provide you with a list of resources in your area that offer assistance in filling out and filing the grievance form.

What happens after I file a grievance?

The Chief Disciplinary Counsel will review your grievance and, within 30 days, determine whether the conduct of the attorney as alleged might constitute Professional Misconduct, meaning a violation of the Texas Disciplinary Rules of Professional Conduct. This review is called the “classification stage” of the disciplinary process. However, in some instances, prior to classification, you may be referred to the Client Attorney Assistance Program for assistance.

A grievance that is determined not to allege Professional Misconduct or that is filed by someone not eligible to file a grievance is classified as an “Inquiry” and is dismissed. A grievance that is determined to allege Professional Misconduct that is submitted by a person eligible to file a grievance is classified as a “Complaint” and is investigated by the Chief Disciplinary Counsel. You will be notified of the Chief Disciplinary Counsel’s determination in writing.

Can I amend and re-file my grievance?

If your grievance is dismissed by the Chief Disciplinary Counsel as an Inquiry, you may amend the dismissed grievance with additional or new information and resubmit it to the Chief Disciplinary Counsel. The amended grievance *must* contain new or additional information not contained in your original grievance.

Can I appeal the dismissal of my grievance at this classification stage?

You may appeal the decision of the Chief Disciplinary Counsel to dismiss your grievance by filing an appeal to the Board of Disciplinary Appeals (BODA). The appeal must be in writing on the form provided with the Chief Disciplinary Counsel’s notification that your grievance has been dismissed. The appeal must be submitted directly to BODA (*not* to the Chief Disciplinary Counsel) within 30 days from notification of the dismissal. BODA will independently review your grievance to determine whether it states a potential violation of the ethical rules. If BODA grants the appeal and reverses the classification decision, the grievance is referred back to the Chief Disciplinary Counsel for investigation. Following a denial of an appeal by BODA, you may amend and re-file your grievance one time only by submitting new or additional information, as in the preceding section.

Can the attorney appeal the grievance at this classification stage?

Yes, the attorney can appeal a “Complaint” classification by filing an appeal to the Board of Disciplinary Appeals (BODA). If BODA grants the appeal and reverses the classification decision, the grievance is dismissed. If BODA denies the attorney’s appeal, the Complaint moves forward to the next stage.

What happens if it is determined that my grievance does allege Professional Misconduct?

From this point forward, your Complaint will be handled by the Regional Office of Chief Disciplinary Counsel where the alleged Professional Misconduct took place. This will be either in Austin, Dallas, Houston, or San Antonio. You will receive notification of where your Complaint will be handled and who to contact if you have questions.

A copy of your Complaint is sent to the attorney who is the subject of the Complaint, with instructions for the attorney to submit a written response to the Chief Disciplinary Counsel within thirty days. The Chief Disciplinary Counsel will then conduct an investigation of the matter over the next sixty days, reviewing all of the information received from the complainant and the attorney and any additional information gathered in order to determine whether there is sufficient cause to believe that Professional Misconduct occurred. This is referred to as the “Just Cause” investigation. Prior to the finding of Just Cause, your Complaint **may** be set for an Investigatory Hearing before a local Grievance Committee Panel. It is possible that your Complaint will be resolved through the Investigatory Hearing process. The investigation of the Complaint before a panel of the local Grievance Committee will likely take place by ZOOM or, in some instances, in the Regional Office of the Chief Disciplinary Counsel having authority over the region in which the alleged misconduct occurred.

What happens after the just cause investigation is completed?

If your Complaint is not resolved through the Investigatory Hearing process, and the Chief Disciplinary Counsel concludes that there is Just Cause to believe Professional Misconduct occurred, the attorney is notified of the allegations of Professional Misconduct, including which ethical rules are alleged to have been violated. The attorney is given a choice of whether to have the case heard by a different panel of a

local Grievance Committee or by a judge or jury in district court.

Following the attorney's Election, a petition is then filed with either an Evidentiary Panel of a local Grievance Committee or a district court by the Chief Disciplinary Counsel on behalf of its client, the Commission for Lawyer Discipline. The case will then be set for trial either before an Evidentiary Panel or a district court.

What happens if my complaint proceeds to an evidentiary hearing?

