# The Office of Disciplinary Counsel Generally Receives More Than 3,000 Complaints a Year!

**When a complaint arrives, what should I do?**

## The Louisiana State Bar Association’s

**Practice Assistance and Improvement Committee has prepared a video**

**entitled *“What to Expect if you Receive a Disciplinary Complaint”***

## See also “Demystifing the Office of Disciplinary Counsel”

[https://www.lsba.org/Public/AttorneyDisciplinaryProcedures.aspx](http://www.lsba.org/Public/AttorneyDisciplinaryProcedures.aspx)

1. **Don’t panic.** More than 85 percent of complaints are dismissed. Review the complaint calmly and completely.
2. **Don’t ignore the complaint.** The worst thing an attorney can do is to stick his or her head in the sand and ignore a complaint. If Disciplinary Counsel doesn’t receive a substantive response to its inquiry within 15 days, it will often issue a subpoena for the attorney’s appearance and take his or her sworn statement. A failure to initially reply may be treated as independent misconduct in violation of Rule

8.1 of the Rules of Professional Conduct and can result in sanctions even if the respondent’s initial complaint has been dismissed on the merits.

1. **Do not attack the messenger.** Many attorneys are furious when they first receive what they believe may be a spurious complaint. However, disciplinary counsel is obligated to investigate all complaints which allege misconduct. Disciplinary counsel does not know there is nothing to the complaint until the attorney provides counsel with that information. Generally, the Office of Disciplinary Counsel wants to close files as soon as possible.
2. **Do you need help?** Upon receiving the complaint, make a reasoned determination whether you should seek counsel to represent you in the investigation. Most complaints are dismissed with or without the respondent obtaining counsel. At the very least, you should consult with another attorney whose opinion you respect for an independent review of the complaint.
3. **Cooperate with disciplinary counsel as much as possible.** As stated earlier, failure to cooperate can be considered as independent misconduct. It also can be used as aggravating evidence on the issue of sanction. Answer queries and forward any documentation requested as soon as possible. In your initial response, submit any documentation that can help resolve your complaint.
4. **Keep the lines of communication open.** Most complaints are by former or current clients. If the complaint is one by the client, it usually involves issues of communication and diligence. Unless your client now has new counsel, there may be no reason why you cannot still be diligently representing the client. In fact, you are required to continue with the representation unless and until the representation is terminated - a compalint does not terminate representation. If you keep the complainant reasonably informed and complete his matter during the pendency of the investigation, the Disciplinary Counsel may dismiss the matter based on the client’s satisfaction. Also, consider enrolling in the Louisiana State Bar Association Legal Fee Dispute Resolution Program if the matter appears to be a fee dispute.
5. **Be patient.** Sometimes investigations take longer than expected. Further, even if the matter is dismissed, the complainant can appeal the dismissal. Remain cooperative and reasonable throughout the process even when you do not feel like doing so.
6. **Finally, do not retaliate against the client or complainant.** Respondents are forbidden under Louisiana Supreme Court Rule XIX from suing a complainant for the filing of a complaint against them, whether the complaint has merit or not.

**PRACTICE AID GUIDE:** The Essentials of Law Office Management **CHAPTER 8** Ethics and Professionalism

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