

## Frequently Asked Questions – The Disciplinary Process

### For the Public:

#### Who do I contact to complain about an attorney?

If you are concerned that your attorney or an attorney you have come in contact with may have committed an ethics violation you may contact the Consumer Assistance Program (CAP) to inquire about the possibility of filing a Bar Complaint. CAP may be contacted by telephone at (601) 948-2344; by email at [gwaddle@msbar.org](mailto:gwaddle@msbar.org); or by mail:

Consumer Assistance Program  
Post Office Box 2168  
Jackson, Mississippi 39225-2168

#### What are the ethics rules that attorneys must follow?

Attorneys must follow the Mississippi Rules of Professional Conduct. These Rules may be viewed on the [Supreme Court of Mississippi's website](#). You do not need to cite an ethics rule in order to file a Bar Complaint.

#### Who considers my Bar complaint?

The Committee on Professional Responsibility acts as a grand jury of sorts. It considers each Bar complaint to determine whether there is proof of an ethics violation. If the Committee determines there is sufficient proof of a violation, they may impose discipline in the form of an Informal Admonition, Private Reprimand or Public Reprimand. If the Committee determines that the ethics violation is so serious that it deserves more than a Public Reprimand, they may direct General Counsel to file a Formal Complaint with the Supreme Court of Mississippi.

#### How long do I have to complain about an attorney?

Generally, you have three years to file a Bar complaint after you discover the attorney's misconduct. You can complain about an attorney's lack of honesty, trustworthiness or mishandling of funds at any time.

### **Why was my complaint returned?**

The Office of General Counsel returns complaints that are incomplete. If your complaint was returned, please look to the directions on the back of the complaint form and the letter you received from the Office of General Counsel to properly complete your complaint form for submission.

### **My attorney got additional time to respond to my Bar Complaint, why?**

The Office of General Counsel grants additional time to respond when requested based upon the specific need stated by the attorney. It also considers the complexity of the Bar Complaint and the date of the next Committee on Professional Responsibility meeting to avoid delaying the Committee's consideration of the Bar complaint when possible. In unique circumstances, additional time may be granted on more than one occasion. The granting of additional time is in the sole discretion of the Office of General Counsel.

### **What do I do if I didn't get a response from my attorney?**

If the attorney is directed to file a response to your Bar Complaint, you will receive a copy. If an attorney is directed to respond to a Bar Complaint and fails to do so within the time allotted, the Office of General Counsel will send a demand letter reminding the attorney of their ethical obligation to respond. If the attorney ultimately fails to respond to the Bar Complaint, then it will go before the Committee without the benefit of the attorney's explanation of his actions.

### **Why doesn't my attorney have to respond to my Bar complaint?**

If the allegations in the Bar complaint do not state a possible ethics violation then the attorney is sent a copy of your complaint with a letter stating a response is not required. The Bar complaint is then forwarded to the Committee on Professional Responsibility for a vote within 20 days as to whether a response is needed. Should the Committee determine a response is needed, a letter will be sent to the attorney with a due date to file a response. If a response is not required by the Committee, your complaint goes before the Committee at their next meeting for dismissal. It is in the sole discretion of the Committee as to whether a response is required to a Bar complaint.

## **May I submit additional information after reviewing the attorney's response to my Bar Complaint?**

Yes. If you have additional information, not previously submitted with your complaint, you may submit it in writing to the Office of General Counsel.

## **Can I withdraw my Bar complaint?**

No. The integrity of the disciplinary process must be maintained. Once a Bar complaint is filed it cannot be withdrawn. However, you may submit additional information to the Committee explaining your problem with the attorney has been resolved and your wish that the complaint be dismissed. The Committee is not bound by your desire to dismiss your complaint. Once an allegation of misconduct is made it will be fully considered.

## **What is the status of my Bar Complaint?**

Once the attorney files a response, the Bar complaint will be considered by the Committee on Professional Responsibility. The Committee meets 4 times a year. You will be notified in writing of the Committee's decision on your complaint within a month of the meeting date.

## **Can I attend the Committee meeting?**

No. The Committee on Professional Responsibility considers multiple complaints at its meetings and these meetings are confidential and closed. Neither the complaining witness nor the attorney may attend the Committee meeting.

## **I disagree with the Committee's decision, what can I do?**

The Committee carefully considers every Bar complaint to determine whether there is proof of an ethics violation. As the complaining witness you are not a party to the proceeding and therefore may not appeal the Committee's decision.

## **Can I get a copy of my Bar complaint file?**

You should have received copies of all documents related to your Bar complaint while it was under consideration. Your attorney should have sent you a copy of the response, you are copied on any correspondence to the

attorney and the Committee notifies you in writing of its decision. You should have all the documents contained in your file at the Bar.

In the event you cannot locate the documents you have been sent, you may request copies of your complaint file from the Office of General Counsel in writing. There is a charge of \$0.50 per page for copies. The copying charge must be paid in advance at the time of your request. You may contact the Office of General Counsel for a cost estimate.

**For Attorneys:**

**Where do I send my response?**

Mail your response to the attention of the Office of General Counsel at the address below. Reference your docket number located in the top right corner of the Bar Complaint on the first page of your response. Please refrain from using staples, tape, binders or tabs and do not send original documents.

Office of General Counsel  
Post Office Box 2168  
Jackson, Mississippi 39225-2168

**Do you accept responses submitted by facsimile (fax) or email?**

No. We only accept signed original responses by mail or hand delivery.

**How many copies of my response do I need to submit?**

Send your original response to the Office of General Counsel and a copy of any documentary support. You do not need to submit additional copies.

**Why do I need a certificate of service included with my response?**

The certificate of service is proof that you also sent a copy of your response to the Complainant.

