

Complaints of Misconduct or Ethics Violations by Iowa Lawyers



This informational brochure has been prepared for persons who have filed, or may wish to file, a complaint against a lawyer licensed to practice law in Iowa. It explains the applicable procedures and is intended to prevent misunderstandings regarding what the Board may and may not do when a complaint is filed.

Iowa Supreme Court
Attorney Disciplinary Board
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319-5003
Telephone: 515-348-4680

www.iowacourts.gov/opr/attorneys/attorney-discipline/

Current as of February 2019

IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD

By Iowa Court Rule 34.6, the Iowa Supreme Court established the Attorney Disciplinary Board to initiate, receive, and process complaints against attorneys licensed to practice law in this state for alleged violations of the Iowa Rules of Professional Conduct. The Board also accepts complaints against lawyers who are not licensed in Iowa but have engaged in the practice of law in this state.

The Board consists of twelve volunteer members, of whom nine are lawyers and three are lay members.

If the Board opens an investigation, the Board will determine whether to dismiss the complaint, privately admonish the lawyer, recommend a public reprimand to the Iowa Supreme Court, or seek suspension of the lawyer's right to practice by filing a formal complaint with the Grievance Commission.

THE GRIEVANCE COMMISSION

The Grievance Commission consists of lawyers and lay members appointed by the Supreme Court. It functions like a trial court for ethics matters involving lawyers.

The Board files formal disciplinary complaints with this Commission. A panel of Commission members hears the evidence and then reports its findings and recommendation of disciplinary action, if any, to the Supreme Court. The Court may then dismiss the matter, privately admonish the lawyer, publicly reprimand the lawyer, or suspend or revoke the lawyer's right to practice in this state.

Only the Board, not individuals, may file a complaint with the Grievance Commission.

COMMON QUESTIONS

If you believe a lawyer has committed an ethical violation, this pamphlet is intended to assist you in answering questions such as:

- How can some problems be avoided?
- What is the process for filing a complaint?
- What happens after I file a complaint?
- Can the lawyer sue me if I file a complaint?

PREVENTING PROBLEMS WITH YOUR LAWYER

Many problems can be prevented if you know what to expect from lawyers and how to deal with lawyers. Suggestions for avoiding problems include:

Have Realistic Expectations

Some people are dissatisfied with lawyers because they have unrealistic expectations. Ask your lawyer what to expect. How long will the matter take? About how much will it cost? How frequently and by what means will we communicate? What are the unpredictable factors?

Cooperation

Give documents and information to your lawyer promptly. In return, expect the lawyer to keep you reasonably informed and to give you copies of important documents.

Keep Current

If you change your address or phone number, let your lawyer know right away. If you change your mind about the legal matter, keep the lawyer informed.

Communication

Expect your lawyer to keep you informed of all important developments. If you are dissatisfied, let your lawyer know why. Write to confirm all important understandings.

Fees

Make sure you have an agreement about your lawyer's fees, in writing if possible.

PROFESSIONAL MISCONDUCT (ETHICAL PROBLEMS)

Lawyers are expected to meet high professional standards set forth in rules adopted by the Iowa Supreme Court. If a lawyer violates an ethical rule, the lawyer may be disciplined.

Some problems with lawyers are properly the subject of a complaint of ethical violation to the Attorney Disciplinary Board. Others are not. Here are a few examples of types of complaints handled by the Board:

Neglect and Delay

Do you think your lawyer has been taking too long with your legal matter? Write to your lawyer and ask for a written explanation. If you do not get a satisfactory reply, you may file a complaint. Lawyers are required to be reasonably prompt and to keep clients reasonably informed.

Money and Accounting

Sometimes lawyers handle money for clients. The lawyer must promptly and completely account for a client's money. If there is any significant delay in receiving money from a lawyer or in getting a complete accounting, a complaint can be filed.

Conflicts of Interest

A lawyer owes a client undivided loyalty, unburdened by the interests of other clients or the lawyer's own personal interest. A lawyer should not represent more than one client in a matter unless both consent after full disclosure by the lawyer. If you believe that your lawyer is acting improperly in representing conflicting interests, you may file a complaint.

Dishonesty

Lawyers are forbidden to make intentionally false statements, either to their own clients or to others. If you believe your lawyer has lied to you (for example, to cover up neglect of your matter), you may file a complaint. Lawyers should represent their clients' interests aggressively, which may involve relying on the clients' version of the facts.

In lawsuits, disputes about the facts are resolved by the courts.

Fees

Though it is unethical for a lawyer to charge a clearly excessive fee, the Board cannot resolve a fee dispute. Most fee disputes do not involve ethics but rather a legal (contract) dispute to be resolved in the district court.

Fee arbitration is an alternative method of resolving a fee dispute. You should contact your local bar association to determine if it has a committee to which your fee dispute may be submitted.

