



# What Can I Expect When a Complaint is Filed Against Me?

The South Carolina Department of Labor, Licensing and Regulation (LLR) licenses, registers, or permits approximately 500,000 individuals or companies through its 41 professional and occupational licensing boards and commissions (Board).

LLR's Office of Investigation and Enforcement (OIE) is responsible for investigating complaints against those individuals or companies that involve a possible violation of a professional or occupational licensing practice act.

## The Complaint

The agency receives written complaints by mail, fax, or electronically through its website. The individual or entity filing the complaint is referred to as the "complainant" and the individual or entity against whom the complaint is filed is referred to as the "respondent." When the complaint is first received, a complaint analyst initially reviews the complaint to determine if the agency has jurisdiction (i.e. if the allegations of the complaint are true, then there would be a violation of the Board's practice act). The complaint analyst may contact the complainant for clarification or additional information in order to make that determination.

If the complaint analyst determines the complaint alleges a violation of a Board's practice act, then the case is assigned to an investigator.

## The Investigation

Within 30 days of the case being assigned for

investigation, the investigator notifies the respondent in writing that a complaint has been filed and affords the licensee an opportunity to respond.

LLR is often asked whether a respondent should provide a written reply to the investigator. The agency cannot provide legal advice, and many respondents consult with an attorney for proper legal guidance. Although the response may be used in a legal proceeding, the investigation will continue with or without the respondent's response. If no response is given, then the investigation will be conducted without input from the respondent.

In the course of the investigation, the investigator may conduct an onsite inspection, may issue subpoenas under South Carolina Code of Laws, Section 40-1-80 (B), for records relevant to the investigation, and may conduct interviews. Investigations are generally complete within 180 business days.

At the conclusion of the investigation process, the investigator will hold an internal meeting of counsel, the chief investigator, the Board administrator and a professional member(s) appointed by the Board. At the meeting, referred to as an Investigation Review Conference (IRC), attendees will review the investigation to evaluate it, determine if additional information is needed, and decide whether the findings warrant a recommendation to the Board that the agency proceed with a formal complaint (initiate a legal proceeding), a letter of caution to the licensee, or dismiss the matter. This recommendation is then provided to the Board at its next regularly scheduled meeting, as the Board has final authority on the disposition of an investigation.

## The Board Response

The Board can accept the recommendation of the IRC or make its own determination.

If the board decides to:

- Dismiss the complaint – The chief investigator sends a letter to the respondent, and the case is closed.
- Issue a formal complaint – The Office of Disciplinary Counsel prepares a formal complaint, outlining the charges and alleged statutory violations. The formal complaint is served on the respondent.
- Issue a letter of caution – The Board administrator issues a non-disciplinary letter of caution that explains the Board has determined no statutory violation exists and that the matter is dismissed. However, the letter cautions the respondent to be mindful of a particular statute or regulation.

## The Formal Complaint

When an investigation results in a formal complaint, in some cases, the respondent is given an opportunity to sign a consent agreement where the facts, statutory violations, and sanctions are agreed to by the State and the respondent. The consent agreement is then presented to the Board for disposition. The Board can accept or reject the consent agreement.

In lieu of signing a consent agreement or other negotiated resolution, a respondent can choose to have a full hearing before the Board. The hearing before the board is a contested case under the South Carolina Administrative Procedures Act. Each Board has a disciplinary process outlined in its practice act. For specific provisions, please look at the practice act for your profession or occupation.

## The Hearing

A hearing before the Board is similar to a court proceeding and is conducted pursuant to the Administrative Procedures Act. The parties are the State, which is represented by an attorney from LLR's Office of Disciplinary Counsel, and the respondent. The respondent has the right to appear alone or to be represented by an attorney.

The State presents its case first and has the burden to prove the allegations in the complaint. The respondent then presents his or her case. At the conclusion of the hearing, the Board may take a vote on disposition of the case or take the matter under advisement.

## The Sanctions

Sanctions are derived from statutes and regulations and vary depending on the particular professional or occupational licensing practice act. However, sanctions generally range from a private or public reprimand up to license revocation.

## The Final Order

After the hearing has concluded, the Board will issue an order. The Board may find a statutory violation has occurred and issue an order setting forth specific findings of facts and conclusions of law that support its ruling. Alternatively, the Board may issue an order dismissing the complaint. All board orders, except those designated as private and those dismissing a case, are public under the South Carolina Freedom of Information Act and are placed on the agency's website. A Respondent has 30 days to appeal an adverse order of the Board to the Administrative Law Court.