



## What You Can Expect

- A prompt reply from the Office of Disciplinary Counsel (ODC) acknowledging receipt of your complaint.
- A fair and impartial investigation. This means listening not only to your side of the story but to the lawyer's side as well. It also means that whatever independent investigation may be necessary in order to establish the facts will be conducted.
- As speedy a disposition as is possible of your complaint. Depending on the complexity of the matter, this can take from a month to a year or longer.
- Notification of the final outcome of your complaint.
- An appeal right if you disagree with the dismissal of your complaint.

The Disciplinary Board and the ODC will be genuinely concerned with your complaint. Each complaint is fully and carefully weighed. The presence of non-lawyers on the Disciplinary Board and hearing committees ensures that the lawyer discipline system protects the interests of the community as a whole.

## What You Should Not Expect

- Assistance from the Disciplinary Board or the ODC concerning your legal matter.
- The Disciplinary Board or the ODC to order an attorney to take action or to refrain from taking action. Neither body has the authority to make such an order.
- The ODC to give legal advice to any person or to refer a person to a new lawyer. The disciplinary system acts only to enforce the Rules of Professional Conduct upon lawyers.
- Reimbursement or other monetary compensation through the lawyer discipline process.

# Upholding Standards of Professional Conduct

### *In the interest of...*

- *Clients*
- *The Public*
- *The Legal Profession*

## Standards of Professional Conduct

The Supreme Court of Louisiana has adopted high standards of ethics and professional competence for lawyers who practice in Louisiana, known as the **Rules of Professional Conduct**.

When lawyers enter practice in Louisiana they obligate themselves to uphold the law and to abide by these Rules of Professional Conduct. Lawyers who violate these professional and ethical obligations are subject to discipline. Lawyers in Louisiana (not taxpayers) pay for the disciplinary system by contributing to a statewide agency known as the **Louisiana Attorney Disciplinary Board**. This agency was established by the Louisiana Supreme Court to administer the lawyer discipline and disability system.

The members of the Disciplinary Board and the staff of the **Office of Disciplinary Counsel (ODC)** appreciate your interest and concern. They seek fair, impartial, and vigorous enforcement of the Rules of Professional Conduct in the interest of the public, clients, and the legal profession.

## Fee Disputes

Fee disputes are not normally handled within the lawyer discipline system unless a fee appears on its face to be clearly excessive. Most fee disputes are instead referred to the Louisiana Bar Association (a lawyer membership organization), which maintains a fee mediation/arbitration service. Many fee disputes result from a misunderstanding of the basis for the fee and the factors that went into the lawyer's charge for services. Lawyers themselves can be at fault because of a failure to clearly explain to the client all aspects of the fee basis. Lawyers are at times reluctant to explain to their clients how much the services will cost, and clients are sometimes reluctant to question the lawyer on fees. This should not be the case. In any event, a fee misunderstanding does not usually constitute unethical conduct.

## The Purpose of Discipline

The purpose of the disciplinary system is to monitor the legal profession's compliance with the standards of ethics and to discipline lawyers whose conduct violates those standards.

Neither the ODC nor the Disciplinary Board provide legal services or give advice to anyone making a complaint. The complaint process should not be viewed as a substitute for a civil action for damages against the lawyer. The disciplinary system is not designed to compensate a complaining party for monetary loss or emotional distress incurred as a result of unethical conduct. If you seek to recover money damages, you should consult another attorney to discuss bringing a civil suit against the original lawyer for money damages.

The forms of discipline which may be imposed upon a lawyer for unethical conduct are: private admonitions, public reprimand, probation, suspension for a specified period of time, and disbarment (including permanent disbarment), and permanent resignation in lieu of discipline.

The rules of the Supreme Court of Louisiana require that the agency make all disciplinary proceedings prior to the filing of formal charges confidential. Where a disciplinary sanction is deserved, the discipline imposed will depend upon the nature of the offense and the severity of the lawyer's misconduct.



*The Louisiana Supreme Court located in the French Quarter of New Orleans*



## What is Unethical Conduct?

Because disciplining a lawyer is a serious matter, it takes evidence - proof of unethical conduct - to justify disciplinary action. An honest disagreement about how a case should be handled does not constitute unethical conduct, even if the outcome of the case is disappointing.

While it is impossible to list all of the acts or omissions which may constitute attorney misconduct, here are a few examples of prohibited conduct which, if proven, may be cause for discipline:

A lawyer cannot or will not give you money that he or she is holding on your behalf and to which you are entitled, or will not provide you a complete written accounting for that money.

A lawyer continually fails to respond to inquiries about your case, tell you about court dates, or to appear in court. Where the problem is simply a lack of communication, first try your best to resolve the problem yourself.

A lawyer advises you or anyone else to lie, or lies himself or herself in the course of a case. Lawyers pride themselves on their honesty. The profession does not need those who feel they must resort to deception to conduct their practice.

A lawyer represents one party to a transaction while also the attorney for the other side. This is a conflict of interest and is generally prohibited.

