

Do I need a lawyer to assist me in the VSB complaint process?

A complainant does not need a lawyer to pursue a complaint against a lawyer. However, the bar counsel does not represent you in the complaint process and is not authorized to give you legal advice.

Confidentiality

Under the Rules of the Supreme Court of Virginia, the complaint process is confidential unless there is a hearing on charges of misconduct or the lawyer receives public discipline (public admonition, public reprimand, suspension, or revocation).

The confidentiality requirement means that the VSB cannot and will not discuss the complaint with anyone except the complainant, the lawyer involved, witnesses who might have information about the complaint, and VSB staff or volunteers within the disciplinary system.

The confidentiality of the complaint process will not protect a complainant from being sued by a lawyer who believes he or she has been wrongly accused in a bar complaint. If a complainant is worried about being sued, the complainant should consult a lawyer. VSB staff cannot offer advice about potential liability or a lawsuit.



The following diagram briefly explains how a complaint is processed.

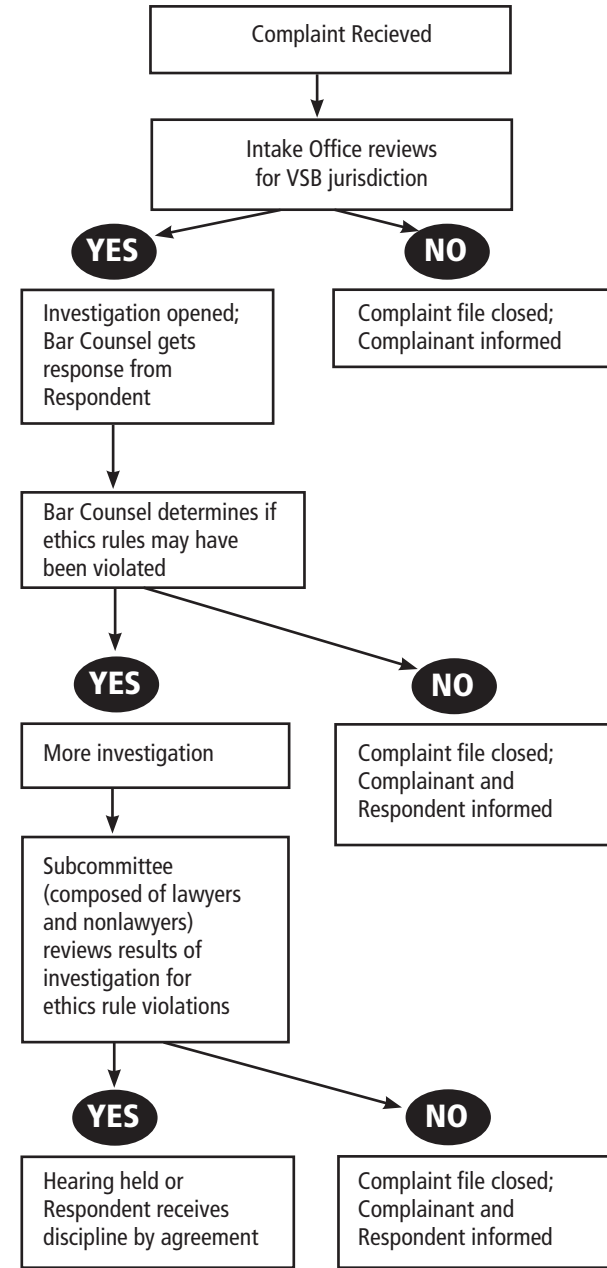


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How Complaints About Lawyers Are Handled



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VIRGINIA STATE BAR



Guide to Lawyer Discipline

This pamphlet explains how the Virginia State Bar (VSB) handles complaints about lawyers. If you have filed a bar complaint against a lawyer, you are a complainant. The VSB recommends that all complainants review this pamphlet carefully.

The purpose of the VSB disciplinary system is to determine whether a lawyer has violated a legal ethics rule and if so, to impose appropriate discipline on the lawyer. All complaints receive the VSB's full attention. We work diligently to resolve complaints as quickly as possible.

While VSB staff investigate and evaluate complaints, volunteer lawyers and nonlawyer members of the public decide whether a complaint merits disciplinary action.

To view this information online and find more information about the disciplinary process, please visit the Virginia State Bar's website at <http://www.vsb.org>.

The Disciplinary Process

The disciplinary process consists of four stages. Many complaints are resolved at the early stages.

