How to File a Complaint

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Inquiries concerning the professional conduct of an attorney admitted to practice in Massachusetts are initially handled by the Attorney and Consumer Assistance Program (ACAP) of the Office of the Bar Counsel. The ACAP staff is available to discuss your concerns by telephone during normal business hours and can be reached at (617) 728-8750. If you would prefer to communicate your problem in writing, you can contact ACAP by fax at (617) 482-2992 or by letter at the 0ffice of Bar Counsel. ACAP cannot accept inquiries over the internet.

Where possible, ACAP will attempt to assist in resolving attorney-client disputes by providing information, calling the lawyer, or suggesting alternative ways of dealing with the problem. Please see the ACAP link for more information about how ACAP may be of assistance to you. If the matter brought to the attention of ACAP involves potentially serious misconduct on the part of the lawyer warranting prompt investigation by the Office of Bar Counsel, ACAP will immediately issue a complaint form.

What You Should Know before Filing a Complaint

- All lawyers admitted to practice in Massachusetts are bound by the Rules of Professional Conduct adopted by the Massachusetts Supreme Judicial Court. The purpose of the Rules is to set forth minimum ethical standards for the practice of law. It is the responsibility of the Board of Bar Overseers and the Office of the Bar Counsel to see that the Rules of Professional Conduct are observed.
- Inquiries concerning the professional conduct of an attorney admitted to practice in Massachusetts may be initially handled by the Attorney and Consumer Assistance Program (ACAP) of the Office of the Bar Counsel. ACAP issues all complaint forms and can be reached at **(617) 728-8750**.
- In order for a lawyer to be found to have committed misconduct, it must be shown that his acts have violated the Rules of Professional Conduct. Charges of misconduct must be supported by the facts.
- Examples of attorney practices clearly prohibited by the Rules include:
    - Serious neglect of a client's case or a client. Examples would be a lawyer's failure to file papers or documents with the court within time periods prescribed by law, or unreasonable failure to communicate with clients on a timely basis.
    - Failure to account to clients, as required by the Rules of Professional Conduct, concerning the status of funds or property being held by the lawyer.
    - Commingling, or failure to keep a client's funds separate from a lawyer's own funds.
    - Use of a client's funds by a lawyer for his own purposes.
    - Failure to reduce to writing an attorney-client Contingent Fee Agreement. This is an agreement between a lawyer and a client stating that the lawyer's fee depends in whole or in part on the lawyer's success on behalf of a client.

- Engaging in work for a client notwithstanding the existence of a conflict of interest, as defined and prohibited by the Rules of Professional Conduct.

How to File a Complaint

Complaint forms can be obtained by telephoning the Attorney and Consumer Assistance Program (ACAP), as explained above. Because of the confidentiality requirements complaints **cannot be accepted via e-mail**. Send complaints to the address below.

Office of the Bar Counsel
99 High Street
Boston, Massachusetts 02110
(617) 728-8750

What Your Complaint Should Contain

In order for the investigation to proceed, it will be necessary that you provide as many facts and as much documentation as possible. Although you may feel certain that the acts complained of constitute misconduct, a simple statement that misconduct has occurred is not enough. You should set forth the facts surrounding your complaint. Include dates, the nature of the legal matter, and specific information about what you feel the lawyer did wrong. If you have documents, including a fee agreement, court papers, letters or notes, that you think are helpful to understand the complaint, send copies. **DO NOT SEND ORIGINAL DOCUMENTS**.

Clients should not hesitate to ask their lawyers about anything concerning their cases, including costs and fees. Before filing a complaint, the client should try to discuss the problem candidly and openly with the lawyer. Clients may become dissatisfied with their lawyers for many reasons, but unless there is a violation of the Rules of Professional Conduct, discipline will not be imposed.

If you have any doubts about whether to proceed, the Office of the Bar Counsel will try to answer any questions you may have. The address and telephone number are listed above.

What Happens When You File a Complaint

After screening by ACAP, complaint forms are submitted to the Office of the Bar Counsel for investigation. Sometimes a complaint does not fit within the area that is regulated by the Rules of Professional Conduct. Please read the section entitled What Not to Expect. If Bar Counsel determines that your complaint falls into one of these categories, the complaint will be closed and notice will be sent to you. You may request review of this decision by a member of the Board. However, there is no appeal from a decision by the Board not to bring disciplinary charges against an attorney.

