

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

**Committee on Professional Standards**



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**INTRODUCTION**

Attorneys are guided in their conduct by the Code of Professional Responsibility, as adopted by the Appellate Divisions of State Supreme Court. An attorney who violates this code is subject to discipline, which may range from a private disciplinary letter to Court imposed discipline of censure, suspension or disbarment.

The **Committee on Professional Standards** is empowered by the Appellate Division to investigate inquiries concerning the professional conduct of attorneys who are admitted to practice, reside, have an office in, are employed or transact business in the Third Judicial Department.

The Third Judicial Department is composed of the following 28 upstate counties: **Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington.**

If an inquiry is received by the Committee concerning an attorney who is not from one of the listed counties, it will be referred to the appropriate grievance committee for handling. Similarly, matters over which the Committee does not have jurisdiction will, wherever possible, be referred to the appropriate agency.

## WHAT IS THE COMMITTEE ON PROFESSIONAL STANDARDS

The **Committee on Professional Standards** has been operating as a part of the Unified Court System since 1977. Prior to that time it performed the same function as part of the New York State Bar Association. While the Committee maintains a relationship with the New York State Bar Association, they are separate and distinct entities. The New York State Bar Association does not investigate inquiries regarding attorney misconduct.

The Committee is comprised of 21 members, all of whom are appointed by the Appellate Division, Third Judicial Department. Members may serve two three-year terms. The 18 attorney members, who are appointed from the 28 counties within the Third Department, bring with them experience in virtually all areas of the law. The remaining three members are non-attorneys. All members serve without compensation as a service to the public and the legal profession.

The Committee is assisted by a full time professional staff which is also appointed by the Appellate Division. Its offices are located in Albany. All inquiries concerning an attorney's professional conduct are processed through this office. The Committee's operations are funded by the Office of Court Administration through the \$350 registration fee which attorneys are required to pay every two years.

## HOW ARE INQUIRIES PROCESSED

Although the Committee may on its own commence an investigation into an attorney's conduct, the vast majority of inquiries are received from the general public. The initial inquiry must be in writing and should set forth allegations which, if true, would be sufficient to establish a charge of professional misconduct. Inquiries should be accompanied by all available supporting documentation.

The Committee's investigative staff is available to explain procedures and assist the public in the filing of an inquiry.

If review of an inquiry reveals potential misconduct, the matter is taken up with the attorney, who is required to respond in writing and cooperate with the investigation. Where it is necessary, testimony may be taken under oath or additional investigation conducted.

Upon completion of the investigation, the matter is presented to the full Committee for consideration. Where misconduct has been established by **clear and convincing evidence**, the Committee may issue a letter of caution or a letter of admonition to the attorney. These are confidential forms of discipline which remain part of the attorney's permanent record.

The Committee may also issue a letter of education where misconduct has not been found but the attorney's action warrants comment. If the Committee considers the attorney's conduct to be particularly egregious, it may authorize the institution of a disciplinary proceeding.

At the conclusion of that proceeding, the Appellate Division, if it determines misconduct has been established, may censure, suspend or disbar the attorney. If it determines that misconduct has not been established, it may dismiss the proceeding or send the matter back to the Committee for further action.

It is important to keep in mind that the function of the Committee is to protect the public in general. It may not provide individuals with legal advice or representation. The Committee does not normally direct attorneys to refund fees to clients or otherwise secure monetary relief for them. In that regard, individuals should consult with an attorney of their own choosing concerning any possible action that might be available to them.

The Committee works closely with the New York Lawyers' Fund for Client Protection in seeing that clients who have lost money or property, because of an attorney's dishonest conduct in the practice of law, are reimbursed.