



Lawyer Ethics & Discipline

What standards govern an Ohio attorney's conduct?

To practice law in Ohio, an attorney must be admitted to practice (granted a license) by the Supreme Court of Ohio and must maintain that license in good standing. As a condition of admission to practice, attorneys also must swear to uphold the Constitution and the law; honestly, faithfully and competently discharge their duties as attorneys; and abide by the Ohio Rules of Professional Conduct. The Rules are a set of ethical regulations adopted and enforced by the Supreme Court of Ohio. It is made up of Rules that define the lawyer's ethical responsibilities and comments that explain and illustrate the meaning and purpose of each Rule. Attorneys found guilty of violating the Rules face penalties that may include the temporary or permanent loss of their license to practice.

What, specifically, are attorneys' ethical duties under the Ohio Rules of Professional Conduct?

The Ohio Rules of Professional Conduct prohibit lawyers from engaging in conduct involving moral turpitude, fraud, deceit, dishonesty or misrepresentation and from engaging in other action that could improperly prejudice the outcome of a case or legal matter. Some other specific provisions cover:

Fees and employment. Attorneys are not allowed to agree to, charge, or collect an illegal payment (such as stolen property) or charge clearly excessive fees. To decide whether a fee is "clearly excessive," the factors taken into account include the amount of time spent by the lawyer; difficulty of legal issues; customary fees in the area; the amount of money at stake and results obtained by the lawyer; experience and reputation of the attorney; and whether representation was on a contingent fee basis.

Confidentiality and conflict of interest. Except in very rare instances, attorneys may not reveal any confidence a client has told them during the lawyer/client relationship. Lawyers also generally may not disclose information they have learned while representing a client unless the client consents. In addition, attorneys are not allowed to represent a client when the lawyer's own interests or the interests of other clients may conflict with the representation. Sometimes an attorney may represent more than one client in the same matter, but only if the clients agree after all conflicts have been made known.

Competent representation within the bounds of the law.

Attorneys are expected to represent their clients to the best of their abilities, using all reasonable, available, ethical and legal means to achieve their clients' goals. Attorneys may not, however, engage in conduct that is illegal or violates any of the Rules. Attorneys must not seek or accept legal work that they are not competent to handle, and must get help from other attorneys if they accept a case and then find they cannot handle that matter. They must not neglect a legal matter entrusted to them.

Client funds. Attorneys must keep clients' funds in separate accounts and may not mix them with their own funds. Also, they must keep complete records, and must notify clients promptly when they receive client funds or property. A client's funds must be paid to the client as soon as the client is entitled to receive them.

I have a complaint about my lawyer. What can I do about it?

In the course of dealing with a lawyer—as in other business relationships—clients sometimes may be unhappy with the outcome of their legal matter, the amount they've been billed, or the lawyer's conduct. Occasionally, these complaints involve unethical conduct—but often they are caused by other things, such as poor communications between lawyer and client or poor billing and case management practices. Because these types of problems involve business or personal practices—but not unethical conduct—they generally can't be dealt with through the lawyer/judicial discipline process. Often these kinds of problems can be resolved by a meeting with the attorney or his or her partner or supervisor. Many local bar associations will help arbitrate fee disputes, and some also provide mediation of other lawyer/client conflicts not involving actual misconduct.

I believe a lawyer has violated ethical rules. How do I file a complaint?

If you believe an attorney has acted unethically, you may file a complaint with the certified grievance committee of your local bar association (if there is a grievance committee serving your area) or with the Office of Disciplinary Counsel of the Supreme Court of Ohio. Bar association grievance committees are authorized by the Supreme Court to investigate and prosecute ethics violations. All certified grievance committees must include lawyers and non-lawyers.

What must I include in my complaint?

Your complaint must be in writing and signed. You must include 1) the name of the person making the complaint, 2) the name of the attorney against whom the complaint is being made, and 3) the basis for the complaint. A complaint form may be obtained from the Office of Disciplinary Counsel, 65 E. State Street, Suite 1510, Columbus, Ohio 43215, ODC.Ohio.gov, or from your local bar's certified grievance committee.