If a lawyer is found to have committed a relatively minor infraction of the rules, the lawyer may receive an admonition. If there appears to be serious misconduct, the matter is referred to a local Hearing Committee appointed by the Board. All the evidence is reviewed and considered. Each side is heard. The Hearing Committee then submits a written report to the Board with its recommendation as to discipline.

If Bar Counsel and the lawyer reach agreement as to discipline, the recommendation may be submitted directly to the Board without referral to a Hearing Committee.

The Board may accept or modify the recommendation for discipline. If the Board feels it needs additional information, it may return the case to the Hearing Committee for further hearing, or conduct hearings of its own before making a final determination.

What Sanctions are Available

The types of discipline that may be imposed by the Board are:

- **Admonition**, which means that the lawyer is reproved. A record is made of the reproval, but the name of the lawyer is not made public.
- **Public Reprimand**, which means that the lawyer is publicly reproved. Public reprimands are published in Lawyer's Weekly and other publications, and are compiled in the bound volumes of the Massachusetts Attorney Discipline Reports.
- If the Board determines that more severe discipline is required, it sends the matter, together with its recommendation, to the Supreme Judicial Court. The types of discipline which only the Court can impose are:
- **Suspension**, which means that the lawyer may not practice law for a period of time. Suspension can be for either a specified term or for an indefinite period. A lawyer who is suspended for an indefinite period may not apply for reinstatement for five years.
- **Disbarment**, which means that the lawyer's license to practice is revoked and the lawyer's name is stricken from the list of licensed lawyers. A lawyer who is disbarred may not apply for reinstatement for eight years.

Sometimes one of the above disciplines may be imposed with terms of probation. An attorney may also resign from the bar rather than face disciplinary action, but only with the Court's consent.

Decisions of the Board and the Court with respect to public discipline are released for publication. Recently-published decisions and orders are available on this website.

What to Expect

Complaints are not dismissed lightly, nor are they prosecuted without justification. The protection of the public is paramount in considering every complaint filed.

You may expect...

- A prompt reply from the Office of the Bar Counsel 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 also 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.
- To be called as a witness, if necessary, and to provide additional information for the investigation of your complaint.
- That even though a matter is resolved between you and your attorney, your continued cooperation may be necessary to discipline the attorney.
- Disciplinary action, commensurate with the offense, against any lawyer found to have violated the Rules of Professional Conduct.
- Advice concerning where you may go if the subject of your complaint does not fall within the jurisdiction of the Board.
- To be kept informed of the progress of the investigation and to be notified of the final disposition of the complaint.

There are no charges or other costs to you by the Office of the Bar Counsel or the Board of Bar Overseers.

What Not to Expect

You should not expect the Office of the Bar Counsel or the Board of Bar Overseers to provide legal services or advice. If you wish to be referred to a lawyer you might contact the Massachusetts Bar Association Lawyer Referral Service at (617) 654-0400 in Boston or (866) MASSLRS which is (866) 627-7577 or the Boston Bar Association Lawyer Referral Service at (617) 742-0625. The lawyers at the Office of the Bar Counsel do not and cannot represent you personally in the matters of which you complain.

Although a lawyer may take corrective steps to avoid disciplinary action after he receives a complaint, the Board of Bar Overseers does not have power to compel a lawyer to refund money, release your case, or return files. The Board has only the power to discipline attorneys or recommend discipline to the Court.

You may have a civil claim against your lawyer that can be pursued in the courts, a fee dispute that can be resolved by a bar association fee arbitration board, or a claim that will be considered by the Clients' Security Board. The Office of the Bar Counsel will tell you where to explore these other possibilities in appropriate cases.

Confidentiality

Under Supreme Judicial Court rules, the Board and Bar Counsel must treat complaints as confidential matters. Until the lawyer has been served with a petition for discipline instituting formal charges or has agreed to be formally disciplined, the Board and Bar Counsel may not publicly disclose that the complaint has been filed. Certain narrow exceptions to this prohibition exist. You are immune from liability based on your complaint.

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