An Evidentiary Panel is a panel of a local Grievance Committee composed of attorney members and non-attorney members who hear and consider the evidence and decide whether the attorney has committed Professional Misconduct. After conducting the hearing, the Evidentiary Panel will issue a judgment within 30 days as to whether or not the attorney is found to have committed Professional Misconduct. All parties, as well as the complainant, are notified of the Evidentiary Panel's decision.

Can I appeal an Evidentiary Panel's decision if I don't agree with it?

No. Evidentiary decisions are not appealable by the complainant.

What happens if my complaint proceeds to trial in district court?

Evidence in a district court trial may include your testimony as a witness, the attorney's testimony and possibly the testimony of other witnesses in addition to any documented evidence submitted to the court. The trial court will enter judgment after the close of evidence or after the return of the jury's verdict.

If I disagree with the result reached at a district court trial, can I appeal?

No. District court decisions are not appealable by the complainant.

What happens if just cause is not found?

If the Chief Disciplinary Counsel concludes that Just Cause does not exist to believe that the attorney committed Professional Misconduct, the matter is presented to a Summary Disposition Panel with a recommendation that the Complaint should be dismissed. Neither you nor the attorney has the right to

appear before the Summary Disposition Panel. The Panel reviews the Complaint, together with any information, documents, and evidence deemed necessary for it to make its ruling. No testimony is taken at the hearing. If the Panel determines the dismissal is appropriate, both the complainant and the respondent are notified. If the Panel determines the Complaint should not be dismissed, the Complaint will proceed to litigation. There is no appeal from a determination by the Summary Disposition Panel that the complaint should proceed or be dismissed.

What is a Summary Disposition Panel and who is on it?

The Summary Disposition Panel is a panel of a local Grievance Committee that is responsible for deciding whether a Complaint should be dismissed based upon the recommendation of the Chief Disciplinary Counsel or should proceed to litigation. State Bar grievance committees are composed of volunteer attorneys and members of the public who serve in 49 disciplinary districts across the state. Each committee is composed of 2/3 attorney members and 1/3 public members. The committees act in panels that are also 2/3 attorney members and 1/3 public members.

How will I know what happens with the grievance that I file?

You will receive notification in writing about the status of your grievance throughout the grievance process.

What happens to attorneys who have been found guilty of professional misconduct?

That attorney may receive one or more of the following sanctions, depending upon the severity of the case: 1) a reprimand, which may be public or private; 2) suspension from the practice of law, all or part of which may be probated; or 3) disbarment. In certain circumstances, the attorney may be allowed to participate in the Grievance Referral Program. Any public sanction an attorney receives for Professional Misconduct will become a permanent part of the attorney's record.

Does the State Bar offer any other assistance to a complainant who has a dispute with an attorney that is not resolved through the attorney disciplinary system?

Possibly. At any stage of the grievance process at which a complainant's grievance is dismissed, the matter is referred to a voluntary mediation and dispute resolution procedure called the "Client Attorney Assistance

Program.” Should that occur, you will be provided further information about that program.

Can anything be done for clients whose money has been stolen by their attorney?

Yes. The Client Security Fund is a discretionary fund maintained by the State Bar that may provide some relief to clients under certain circumstances. In order to seek relief, application must be made with the Fund and the applicant must have participated in the attorney discipline process (unless the attorney is already deceased, disbarred or resigned, or is on an indefinite disability suspension prior to completion of the applicant’s complaint against the attorney). Under certain circumstances, clients may be eligible for financial relief from this source. The Client Security Fund does not address legal malpractice damages, disputes over the amount charged for legal services, dissatisfaction with the outcome achieved by the attorney, or recovery of monies paid by another attorney for work that was not done by the attorney complained about.

What if I believe that I have a claim for legal malpractice?

Neither the State Bar nor the Chief Disciplinary Counsel can advise you regarding what claims, if any, you may have for legal malpractice. The State Bar does not have any ability to pursue, or in any fashion become involved in, whatever claims you may have against your attorney for legal malpractice. If you believe you have such a claim, you should seek advice from a private attorney of your choosing.

Who do I contact if I have other questions about the disciplinary process?

If you have questions prior to filing a grievance, please call the Grievance Information Helpline toll-free at 1-800-932-1900. You may also find helpful information on the State Bar website, texasbar.com. If you have questions after you have filed a grievance, please call the Chief Disciplinary Counsel’s office at 877-953-5535.

