

HAVE A COMPLAINT ABOUT A LAWYER?

This brochure is designed to answer your questions about filing a grievance against a lawyer licensed to practice in Indiana.

Indiana Supreme Court Disciplinary Commission

115 W. Washington St., Suite 1060
Indianapolis, IN 46204
Phone (317) 232-1807
TDD for Deaf (317) 233-6111

THE LAWYER DISCIPLINE SYSTEM IN INDIANA THE INDIANA SUPREME COURT DISCIPLINARY COMMISSION

What is the Indiana Supreme Court Disciplinary Commission?

The Disciplinary Commission is an agency of the Indiana Supreme Court. It is responsible for investigating and prosecuting claims of misconduct against lawyers licensed to practice law in Indiana. It is also responsible for protecting lawyers against unwarranted claims of misconduct. The Indiana Supreme Court has exclusive power to take action against a lawyer's license to practice law.

Who is on the Disciplinary Commission?

The Disciplinary Commission is a board of citizens appointed by the Indiana Supreme Court. It consists of seven lawyers and two non-lawyers. It employs staff to investigate and prosecute cases.

COMPLAINING ABOUT LAWYER MISCONDUCT

What do I do if I have a complaint against a lawyer?

It's always a good idea to try to work things out with your lawyer informally. If that doesn't work, you may file a grievance with the Disciplinary Commission. A grievance must be in writing on our form. You get a form by contacting our office at the address or telephone number listed on the front of this brochure.

What complaints does the Disciplinary Commission handle?

We will review any complaint against a lawyer. All lawyers must abide by the Rules of Professional Conduct, ethical standards for the practice of law. The Disciplinary Commission enforces these rules. Matters that do not involve substantial claims of misconduct or involve disputes over the amount of fees, unless the fees are clearly unreasonable, will not be handled through the lawyer discipline system.

What are some examples of rule violations for which lawyers may be disciplined?

Not promptly giving you money that your lawyer has collected on your behalf or not providing a complete, written accounting for that money.

- ✗ Continually failing to respond to your requests for information, tell you about court dates, or appear in court.
- ✗ Being dishonest with you, a third party or the court, or advising you to lie.
- ✗ Improperly representing conflicting interests.
- ✗ Neglecting your case.
- ✗ Settling a case without your permission.
- ✗ Failing to return your papers upon request at the end of representation, provided you have paid fees that are due.

Who may file a grievance against a lawyer?

Anyone. Usually grievances are filed by the lawyer's clients, but grievances are also received from other lawyers, judges, or even opposing parties.

Does my lawyer still represent me after I file a grievance?

Yes. If you wish to end your relationship with your lawyer, you must let your lawyer know that directly. However, your lawyer may believe that he or she can no longer adequately represent you after you file a grievance and may withdraw from representing you.

May I withdraw my grievance after I have filed it?

No. However, you should tell us if you have worked out your problems with your lawyer. That may have a bearing on how the matter is handled. It is not appropriate for the lawyer to give you anything of value or put pressure on you to ask that a grievance be withdrawn.

Is the Disciplinary Commission controlled by a bar association?

No. The Disciplinary Commission is an agency of the Indiana Supreme Court. Bar associations in Indiana are voluntary organizations of lawyers with no control over lawyer discipline. Sometimes local bar association committees assist the Commission with investigations, but they have no say in the outcome of a case.

Do tax dollars go to fund the Disciplinary Commission?

No. The Disciplinary Commission is funded by an annual registration fee that all lawyers must pay to keep their law licenses active and in good standing.

COMPLAINT SCREENING AND INVESTIGATION

What happens if I file a grievance against a lawyer?

We review your grievance and may dismiss it if it does not raise a substantial question of misconduct. If so, you and the lawyer will be notified. Otherwise, the grievance is investigated. This includes notifying the lawyer of the grievance and requiring the lawyer to respond in writing to the grievance. After our investigation, we again review the matter and decide whether or not there is lawyer misconduct. If not, we dismiss the grievance and notify you and the lawyer.

What happens if the investigation finds misconduct?

If we believe there is probably lawyer misconduct, the matter is reviewed by the full Disciplinary Commission. If the Disciplinary Commission believes that the lawyer has engaged in misconduct for which he or she should be disciplined, a complaint is filed with the Clerk of the Supreme Court formally charging the lawyer with misconduct.

THE DISCIPLINE PROCESS

Is this a private or a public process?

Actually, it's a little of each. The investigation stage is confidential. Once a formal complaint is filed that charges a lawyer with misconduct, the legal papers and the hearing process are open to the public. There are procedures available to protect confidential client information from public disclosure.

What happens after a lawyer is formally charged with misconduct?