Malpractice or Professional Negligence

Lawyers, like other professionals, sometimes make mistakes. A lawyer might handle a matter in a way that is inadequate but not unethical. If a client is damaged by a lawyer's negligence, another lawyer should be consulted as to whether legal action should be brought in court. The Attorney Disciplinary Board has no jurisdiction of a negligence claim.

Personal Behavior

Most complaints that involve the behavior of an attorney outside the practice of law, such as rudeness, the use of profanity, landlord-tenant disputes and debtor-creditor matters, are not within the Board's jurisdiction. However, criminal or fraudulent conduct may be subject to discipline.

The Opponent's Lawyer

Can you complain against the other person's lawyer? Sometimes, but such complaints often fail to understand our adversary system of justice. Lawyers must represent their own clients aggressively, and are usually entitled to rely on their clients' versions of the facts. Such a system often produces different versions of the facts in lawsuits and a certain amount of hard feelings. Only flagrant abuses will result in discipline and usually only after a court has ruled on the matter.

Complaints by Creditors

The Board is not a collection agency. Complaints about lawyers not paying bills are resolved in the district court.

Complaints Against Prosecutors

Though county attorneys and other prosecutors are bound by ethics rules, their discretion whether or not to initiate a criminal prosecution is seldom a basis for a complaint of ethical misconduct. County Attorneys are answerable to the voters, not the Board, for their exercise of charging discretion.

Complaints Against Judges

Complaints against judges should be directed to:

Commission on Judicial Qualifications
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319
Telephone: (515) 348-4880

FILING AN ETHICS COMPLAINT AGAINST AN IOWA LAWYER

A complaint form may be obtained online at <http://www.iowacourts.gov> or by contacting the Board at the address on the front of this brochure. In addition to a clear, written statement describing the alleged unethical conduct, copies of important documents should be attached.

Who May File a Complaint?

Anyone with knowledge of facts showing ethical misconduct by a lawyer may file a complaint. Most complaints are filed by clients, but this is not a requirement. A complainant need not be a US citizen.

Waiver of Attorney-Client Privilege

In signing the complaint form, you waive the attorney-client privilege, if any, to allow the lawyer to make a complete response to the Board free of any obligation of client confidentiality.

Review of Complaint and Investigation

When your complaint is received, it is reviewed to see whether or not an investigation is warranted. If an investigation is opened, the Board sends notice with a copy of the complaint to the lawyer, who is required to provide a timely written response. You may or may not be called on by an investigator.

The Decision

The Board will determine whether there was an ethical violation and, if so, the appropriate next action. The Board may dismiss the complaint or impose a private admonition. If it determines the violation was of a more serious nature, it may recommend a public reprimand to the Supreme Court or the Board itself may become the complainant in a proceeding before the Grievance Commission. This could result in a public reprimand or a Court order suspending or revoking the lawyer's license.

FREQUENTLY ASKED QUESTIONS

Will I be notified of the Board's decision?

If the Board decides to dismiss your complaint, you will be notified in writing. If the Board decides to impose a private admonition or recommend public reprimand, you will be so notified following a slight delay during which the lawyer is advised of the Board's decision. If the Board decides to file a formal complaint with the Grievance Commission, those proceedings require additional time.

Will I be called as a witness?

Should the Board decide to file your complaint with the Grievance Commission, your testimony normally will be required at a hearing before the Grievance Commission. Such testimony will be under oath and you will be subject to cross-examination.

Can the lawyer sue me for filing a complaint?

No! The Iowa Supreme Court has granted immunity to anyone who files a complaint or gives testimony with regard to a complaint.

Is there a charge for filing a complaint?

No! The disciplinary and complaint process is funded by an assessment on all lawyers admitted to the practice of law in Iowa.

Are complaints against lawyers public?

The entire complaint process is confidential until such time as the Grievance Commission files a report of its findings and a recommendation of public discipline with the Iowa Supreme Court.

WHAT THE ATTORNEY DISCIPLINARY BOARD CANNOT DO:

- Represent persons in any matter.
- Require a lawyer to return money or property to a client.
- Sue a lawyer for careless work, or do work a lawyer failed to do.
- Change the fee a lawyer charged or require a refund.
- Arrange for another lawyer to be appointed to represent the client.
- Resolve claims of ineffective assistance of counsel or violation of constitutional rights in a criminal proceeding.
- Change a divorce decree or other ruling of a Court.

CLIENT SECURITY FUND

The Iowa Supreme Court has established a Client Security Fund to pay genuine claims against Iowa lawyers who have intentionally and dishonestly misappropriated funds of their clients. Further information and claim forms may be obtained from the Client Security Commission, Iowa Judicial Branch Building, 1111 E. Court Avenue, Des Moines, IA 50319, (515) 348-4670.