What happens after I file my complaint?

The Office of Disciplinary Counsel or the certified grievance committee will consider each complaint received. A copy of your complaint may be sent to the attorney to obtain a response. As part of the investigation, you may be asked for additional information.

If the investigation does not find probable cause that the attorney has violated the Ohio Rules of Professional Conduct, the complaint will be dismissed. You will be notified of that dismissal. If a local bar grievance committee performed the investigation, you have the right to appeal the dismissal to the Board of Professional Conduct of the Supreme Court of Ohio. There is no appeal from a decision of the Office of Disciplinary Counsel. (As noted earlier, many disciplinary complaints are dismissed NOT because the lawyer is found to have been perfect in his or her handling of a matter, but because whatever mistakes or faulty business practices the lawyer may have committed did not involve any ethical violation.)

If the investigation does find probable cause that the attorney engaged in professional misconduct, a formal complaint is prepared and filed with the Board of Professional Conduct. If the determination is confirmed by a three-member probable cause panel of the Board of Professional Conduct, then the complaint will be "certified" and the matter will be prosecuted. (Note: Under Ohio's disciplinary rules, the preliminary stage of an ethics investigation is confidential. At the time a probable cause finding is made by the probable cause panel and the complaint is certified, the proceedings become a matter of public record.)

What happens after the complaint is certified?

The Board appoints a three-member hearing panel to conduct a formal disciplinary hearing against the attorney. If evidence brought forth in the hearing shows that the attorney is guilty of professional misconduct, the hearing panel sends this finding along with its recommendation for discipline to the full Board.

The full Board of Professional Conduct then reviews the findings of the hearing panel. The Board may suggest that further proceedings be held or may act on the information received from the hearing panel. The Board may dismiss the complaint or find the attorney has engaged in professional misconduct and recommend discipline.

Who finally decides if and how the attorney is disciplined?

If the Board of Professional Conduct decides that professional misconduct has been proven, its findings and recommendations for discipline are sent to the Supreme Court of Ohio. The Supreme Court justices review the Board's findings and impose the discipline the Court believes to be appropriate. Only the Supreme Court may actually discipline an attorney for professional misconduct.

What types of discipline may be imposed by the Court?

The Court can impose four types of discipline:

- Public reprimand;
- Suspension from practice for a definite period of time ranging from six months to two years;
- Suspension from practice for an indefinite period of time (at least two years); and
- Disbarment, which means the loss of license for life with no chance for readmittance to the Ohio bar. An attorney may also resign the right to practice law. In effect, resigning is the same as being permanently disbarred.

Do I have any other rights against an attorney I believe is unethical?

You may have other legal remedies against an attorney who has acted unethically or misappropriated property or funds. You should consult another attorney about these remedies. If you are unhappy about the outcome of a case rather than the professional conduct of an attorney, you should look into the possibility of appealing that case to the appropriate court of appeals. The attorney discipline process deals only with professional misconduct. It will not change the outcome of a court case.

May I file a complaint about attorney fees charged to me?

Disputes about legal fees may involve ethical issues, but usually they do not.

Therefore, the complaint procedure outlined in this pamphlet is usually not an effective way to resolve fee disputes. Many local bar associations have established fee dispute resolution committees to help clients and lawyers settle fee disagreements. Your local bar association can provide further information about available dispute resolution procedures.

Where can I get more information about filing a complaint?

More information can be obtained from the Board of Professional Conduct of the Supreme Court of Ohio at BPC.Ohio.gov, (614) 387-9370; from the Ohio State Bar Association at P.O. Box 16562, Columbus, Ohio 43216-6562, phone: (800) 282-6556 or (614) 487-2050, OhioBar.org; or from the Office of Disciplinary Counsel of the Supreme Court of Ohio, 65 E. State Street, Suite 1510, Columbus, Ohio 43215, phone: (800) 589-5256 or (614) 461-0256, ODC.ohio.gov.

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