A lawyer misrepresents to you whether or not they have taken certain actions. For example, you might discover that your lawyer has told you that he or she has begun the lawsuit or taken other actions, when in fact no action has been taken. The misrepresentation may be a cover-up for neglect.

A mistake does not necessarily constitute unethical conduct either. But if a mistake causes a loss, the client may be able to recover the loss in a civil suit against the lawyer for money damages. A simple mistake or error in judgment by itself is not unethical conduct. An example would be the lawyer's failure to consult with the client prior to writing every letter or prior to filing every document in the client's case, or perhaps the lawyer's failure to respond to all the client's telephone calls inquiring about the progress of the case.

If you have a problem that may be the result of inadequate communication or some misunderstanding, it may be that the problem can be resolved by a frank talk with your lawyer. Tell the lawyer of your dissatisfaction, and ask for a full explanation of the matter involved. Such a discussion will often either eliminate the problem or lead to its solution.

The disciplinary process cannot correct a lawyer's personality problems. A complaint that a lawyer acted rudely or used bad language is not something the disciplinary system can investigate.

If you believe that your lawyer has been unethical, you should contact the ODC and request a complaint form, or go to [www.ladb.org](http://www.ladb.org) to print one.

*The ODC is established for the purpose of evaluating complaints. You need not feel that your good faith inquiry will be resented or worry that you will be harassed or intimidated. Legitimate complaints are not only accepted, but encouraged.*

## The Discipline Process Step-by-Step

### Filing a Complaint

Complaints can be filed by any person, not just by a client. Call 800-326-8022 to request a complaint form or print one at [www.ladb.org](http://www.ladb.org). Complete it in full and return it to the Office of Disciplinary Counsel.

Write a letter to the Office of Disciplinary Counsel including your name, address and telephone number. Describe what the lawyer did or failed to do and include all important information, including attorney name, address, phone numbers and dates of events. If letters, agreements or other documents are available, submit them to the ODC.

If more information is needed, it will be requested. If you have difficulty in writing, a personal interview may be arranged after your written complaint is filed.

### Review and Investigation

Each complaint is reviewed to ensure that it falls within the jurisdiction of the agency. If it does, and if no further details are needed from the complaining party at the time, the ODC will send a copy of the complaint to the lawyer, who is asked to submit a written response to the complaint.

The complaining party usually receives a copy of the lawyer's response and is asked to submit further comments. Depending on the nature of the complaint and the complexity of the facts, the process of exchanging correspondence could be repeated several times. The ODC may also need to interview the parties or other witnesses directly and to obtain further supporting documents. The aim of the investigation is to gather all facts necessary to determine whether there is clear evidence of misconduct on the part of the lawyer.

### Evaluation and Disposition

When the ODC obtains all necessary facts, an evaluation is made as to whether there is sufficient evidence to support a finding of a Rule violation. The investigation will result in one of the following dispositions:

- Dismissal of the complaint, meaning there is inadequate evidence to support a clear finding of misconduct.
- Recommendation of the imposition of a private admonition by ODC, the least severe form of discipline. Although confidential, the admonition remains on the lawyer's record and can be considered should the lawyer violate the Rules again.

- Commencement of Formal Disciplinary Proceedings, required whenever discipline more serious than an admonition is believed necessary.

### Hearings

A hearing on a complaint is held only if a formal disciplinary proceeding is begun. When a formal disciplinary hearing takes place, a three-member hearing committee (two lawyer members and a public member) appointed by the Disciplinary Board (but not consisting of Board members) convenes to take evidence. Hearing committee members serve on a voluntary basis.

The procedure is similar to a court trial. The complaining party may be called as a witness. Testimony is given under oath and documentary exhibits are submitted. A full record is kept of the proceedings, which are open to the public.

### Disciplinary Board Review

Upon completion of a formal disciplinary hearing, a written report is prepared by the hearing committee, for review by the Disciplinary Board. The Board is composed of fourteen members (both lawyers and members of the public) who are appointed by members of the Louisiana Supreme Court. Board members donate their time on a voluntary basis.

When a hearing committee finds unethical conduct warranting discipline, the hearing committee's report and recommendation are forwarded to and considered by the Board. The hearing committee cannot itself impose discipline, although the Board can in some instances. When a hearing committee has filed a report recommending public discipline, oral argument is routinely scheduled before the Board. The lawyer may appear in person and may be represented by counsel. No witnesses testify. If the Board determines that a suspension, a disbarment, or a permanent disbarment should be imposed, its written recommendation must be reviewed by the Louisiana Supreme Court. The Board forwards a copy of the recommendation to you and to the lawyer.

### Review by Louisiana Supreme Court

Suspension, disbarment, or permanent disbarment can be ordered only by the Louisiana Supreme Court. After receiving the Board's recommendation, the Supreme Court hears oral argument on the matter. The Office of Disciplinary Counsel represents the public interest before the Court, which issues the final order disciplining the attorney or makes the determination that no discipline is required.