A hearing officer is appointed by the Indiana Supreme Court to hear the evidence in the case. The Disciplinary Commission must prove its charges by a higher burden than in a civil case. The hearing officer's responsibilities are a lot like those of a trial court judge, except that the hearing officer cannot make a final decision in the case. The hearing officer makes a report of the evidence to the Supreme Court, which then makes a final decision.

Will I be called as a witness?

We may need your testimony in order to prove the charges. It is important for you to keep us informed of your address and telephone number.

Does every lawyer discipline case go before a hearing officer?

No. If the Disciplinary Commission and the lawyer can agree to the facts of the case and agree to an appropriate disciplinary sanction for the misconduct, that agreement is submitted to the Supreme Court for approval. If the Court accepts the agreement, the agreed sanction is imposed by the Supreme Court, and the case is over. If the Court does not accept the agreement, there is a hearing.

What happens at the end of a lawyer discipline case?

The Indiana Supreme Court may find that the lawyer did not engage in misconduct. If the Court finds that there was misconduct, it orders a disciplinary sanction. The sanction will depend upon the seriousness of the case. Sanctions include:

- ~~✗~~ A private or public reprimand;
- ~~✗~~ Suspension from practice for a set period of time;
- ~~✗~~ Suspension from practice with reinstatement only after the lawyer proves fitness; and
- ~~✗~~ Permanent disbarment.

We will let the grievant know how the case turns out.

WHAT THE COMMISSION DOESN'T DO

Will the Disciplinary Commission get my money back for me or file criminal charges?

Generally, no. The purpose of lawyer discipline cases is to protect the interests of the public-at-large. It is not a substitute for either a criminal charge against a lawyer who has committed a crime or a civil action against a lawyer to collect damages or get money returned. If you believe that a lawyer has committed a crime, you should contact your county prosecutor in addition to filing a grievance. Be aware, however, that prosecutors have discretion as to what cases to file. If you believe you are entitled to the return of fees paid or damages, you should promptly seek other legal counsel of your own choosing.

Will the Disciplinary Commission act as my attorney or give me legal advice?

No. The staff attorneys for the Disciplinary Commission represent the Commission's interests in enforcing the Rules of Professional Conduct. We are not permitted to act as your attorney or give you legal advice concerning your underlying legal problem. It is most important that you have your own legal counsel if you believe that you have legal rights or interests that need to be protected.

GETTING INFORMATION ABOUT LAWYERS

How do I find out the disciplinary history of my lawyer or a lawyer I am thinking about hiring?

Information about a lawyer's discipline history is public. Information about a matter that has not resulted in a formal disciplinary charge against a lawyer is confidential. By contacting the office of the Clerk of the Indiana Supreme Court, you can find out whether a lawyer's law license is active and in good standing, whether there are any formal disciplinary charges pending against him or her, and whether he or she has been disciplined in the past. To reach the office of the Clerk, call (317) 232-1930 and select voice mail menu choice "3" for the clerk who handles the roll of attorneys.

JUDICIAL MISCONDUCT

What if I have a complaint about a judge?

The Disciplinary Commission does not handle judicial discipline. Complaints about judicial decisions are handled by taking an appeal. You should talk to a lawyer about your appellate remedies. Complaints about judicial misconduct should be made to:

Indiana Commission on Judicial Qualifications

115 W. Washington Street, Suite 1080 S.
Indianapolis, Indiana 46204
(317) 232-4706

AN OUNCE OF PREVENTION . . .

Are there things I can do to avoid problems with my lawyer in the first place?

- ✓ ~~S~~uccessful lawyers are busy people. A telephone call often cannot be handled right away, and you may have to leave a message. Leave as complete a message as possible so your lawyer has a sense of the urgency of the situation. If you don't get a timely return call, request an appointment or send a letter and keep a copy for your records.
- ✓ ~~M~~ake sure you have a good understanding of the basis for the fee you will be charged. It is always fair for you to have the basic fee agreement with your lawyer put in writing.
- ✓ ~~I~~f you feel problems are developing in your relationship with your lawyer, discuss them early on before they become serious. Most lawyers will welcome an opportunity to speak with their clients about improving the relationship.
- ✓ ~~I~~f your fee agreement calls for you to pay fees on an hourly basis, ask to be billed frequently so you can keep track of the costs of representation.
- ✓ ~~A~~ workable attorney-client relationship is worth preserving but, if you have lost confidence in your lawyer, remember that you are free to discharge your lawyer and hire a new one at any time.
- ✓ ~~A~~sk to receive copies of the written legal work that is prepared on your behalf by your lawyer.
- ✓ ~~B~~e an informed consumer of legal services. Don't be afraid to ask your lawyer questions about your case.
- ✓ ~~M~~ake wise use of your lawyer's time.

(version 8.4.00)