



How to File an Administrative Complaint with the Board

The primary purpose of any licensing board is to protect the public from persons who have not demonstrated the minimum level of competency established by law to practice a given profession, and to protect the public from those individuals who are licensed but who do not perform their duties competently and in conformance with the profession's established standards. To aid the Board of Court Reporting in fulfilling its duty to protect the public in part, Alabama law has established procedures to allow the public to report behavior that it feels is unacceptable. Alabama law also established rules to allow the Board to properly investigate and potentially prosecute those claims. This law also provides sufficient due process to insure that the rights of the person against whom a complaint has been filed are protected, Section 34-8B-6 of the Code of Alabama sets forth the procedure for a member of the public to file a complaint with the Board. It states that complaint must be in writing, signed by the person making the complaint, and addressed to the Chair of the Board. Because it is mandatory that a complaint must be in writing and signed by the person making the complaint, Alabama law does not allow the filing of an anonymous complaint with the Board of Court Reporting. This procedure reflects the legal notion that someone accused of wrongdoing has the right to face his or her accuser. The Alabama Board of Court Reporting provides an online link to the form that can be used for a member of the public to file a complaint with the Board (<http://abcr.alabama.gov/pdfs/2012/ConsumerComplaintForm2012a.pdf>). For this reason and for reasons discussed below, a complaint should also never be presented directly to a Board member individually, but must follow the procedure set out by Alabama law and go through the Board office.

Once a complaint is filed, and once the Executive Director of the Board determines that the complaint is not simply frivolous, the complaint goes through an investigative process to determine if there is probable cause to move forward with a hearing or other discipline. Pursuant to the rules established by the Board, the investigation is performed by a committee consisting of one Board member, the Board attorney, and the Executive Director of the Board. This investigation and subsequent disciplinary process is performed in accordance with the Alabama Administrative Procedures Act, Sections 41-22-1 of the Code of Alabama, to insure fairness to the licensee against whom a complaint has been filed while at the same time enabling complaints to be thoroughly investigated.

If a complaint proceeds past the investigative stage, the full Board is tasked with deciding the final outcome and any formal discipline that should be imposed. Because the Board could potentially sit and hear or review all of the evidence presented by both sides during a formal hearing or other final disposition of the case, the Board as a whole never investigates a case and the Board member who serves on the investigative committee for a case never participates in the hearing or votes on the final outcome of that case. This reflects the fundamental due process right of persons charged with wrongdoing to have a fair and impartial decision by the Board. It is for these reasons also that Board members, just like juries or judges, are instructed that they cannot discuss any disciplinary matter that is or potentially could be before the Board. To make sure that Alabama law is followed and everyone's rights are protected, it cannot be stressed enough that a complaint should never be presented directly to a Board member individually, but must follow the procedure set out by Alabama law and go through the Board office.

Licensees or other public members should not take offense if a Board member states that they cannot discuss specific instances of wrongdoing with anyone and refers the person to the Board office to file a complaint. It is not because the Board member is disinterested or feels that the claim is without merit. It is because the Board member is duty bound to follow the law, rules and procedures established in these matters. By not following the rules established by Alabama law, a complainant runs the risk of having his or her complaint and any resulting discipline by the Board reversed by a Circuit Court Judge on an appeal of the Board's decision. In order for the Board to adequately protect the public and to order discipline that will stand where it is warranted, the rules insuring fairness to all in the disciplinary process must always be followed.

