

by the Supreme Court. The procedure in disciplinary hearings is similar to that in court trials. The proceeding is recorded. Testimony is given under oath. Attendance of witnesses and the production of records could be compelled by subpoena. The hearing is open to the public.

After the hearing is over, the panel deliberates and takes one of the following actions:

- Dismisses the complaint if it finds there is not clear and convincing evidence of unethical conduct.
- Determines that there is clear and convincing evidence that the attorney has committed one or more of the violations charged in the complaint. The panel then recommends the level of discipline to be imposed on the attorney. Disciplinary recommendations are based on established rules and prior cases of this type. The recommendation would be submitted to the Disciplinary Review Board for the next stage of review.

The Office of Attorney Ethics (OAE)

The OAE investigates and prosecutes complex complaints against attorneys on behalf of the Supreme Court. The OAE assists and supports 18 district ethics committees and 17 district fee arbitration committees throughout the state. Neither the OAE nor any of the district ethics committees can represent or give legal advice to someone filing a grievance. If you believe you have lost money over the matter, it cannot be recovered through disciplinary proceedings. You should consult another attorney to discuss bringing a civil suit against the original attorney for money damages.

Disciplinary Review Board (DRB)

The DRB serves as the intermediate appellate level of the attorney disciplinary

system in New Jersey. The DRB reviews all recommendations for discipline from district ethics committees, special ethics adjudicators and the OAE.

The DRB issues written decisions regarding the matters reviewed which are then sent to the New Jersey Supreme Court for final review. The DRB’s determinations of appeals from dismissals of ethics grievances and of appeals from fee arbitration committee rulings are final, with no appeal to the Supreme Court.

For more information, visit www.njcourts.gov/attorneys/drb.html, call 609-815-2920, or write to Disciplinary Review Board, P.O. Box 962, Trenton, NJ 08625

Review by the Supreme Court

All disciplinary matters are final after review by the New Jersey Supreme Court and the filing of an order of discipline. The Supreme Court is not bound by the decision of the DRB and may make its own findings as to the violations and discipline. That decision becomes final with the entry of an Order by the Supreme Court which has the violations and discipline. The Supreme Court could issue a final order disciplining the attorney or determining that no discipline is required.

Lawyers’ Fund for Client Protection

The New Jersey Lawyers’ Fund for Client Protection reimburses clients in those rare instances when a lawyer steals funds. The fund operates under the direction of a volunteer, seven-member Board of Trustees. This seven-member team consists of five lawyers and two non-lawyers who are appointed by the New Jersey Supreme Court and each member serves a 5-year term.

To be a proper claimant, there must be proof of an attorney/client or fiduciary relationship

with the lawyer as well as a “compensable loss,” which generally means that the lawyer collected money on behalf of the claimant to be held in trust and then stole it. For more information, visit www.njcourts.gov/attorneys/cpf.html.

New Jersey Lawyers Assistance Program (NJLAP)

NJLAP is the free and confidential resource assisting all New Jersey lawyers, judges, law students, and law graduates achieve and maintain personal and professional wellbeing. Anyone who may benefit from NJLAP’s services can contact them at 1-800-246-5527, info@njlap.org, or visit their website at www.njlap.org.

For more information or if you believe that your attorney has engaged in unethical conduct, contact the Hotline for Ethics and Fee Arbitration Forms at www.njcourts.gov/attorneys/oea.html or 1-800-406-8594.

If you enter the zip code of the town where the attorney’s office is located, you will be connected to the district ethics committee secretary to request an attorney grievance form. The form also is posted at www.njcourts.gov.



STUART RABNER
CHIEF JUSTICE

JOHANNA BARBA JONES
DIRECTOR, OFFICE OF ATTORNEY ETHICS

How to File a Complaint Against an Attorney



For more information about the Office of Attorney Ethics, go to www.njcourts.gov and search for attorney ethics.

Attorneys must uphold the law and follow the Rules of Professional Conduct adopted by the New Jersey Supreme Court. Those who violate these standards could be subject to discipline ranging from admonition to disbarment. The Office of Attorney Ethics (OAE) investigates complex complaints against attorneys on behalf of the Supreme Court. Standard complaints are investigated by volunteer attorney members of the District Ethics Committees appointed by the Supreme Court.