Stage 1: Preliminary Investigation

After an intake attorney reviews the complaint and decides that it falls within the VSB's jurisdiction, it is assigned to a VSB attorney, called bar counsel, for investigation. The bar counsel will send the complaint to the lawyer involved and request a written response. Most lawyers respond to bar complaints.

If we receive a response from the lawyer, we may send the response to the complainant for comment. The complainant's input helps the bar counsel analyze the merits of the complaint.

Our goal is to complete the preliminary investigation within 75 days. However, the preliminary investigation of a complaint may take longer, depending on the complexity of the complaint and our case-load. Also, sometimes lawyers ask for more time to respond to a complaint, which may be granted by the bar counsel if appropriate.

When we finish our preliminary investigation, we will notify the complainant that:

- the complaint has been dismissed

or

- the complaint has been referred for a more detailed investigation.

If a complaint is dismissed, the bar counsel will write the complainant a letter explaining the reasons for the dismissal.

Stage 2: Further Investigation

The bar counsel investigating the complaint may decide that the VSB should gather more information about the complaint. If so, the bar counsel will refer the complaint to a district committee made up of volunteer lawyers and nonlawyers for further investigation. The VSB will also assign an investigator to interview witnesses and examine documents relating to the complaint. The investigator will write a report for the bar counsel.

After the complaint has been referred for further investigation, it may take several months for the investigator to complete the investigation because the investigator is investigating other complaints that were filed earlier. We ask that all complainants be patient. We track and thoroughly investigate all complaints. We will contact the complainant if we need additional information or if we have information regarding the status of the investigation.

Stage 3: Subcommittee Review

The bar counsel reviews the investigator's report and makes a recommendation to a subcommittee composed of two volunteer lawyers and one nonlawyer. The subcommittee may decide to bring charges of misconduct against a lawyer or may dismiss the complaint if it decides the investigation did not produce sufficient evidence to prove that the lawyer violated a legal ethics rule. If the complaint is dismissed, the complainant will receive a written explanation from the subcommittee.

Sometimes the subcommittee will impose a low level of discipline on the lawyer without a hearing. This type of discipline is recorded on the lawyer's permanent VSB record.

Stage 4: Evidentiary Hearing

If the subcommittee decides that the lawyer's conduct should result in a hearing, the VSB will schedule an evidentiary hearing before a district committee. Complainants have the right to attend the hearing, and it may be necessary for complainants to testify under oath. The bar counsel handling the case will present evidence and legal argument.

After hearing evidence from the VSB and the lawyer, the district committee will decide if the lawyer violated an ethics rule. If the district committee decides that the lawyer violated an ethics rule, it will impose discipline, which will be recorded on the lawyer's permanent VSB record.

In cases of serious misconduct, a subcommittee or a district committee can send the case to a higher body, the Disciplinary Board. Only the Disciplinary Board can suspend or revoke a lawyer's license to practice law.

In all cases, the complainant will be notified of the outcome.

Possible Outcomes

When a lawyer is disciplined, the VSB records the discipline imposed on the lawyer's permanent record. Disciplinary sanctions include:

- PRIVATE REPRIMAND or PRIVATE ADMONITION for less serious rule violations
- PUBLIC REPRIMAND for more serious rule violations
- SUSPENSION of the lawyer's license to practice law for a period of up to five years, during which time the lawyer cannot practice law
- REVOCATION of the lawyer's license to practice law

Frequently Asked Questions

Must I wait until after the VSB takes action before I file a civil action?

No. Most civil actions must be filed within a certain amount of time, or you will lose your right to proceed. If you are thinking of taking any civil action on your original case, or against the lawyer, you should consult a lawyer in private practice as soon as possible.

Should I give the VSB copies of the paperwork relating to my case?

You should give the VSB **copies** of all documents that directly relate to your complaint against the lawyer. Please do not submit your original documents, but do retain them in a safe place. Also, if your paperwork contains any personally identifying information, such as social security numbers, dates of birth, or driver's license numbers, please redact that information from the copies you submit. It is not necessary that you redact that information from the original documents that you keep.

What are my duties as a complainant?

- Tell us if your address or telephone numbers change. We may need to contact you.
- When you write or call us, please provide the VSB docket number assigned to your complaint.
- Respect the confidentiality of the disciplinary system, discussed in more detail below.

How can I find out what is going on with my complaint?

The VSB will notify you in writing about significant developments. If you have questions, please contact the bar counsel assigned to your complaint.