**How should I style my response? Is there a response form? What should I include with my response?**

There is no particular format that you must follow in submitting your response. The format you chose will depend on the nature of the Bar complaint. Typically, responses are in letter form and can be fully answered in two to three pages of a narrative response. You should review the Bar complaint and answer the allegations to the best of your ability. You should also submit copies of any documents in support. Please only send copies of documents you believe the Committee needs to review and do not send a copy of the entire client file.

**How do I submit a request for additional time to respond to a Bar complaint?**

A request for additional time must be submitted in writing and must articulate the reason for seeking an extension. You may submit your written request by mail, facsimile to 601-608-7869 or email to [ogc@msbar.org](mailto:ogc@msbar.org). The Office of General Counsel grants additional time to respond based upon the specific need stated by the attorney as well as the complexity of the Bar complaint. It also considers the date of the next Committee meeting and whether additional time would delay the Committee's consideration of the Bar complaint. In unique circumstances, additional time may be granted on more than one occasion. The granting of additional time is in the sole discretion of the Office of General Counsel.

**Can I call the Office of General Counsel to discuss my Bar Complaint?**

You may contact any of the attorneys in the Office of General Counsel if you have questions about a Bar complaint. Speaking to Bar Counsel is not a substitute to submitting a response. Bar Counsel is not bound or required to forward your thoughts or sentiments to the Committee. The only way to insure that the Committee is aware of your position is for you to put it in writing in your response or in the form of additional information.

**Does a complainant have to be a client or former client to file a Bar complaint?**

No. The Rules of Discipline for the Mississippi State Bar provides that acts or omissions by an attorney that violate the Rules of Professional Conduct are grounds for discipline regardless of whether those acts or omissions occurred in the context of an attorney-client relationship.

## **What is the statute of limitations for conduct that is the subject of a Bar complaint?**

Generally, the statute of limitations is three years after discovery of the facts that give rise to the Bar complaint. There are some exceptions. There is no statute of limitations for conduct that violates Rules 1.15, 8.1 and 8.4 of the Mississippi Rules of Professional Conduct. *See* Rule 4(d) of the Rules of Discipline for the Mississippi State Bar.

## **What rules govern the Bar complaint process?**

The Supreme Court of Mississippi has inherent and exclusive jurisdiction over the attorney discipline process. The procedural rules governing this process are the Rules of Discipline for the Mississippi State Bar.

## **Is the Bar complaint process confidential?**

All Bar personnel and members of the Committee on Professional Responsibility are charged with maintaining the confidentiality of the Bar complaint process. This means Bar personnel can neither confirm nor deny the existence of any Bar complaint. However, this prohibition does not apply to the attorney, the complainant or any other witness. The confidential nature of the Bar complaint process ends if the attorney makes any public statement, public discipline is imposed or a Formal Complaint is filed. *See* Rule 15 of the Rules of Discipline for the Mississippi State Bar.

## **Can I attend the Committee meeting?**

No. The Committee on Professional Responsibility considers multiple complaints at its meetings and these meetings are confidential and closed. Neither the complaining witness nor the attorney may attend the Committee meeting.

## **What is the effect of a dismissed Bar complaint?**

A Bar complaint dismissed by the Committee on Professional Responsibility is deemed expunged. It is not considered a charge touching upon the conduct of the attorney. *See* Rule (7.1) Rules of Discipline for the Mississippi State Bar.

## **Why do I have to respond to this “frivolous” Bar complaint?**

Upon receipt of a Bar complaint, General Counsel reviews it to determine if the complaint articulates a possible violation of the Rules of Professional Conduct. If so, the attorney is required to file a response.

As an attorney and officer of the court, you have an obligation under the Rules of Professional Conduct to ensure that the disciplinary authority has the information it needs to make an informed decision. This can only be accomplished by your timely response. A failure to respond to a Bar complaint constitutes a violation of Rule 8.1(b) of the Mississippi Rules of Professional Conduct. The lack of merit to a complaint is no defense to your failure to respond.

## **Can I appeal a decision of the Committee on Professional Responsibility?**

An attorney who has received discipline has 20 days to request in writing that a formal disciplinary proceeding be initiated. If the appeal is timely made the discipline imposed will be vacated and General Counsel will file a Formal Complaint. *See* Rule 7(c) of the Rules of Discipline for the Mississippi State Bar. A Formal Complaint is public record and a *de novo* proceeding.

## **What is a Formal Complaint?**

A Formal Complaint is filed at the direction of the Committee on Professional Responsibility or as a result of the attorney appealing the discipline imposed by the Committee. Formal Complaints are public record and are filed with the Clerk of the Supreme Court of Mississippi. Once a Formal Complaint is filed, the Supreme Court designates a Complaint Tribunal to hear and determine the matter. A Complaint Tribunal can dismiss the Formal Complaint or impose discipline in the form of a Private Reprimand, Public Reprimand, Suspension of Disbarment. The attorney or the Bar may appeal the decision of a Complaint Tribunal within 30 days to the Supreme Court of Mississippi. *See* Rules 8 and 9 of the Rules of Discipline for the Mississippi State Bar.

## **How does a suspended or disbarred attorney seek reinstatement to the practice of law?**

Attorneys suspended for less than 6 months are reinstated upon the expiration of the time imposed and the satisfaction of any conditions of the suspension order. Attorneys suspended for 6 months or more or disbarred must petition

the Supreme Court of Mississippi for reinstatement and follow the dictates of Rule 12 of the Rules of Discipline for the Mississippi State Bar. Attorneys disbarred due to a felony conviction after April 4, 2002, are not eligible for reinstatement to the practice of law.