Because disciplining an attorney is a serious matter, it takes evidence – proof of unethical conduct – to justify discipline. An honest disagreement about how a case should be handled – or should have been handled – might not constitute unethical conduct, even if the outcome of the case is disappointing.

A mistake also might not constitute unethical conduct. If an attorney’s mistake causes a loss, you could recover the loss in a civil suit against the attorney. But a simple mistake or error in judgment by itself would generally not constitute unethical conduct.

Behavior or personality are not the same as ethical misconduct. For example, a disagreement over how your case was handled or the attorney’s bill might not be enough to prove your attorney violated the Rules of Professional Conduct. Sometimes problems arise from a lack of communication or a misunderstanding. You should always ask your attorney for a full explanation if any problem arises.

Here are some examples which, if proven, might cause an attorney to be disciplined:

- Declining or refusing to give you money that the attorney is holding on your behalf and to which you are

entitled, or not giving you a complete written accounting for that money when requested.

- Continually failing to respond to inquiries about your case, to tell you about court dates, or to appear in court. Where the problem is simply a lack of communication, first try your best to resolve the problem yourself.
- The attorney lying during a case or coaching you or anyone else to lie. The foundation of the legal profession is truth and honesty.

Fee Arbitration

Fee disputes are not usually the subject of attorney discipline because they do not always involve unethical conduct. As an alternative to a lawsuit, the New Jersey Supreme Court created 17 district fee arbitration committees who resolve disputes over fees when the client requests binding arbitration.

Court rules state that if you want to file for fee arbitration, you must first contact the fee arbitration committee before you file a complaint with the ethics committee. Your attorney must give you a written explanation of how the fee is calculated or charged when they accept your case.

You and your attorney should discuss any questions about fees at the initial conference so you both have a clear understanding of what will happen in your case and how much the case will likely cost. More information about fee arbitration committees can be found at www.njcourts.gov/attorneys.

Attorney Discipline

Attorney discipline depends on the circumstances and severity of the offense. There are five types of discipline: admonition,

reprimand, censure, suspension from practice, or disbarment. There are four steps when you file a complaint against an attorney: filing a grievance, investigation, hearing, and review. Some information about each step can be found below. Detailed information can be found at www.njcourts.gov/attorneys.

The cost of the disciplinary system is financed by annual fees paid by attorneys, not taxpayers. Members of the district ethics and fee arbitration systems are composed of volunteer attorneys and members of the public.

Filing a Grievance

Grievances should be in writing and filed with the secretary of the district ethics committee for the district in which the attorney has their main law office. When you complete and file the attorney grievance form, provide names and addresses of witnesses, dates, and pertinent documentation to serve as a basis for further investigation. Failure to provide important facts and copies of important documents could result in a delay in processing or the dismissal of your complaint.

Investigation

The committee secretary will review the form to determine whether the complaint should be investigated. If it is, the secretary would docket the case and assign the matter to an attorney-member for investigation. Investigations are confidential. You and the attorney will be interviewed. By court rule, standard investigations should be completed within six months, and complex investigations within nine months of docketing. However, each matter is different and may take more time.

When the investigation is complete, a

report is submitted to the committee chair, who determines whether there is clear and convincing proof of unethical conduct. If not, the chair will direct the secretary to dismiss the matter and provide you with a copy of the report. If you disagree with the dismissal, you can appeal the decision to the Disciplinary Review Board.

If the chair determines there is a reasonable prospect of proving unethical conduct by clear and convincing evidence, a formal complaint is prepared. The complaint is served on the attorney, who is required to file an answer within 21 days of service.

If the committee chair determines that the misconduct fits within the court rule’s definition of minor unethical conduct and the attorney has admitted to all the misconduct supported by the evidence, the committee chair could ask the OAE Director to consider whether the case could be resolved by diversion. Diversion is a non-disciplinary treatment by consent for attorneys who admit to the violation(s) and who otherwise qualify for the diversion program. Diversion requires the attorney to complete certain conditions to address the unethical conduct and reduce the likelihood of reoffending. The OAE Director must approve the diversion, which means the attorney would not be publicly disciplined. There is no appeal from the Director’s decision to grant or deny an attorney diversion.

Hearings

If the committee chair issues a formal disciplinary complaint, and the attorney files an answer, there is a hearing before a panel consisting of three volunteer members: two attorneys and one public member. The members of the hearing panels all serve on the district ethics committees, appointed