



Office of Bar Counsel

525 West Jefferson • P. O. Box 895 • Boise, Idaho 83701

(208) 334-4500 • Fax: (208) 334-2764

www.idaho.gov/isb

COMPLAINT PROCESSING PROCEDURE

Upon receipt of a complaint, an Investigator is assigned to the task of conducting an initial review of all the material submitted and to prepare a summary for Bar Counsel. The time needed to investigate a complaint can vary depending on the complexity of the case. ***You will be notified of the outcome of the investigation.***

By Idaho Supreme Court rule, investigations are confidential. The reasons for this confidentiality are to: (1) protect any confidential communications between the attorney and client; (2) allow the investigation to be conducted in a fair and objective fashion; and (3) to prevent any unfair publicity about the attorney or grievant if the complaint is found to be without merit.

After the attorney complaint summary has been reviewed and discussed by Bar Counsel, it is possible that the complaint allegations may be disregarded or dismissed as unfounded, frivolous or beyond the purview of the *Idaho Rules of Professional Conduct*. All decisions are based on the information and evidence submitted in the complaint. If declined, the complaining party will be notified in writing with an explanation why such a decision was reached and the options available to pursue by the complaining party, ordinarily at this point in time, no contact has been made with the attorney.

If Bar Counsel decides that there is possible merit to the complaint, there are two options available. The first option is that a copy of the complaint is sent to the attorney and he or she is asked to respond directly to the complaining party, with respect to the various concerns and issues raised in the complaint. (This would be the ***first*** time that the attorney would become aware that a complaint had been lodged against him/her.) Under normal circumstances, this may be the end of the matter and the complaint file is closed, with no action taken against the attorney. Under the second option, Bar Counsel may decide that the allegations are of such significant concern that the complaint should undergo a higher level of review. At this level, the complaint is investigated by Bar Counsel's investigators. The first stage of this process involves sending a copy of all the complaint material to the attorney and providing him/her twenty-one (21) days in which to respond to the allegations presented in the complaint. When the attorney's response is received, the Bar will then send the complaining party a copy of the attorney's response, and he/she will have fourteen (14) days to submit a rebuttal. Then Bar Counsel's Investigators in conjunction with Bar Counsel will create an investigative plan. This investigative plan usually involves an analysis and evaluation and recommendation for further investigation.

Once this information is received and evaluated our office will make an initial decision regarding the specific allegations made against the attorney. All decisions must be based on ***clear and convincing evidence***. Clear and convincing evidence is a high standard of proof requiring substantial corroboration to establish facts otherwise disputed. Also, the Bar is not in a position to review an attorney's strategy in handling a particular case, unless those strategies involve *unethical* conduct or a *violation* of the *Idaho Rules of Professional Conduct*.

This process may take several months or more to complete. All complaints are handled on a first-come, first-served basis. Cases that are complex or involve the filing of formal charges will take



Office of Bar Counsel

525 West Jefferson • P. O. Box 895 • Boise, Idaho 83701

(208) 334-4500 • Fax: (208) 334-2764

www.idaho.gov/isb

longer. Every effort is made to see that the disposition of each complaint is handled as quickly and as thoroughly as possible.

When the investigation and Bar Counsel's analysis and evaluation have been completed, a final decision will be rendered. This decision may range from dismissal of the complaint, to certain intermediate steps that include private admonition and private reprimand. If Bar Counsel deems appropriate, Bar Counsel may also recommend the filing of formal charges ranging from public reprimand to disbarment to the Idaho State Bar Board of Commissioners.

This information has been prepared to help those who submit attorney complaints to better understand the process in which the Idaho State Bar responds to attorney discipline complaints. It is a process that is controlled by staff availability and criteria that demand a non-biased, fair, and appropriate decision based on the evidence obtained and investigation of that evidence. Since the Bar receives an average of 500 written complaints each year, it is a time consuming procedure that requires patience and acceptance by all those involved. Thank you for your patience during this process.



Office of Bar Counsel
525 West Jefferson • P. O. Box 895 • Boise, Idaho 83701
(208) 334-4500 • Fax: (208) 334-2764
www.idaho.gov/isb

PLEASE READ BEFORE FILING A COMPLAINT

(Keep the following questions and answers for future reference and do not send in with complaint form)

**ANSWERS TO COMMON QUESTIONS ON FILING A COMPLAINT
AGAINST AN IDAHO ATTORNEY**

- 1. If I believe an attorney in the State of Idaho has violated the *Idaho Rules of Professional Conduct*, where do I register a complaint?**

You may register a complaint by sending it in writing with the attached Complaint Cover Sheet to:

Idaho State Bar
Office of Bar Counsel
P.O. Box 895
Boise, ID 83701

- 2. What is the Idaho State Bar?**

The Idaho State Bar is the administrative agency of the judicial branch of the State of Idaho. The membership of the Idaho State Bar consists of all attorneys licensed to practice law in Idaho. The Bar Counsel is the disciplinary counsel for the Idaho State Bar.

- 3. What are the Idaho Rules of Professional Conduct?**

The *Idaho Rules of Professional Conduct* are the rules, which govern the ethical conduct of all attorneys in the State of Idaho. These rules are set by the Idaho Supreme Court. These forms may be requested through our office or on our website: www.idaho.gov/isb.

