

# 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 lawyers in Texas 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 lawyers licensed in Texas, pursuant to the Texas Rules of Disciplinary Procedure as promulgated by the Supreme Court of Texas.**

## **What rules are lawyers required to follow?**

For purposes of professional discipline, the ethics rules that attorneys must follow are called the Texas Disciplinary Rules of Professional Conduct. These rules may be found online at [www.texasbar.com](http://www.texasbar.com). They are also printed in the Texas Government Code (Title 2, Subtitle G-Appendix A, Article 10, section 9).

## **Should I file a grievance?**

Reporting unethical behavior of Texas lawyers helps reduce and prevent harm to the public and the legal profession. In order for the State Bar to investigate the lawyer's conduct, the person seeking to complain about the lawyer must file a written grievance describing his or her conduct with the State Bar's Office of Chief Disciplinary Counsel.

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 lawyer 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 problems affecting their relationship when the issues do not involve misconduct under the Texas Disciplinary Rules of Professional Conduct. 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. This means that you usually have four years from the time the alleged misconduct occurred to file a grievance with the State Bar.

## Do I have to be the client in order to file a grievance against a lawyer?

No. Any person with knowledge of what they believe to be professional misconduct by a lawyer has the ability to 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 [cdc.texasbar.com](http://cdc.texasbar.com), 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) 427-4169

The form is available on the Bar's website, [www.texasbar.com](http://www.texasbar.com), in pdf format in both English and Spanish, or a form can be mailed to you at your request by calling 1-866-224-5999. Please be sure to include **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 lawyer, it is important to know that signing the grievance form waives the attorney-client privilege that would otherwise keep discussions between you and your lawyer confidential. The form must be signed by the complainant and dated.

## What happens after I file a grievance?

The Chief Disciplinary Counsel will review your grievance and will, within 30 days, determine whether the conduct of the lawyer as alleged might constitute a violation of the Disciplinary Rules of Professional Conduct (the ethics rules). This review is called the "classification stage" of the disciplinary process.

A grievance that is determined to not allege a violation of the ethics rules is classified as an "Inquiry" and is dismissed.

A grievance that is determined to state a possible violation of the ethics rules is classified as a “Complaint” and is investigated by the Chief Disciplinary Counsel. You will be notified of this determination of the Chief Disciplinary Counsel by mail. Complainants whose grievances are dismissed are directed to contact the Client-Attorney Assistance Program (CAAP), a voluntary dispute resolution program maintained by the State Bar of Texas.

## **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. You may amend and resubmit your grievance one time only.

## **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 ethics 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.

## **What happens if my grievance does state a rule violation?**

From this point forward, your grievance will be handled by the Regional Office of Chief Disciplinary Counsel that has appropriate jurisdiction in accordance with Rule 2.11 of the Texas Rules of Disciplinary Procedure. This will be either in Austin, Dallas, Houston, or San Antonio. You will receive notification of where your grievance will be handled and who to contact if you have questions.

A copy of your complaint is sent to the lawyer who is the subject of the complaint, with instructions to submit a written response to the complaint 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 complaining party and the accused lawyer and any additional information gathered in order to determine whether there is sufficient cause to believe that professional misconduct occurred. This is referred to the “Just Cause” investigation. The investigation of the complaint will take place in the Regional Office of the Chief Disciplinary Counsel having authority over the region in which the alleged conduct occurred.

## **What happens after the just cause investigation is completed?**

If the Chief Disciplinary Counsel concludes that there is just cause to believe professional misconduct occurred, the lawyer is notified of what conduct is complained about and what ethical rules are alleged to have been violated. The lawyer is given a choice of whether to have a panel of a grievance committee or a district judge hear the case.

A petition is then filed with either an Evidentiary Panel 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 of a grievance committee or a district court.

## **What happens if my complaint proceeds to an evidentiary hearing?**

An Evidentiary Panel is a panel of a grievance committee composed of lawyer members and non-lawyer members who hear and consider the evidence and decide whether the lawyer has committed professional misconduct. The admission or exclusion of evidence shall be in the discretion of the Evidentiary Panel chair. After conducting the hearing, the Evidentiary Panel will issue a judgment of its decision within 30 days on whether or not the lawyer is found to have committed professional misconduct. All parties 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, the lawyer's testimony and possibly the testimony of additional 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 lawyer 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 lawyer 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, all parties are notified. 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 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. State Bar grievance committees are composed of volunteer lawyers and members of the public who serve in 49 disciplinary districts across the state. Each

committee is composed of 2/3 lawyer members and 1/3 public members. The committees act in panels that are also 2/3 lawyer 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 lawyers who have been found guilty of professional misconduct?**

That lawyer 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. 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 avenue of recourse for a complainant who has a dispute with a lawyer 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 lawyer is already deceased, disbarred or resigned, or is on an indefinite disability suspension prior to completion of the applicant's complaint against the lawyer). 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 lawyer, or recovery of monies paid by another lawyer for work that was not done by the lawyer 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 with regard to legal malpractice on the part of the lawyer. If you believe you have such a claim, you should seek advice from a private lawyer 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. If you have questions after you have filed a grievance, please call the Chief Disciplinary Counsel's office at 866-224-5999.

