

## Bar Counsel Dispositions of Grievances And Professional Conduct Board Review of Bar Counsel's Dispositions

The following information outlines Bar Counsel's disposition of grievances and the Professional Conduct Board's role in review of Bar Counsel's dispositions.

The disciplinary process generally starts when Bar Counsel's Office receives a written grievance relating to a lawyer's professional conduct. Following an initial review and investigation by Bar Counsel's Office, the grievance will either be dismissed, or sent to the lawyer with a request to address the assertions that the lawyer's conduct violated specific Idaho Rules of Professional Conduct.

When Bar Counsel dismisses a grievance following the initial review, Bar Counsel issues a disposition letter that is referred to as a "No Action Taken" ("NAT") disposition. Under Idaho Bar Commission Rule 509(b)(1), an NAT disposition indicates that the matter is disregarded or dismissed as unfounded, frivolous or beyond the purview of the Idaho Bar Commission Rules or the Idaho Rules of Professional Conduct and indicates the investigation will therefore be discontinued. Sometimes Bar Counsel's Office will request input from the lawyer before an NAT disposition, other times, the NAT disposition is entered without input from the lawyer. Bar Counsel's NAT dispositions are reviewable by a Hearing Committee of the Professional Conduct Board as set forth below.

If Bar Counsel's initial investigation determines that the grievant's allegations, if true, may constitute a violation of the Idaho Rules of Professional Conduct, Bar Counsel's Office opens what it calls an "Informal" investigation. Bar Counsel sends the grievance to the lawyer and requests that the lawyer respond to the allegation that he or she violated specific Idaho Rules of Professional Conduct. Following written input by the lawyer and additional written input by the grievant, Bar Counsel's Office then conducts additional investigation of the grievance as may be appropriate. Following that investigation, Bar Counsel may dismiss the matter as unfounded, frivolous, or beyond the purview of the Idaho Rules of Professional Conduct and discontinue the investigation, similar to the NAT resolutions set forth above. However, if Bar Counsel's Office determines that a violation of the Idaho Rules of Professional Conduct has occurred, Bar Counsel may issue an informal admonition or private reprimand; impose probation as provided by I.B.C.R. 506(f) or order restitution as provided by I.B.C.R. 506(i) or impose costs as provided by Rule 506(j). ([I.B.C.R. 509\(c\)](#)).

All NAT dispositions and dispositions of Informal investigations are appealable to a Hearing Committee of the Professional Conduct Board. (I.B.C.R. 509(d)). Either the grievant or lawyer may request review by the Hearing Committee. Following receipt of a Request for Review, the Chair of the Professional Conduct Board will assign a Hearing Committee to review Bar Counsel's disposition. The Clerk then forwards a copy of the Request for Review, together with the Bar Counsel file concerning the matter, to the Hearing Committee, the grievant and the lawyer. (I.B.C.R. 509(d)(3)). ([I.B.C.R. 506](#))

Following assignment of any appeal to a Hearing Committee, the Hearing Committee shall review Bar Counsel's disposition upon the record before it, unless either party requests a hearing. If either party requests a hearing, as provided by I.B.C.R. 509(d)(4), the Clerk will schedule a telephonic hearing, unless the Hearing Committee prescribes another method. If a hearing is held, the parties are permitted to file briefs and make oral argument related to the grievance under review and the Hearing Committee may ask questions regarding the record before it. The Hearing Committee Chair may limit the presentation at the hearing at his or her sole discretion. All written materials related to the hearing shall be sent to the Clerk, who shall disseminate them to the parties and to the Hearing Committee. I.B.C.R. 509(d)(4)). ([I.B.C.R. 509](#))

Following the Hearing Committee's review of Bar Counsel's disposition, the Hearing Committee may (1) remand the matter, or any new matter arising from the hearing, to Bar Counsel for further investigation; (2) approve Bar Counsel's disposition; (3) reject Bar Counsel's disposition and dismiss the matter; (4) recommend a modification and remand the matter to Bar Counsel for disposition; or (5) recommend the filing of formal charges. (I.B.C.R. 509(d)(5)). Consistent with I.B.C.R. 509(d)(6), the Hearing Committee is to render its decision within twenty-one days following the date upon which the record is submitted to the Hearing Committee, or the date of the telephonic hearing, whichever is later. The Hearing Committee Chair enters the appropriate order and files that with the Clerk, who disseminates the order. (I.B.C.R. 509(d)(7)).

If the Hearing Committee's decision results in no Sanction being imposed on the lawyer, the Hearing Committee's decision following review of Bar Counsel's disposition is final. If the Hearing Committee's decision results in a Sanction being imposed on the lawyer (in this instance, informal admonition or private reprimand), either party may then seek Idaho Supreme Court review of the Hearing Committee's decision. (I.B.C.R. 509(d)(8) and (9)). ([I.B.C.R. 509](#))

If you have any questions about this procedure, please call Sue Nelson, Clerk of the Professional Conduct Board, or a member of Bar Counsel's Office at (208) 334-4500.