- 4. What is attorney misconduct?**

Attorney misconduct is any **violation** of the *Idaho Rules of Professional Conduct* which may include, but is not limited to, the following: improper use of trust account money, conflict of interest, breach of confidentiality, neglect, lack of communication, etc.

- 5. Is my complaint confidential?**

If it merits. Ordinarily, we will send a copy of your complaint to the attorney and request a response. We do not necessarily do this in every case, whether we do depends on what type of information is needed to evaluate the complaint. If you do not want us to forward the complaint to the lawyer, or if you would like our office to talk with you before doing that, you must let us know that as part of your complaint. By Rule, complaints are kept confidential unless the complaint is serious enough to require the filing of formal charges. The reasons for this are to: (1) protect any confidential communications between the



Office of Bar Counsel

525 West Jefferson • P. O. Box 895 • Boise, Idaho 83701
(208) 334-4500 • Fax: (208) 334-2764
www.idaho.gov/isb

attorney and client; (2) allow the investigation to be conducted in a fair and objective fashion; and (3) to prevent any unfair publicity about the attorney or grievant if the complaint is found to be without substance.

6. What will the Idaho State Bar do with my complaint?

When a complaint is received, it is reviewed to determine if a violation of the *Idaho Rules of Professional Conduct* is present. You will receive a letter informing you either that (1) the complaint does not appear to involve unethical conduct; (2) more information is needed; or (3) an investigation has been initiated. If an investigation is initiated, the attorney will receive a copy of the complaint and he/she is required to respond in writing to the allegations. Normally you will receive a copy of the attorney's response. If the investigation establishes that there have been no violations of the *Idaho Rules of Professional Conduct* or if there is insufficient evidence to prove that a violation has occurred, the complaint will be dismissed and you will be informed of the reasons for dismissal by letter. If it is determined that a violation has occurred, the attorney may receive informal or private discipline, or in some cases, formal charges may be filed. If the attorney receives informal or private discipline, you will be informed of the type of sanction and reasons for it - information concerning informal or private discipline must be kept confidential and is not for release to the public. Some violations warrant the filing of formal charges. The discipline ordered after the filing of formal charges can range from public reprimand to disbarment.

7. Can I appeal the decision?

Yes. If you feel the decision was incorrect, you may file a written request to have the decision reviewed. Likewise, the attorney can request a review of a decision he believes improper. A Professional Conduct Board panel of three (3) [two (2) lawyers and one (1) nonlawyer] will review the complaint.

8. Does the Idaho State Bar have any jurisdiction over legal matters?

No. The Idaho State Bar only has jurisdiction over violations of the *Idaho Rules of Professional Conduct*. We cannot handle matters that involve legal malpractice. We cannot answer legal questions or give legal advice. If you feel that you have been monetarily damaged by your attorney's actions on your case or if you feel you may have some legal recourse, you should consider discussing the matter with private legal counsel. **DO NOT WAIT UNTIL WE HAVE REACHED A DECISION BEFORE TAKING ANY LEGAL ACTION.** The Idaho State Bar cannot represent your individual interests in any matter nor can we become involved in any legal matter that might relate to your complaint.

9. How long does it take to resolve a complaint against an attorney?

Each case varies depending upon its complexity. We make every effort to see that the disposition of each complaint is handled as quickly and as thoroughly as possible. The



Office of Bar Counsel

525 West Jefferson • P. O. Box 895 • Boise, Idaho 83701

(208) 334-4500 • Fax: (208) 334-2764

www.idaho.gov/isb

investigation and review process, and the findings of the Bar, are kept confidential and cannot be used in any other proceeding.

10. What if I feel that my attorney's fees are too high?

Fee matters are not generally a basis for discipline because they usually do not involve questions of ethics or professional misconduct. There is no such thing as a "standard fee" for a particular type of case. If you feel that your attorney's fees are too high, you may wish to enter into **FEE ARBITRATION**. Please contact our office for more information on this procedure or request these forms on our website: www.idaho.gov/isb.

To file a complaint against an attorney, (*please note, it does not have to be an attorney that you have hired*) please fill out the attached Complaint Form Cover Sheet, (one (1) attorney complaint per form) with your explanation on the lined paper that is included, write only on the front side (attach a separate sheet if necessary) and please sign your complaint. You may submit a typed complaint attached to the Complaint Form Cover Sheet.

For more information concerning the Idaho State Bar visit our website at: www.idaho.gov/isb. All forms may be downloaded in PDF format.

PLEASE INCLUDE IN YOUR COMPLAINT THE FOLLOWING:

1. A brief narrative of the nature of the case the attorney was engaged to handle and the attorney you are complaining about. Please use the attached paper that is included and write only on the front side of the paper. You may submit a typed complaint attached to the Complaint Form Cover Sheet. (*If you are complaining about more than one attorney, make a copy and complete a separate complaint form.*)
2. A chronological review of those events, actions, or conversations between you and the named attorney, which led you to believe that the attorney has acted *in an unethical manner*.
3. Copies of letters or documents, which support the allegations, you have raised against the attorney.
4. An acknowledgement of whether you have attempted to first resolve this matter by contacting the attorney directly. (IF APPLICABLE)

