

1 Rule ~~11-530. Unprofessional conduct—Complaints~~Professional misconduct
2 proceedings.

3 (a) Scope. The OPC or any person may bring a disciplinary Complaint against a Lawyer
4 for professional misconduct. Damages are not available in disciplinary proceedings.
5 Restitution is available only when awarded by a district court in an Action filed by the
6 OPC.

7 (b) Filing. The OPC or any person may initiate a disciplinary proceeding ~~against any~~
8 ~~Lawyer~~ by filing a written Complaint in concise language setting forth the acts or
9 omissions claimed to constitute ~~unprofessional conduct~~professional misconduct.

10 (1) If ~~an individual~~a person initiates the Complaint, filing is complete when the
11 Complaint is delivered to the OPC office in hard copy or electronic form, ~~or~~ or is
12 electronically filed through the OPC's website at opcutah.org.

13 (2) If the OPC initiates the Complaint, filing is complete when the OPC delivers the
14 Complaint to the Lawyer in hard copy or electronic form.

15 ~~(b3)~~ If a person who files a Complaint later elects to withdraw the complaint, the OPC
16 may, in its discretion, proceed with the matter without filing a separate complaint.

17 (c) Complaint form.

18 (1) The Complaint does not need ~~not~~to be in any particular form ~~or class~~ and may be
19 by letter or other informal writing, although the OPC may provide a form to
20 standardize the format. The Complaint does not need ~~not~~to recite disciplinary rules,
21 or ethical canons, ~~or a prayer requesting~~request specific disciplinary action. A
22 Complaint's substance prevails over the form.

23 (2) The Complainant must sign the Complaint and include the Complainant's address
24 and may list the names and addresses of other witnesses. ~~The Complaint must contain~~
25 ~~an unsworn declaration as to the accuracy of the information in the Complaint.~~
26 ~~Complaints filed by the OPC are not required to contain such a declaration. A~~
27 ~~Complaint's substance prevails over the form.~~

~~(c) Initial investigation.~~ 3) The Complaint must contain an unsworn declaration that complies with Utah Code section 78B-18a-106 declaring that the information in the Complaint is true and correct. Complaints filed by the OPC do not need such a declaration.

(d) Summary review. Upon receiving a Complaint, the OPC will conduct a ~~preliminary investigation~~ summary review to ~~ascertain~~ determine whether the Complaint includes allegations that, if proved, would constitute grounds for discipline and, if so, whether the Complaint should be investigated further. If the Complaint does not include allegations that, if proved, would constitute grounds for discipline, the OPC will dismiss the Complaint. The OPC may also decline to prosecute the Complaint under paragraph (g)(2). If a Complaint's allegations are not sufficiently clear. ~~If the allegations are not sufficiently clear,~~ the OPC ~~will~~ may seek additional ~~facts~~ information from the Complainant, ~~who must, upon the~~ If the Complainant does not respond to the OPC's request, ~~submit documents or writings containing any~~ does not have additional ~~facts.~~ Within evidence, the OPC may dismiss the Complaint. Absent extraordinary circumstances, within three months after ~~filing~~ a Complaint is filed, the OPC ~~must~~ will advise the Complainant ~~concerning about~~ the ~~initial investigation~~ status of the Complaint.

~~(d) Referral to Professionalism and Civility Counseling Board.~~ The OPC may in connection with any conduct that comes to its attention refer any matter to the Professionalism and Civility Counseling Board established under Rule ~~14-303~~. Such referral may be in addition to or in lieu of any further proceedings related to the subject matter of the referral. Such referral should be in writing and at the discretion of the OPC may include any or all information included in the Complaint or additional facts submitted by the Complainant.

~~(e)~~ (e) OPC investigation. If the OPC determines that a Complaint warrants further investigation, the OPC may seek additional information from the Complainant, the Respondent, or third-party witnesses. The OPC may also request permission to issue investigative subpoenas under Rule 1-523.

(f) **Notice to Respondent.** Upon completing the ~~preliminary investigation~~summary review, the OPC will determine whether, in the interest of the Complainant, the Respondent, and the public, the Complaint can be resolved ~~in the public interest, the Respondent's interest, and the Complainant's interest~~without the involvement of a screening panel. If the Complaint cannot be resolved or if it alleges facts that, by their very nature, should be brought before the screening panel, or if good cause otherwise exists to bring the matter before the screening panel, the OPC must:

(1) ~~serve the Respondent with~~prepare a Notice identifying with particularity the possible violation(s) of the Rules of Professional Conduct ~~or Licensed Paralegal Practitioner Rules of Professional Conduct~~ raised by the Complaint as the OPC has preliminarily determined;

(2) attach a copy of the ~~signed Complaint~~file assembled by the OPC; and

(3) ~~mail~~serve the documents ~~to the Respondent's address as reflected in the Bar's records~~on the Respondent, with a copy to the Complainant.

(g) **Answer to Complaint Notice.** Within 21 days after the Respondent is served with the ~~Complaint and~~ Notice, the Respondent must file with the OPC a signed, written answer ~~explaining the facts surrounding the Complaint, together with all defenses and responses~~responding to the claims of possible misconduct. ~~For~~ and including any relevant facts or defenses. If a request is made before the time to file an answer has expired, the OPC may, for good cause, ~~the OPC may~~ extend the time for filing an answer ~~not to exceed~~by an additional 28 days. ~~When~~After the answer is filed or ~~if the Respondent fails to respond~~after the time for filing an answer has expired, the OPC will either dismiss the Complaint or refer the case to a screening panel ~~to make a determination or recommendation for a hearing~~. The OPC must forward a copy of the answer to the Complainant.

~~(g) Dismissing the Complaint.~~

(h) Referral to Professionalism and Civility Counseling Board. The OPC may refer any matter that comes to its attention to the Professionalism and Civility Counseling Board established under Rule 4-303. That referral may be in addition to or instead of any other proceedings related to the subject matter of the referral. The referral must be in writing and—at the OPC’s discretion—may include any information submitted by the Complainant.

(i) Dismissal; declination to prosecute; notification; new evidence.

(1) ~~Reasons for dismissal~~Dismissal. The OPC may dismiss a Complaint without referral to a screening panel hearing if the OPC determines the Complaint is:

(A) frivolous, unintelligible, unsupported by fact, or fails to raise probable cause of any ~~unprofessional~~professional misconduct; or

(B) barred by the statute of limitations~~;~~.

~~(C)~~(2) Declination to prosecute. In its discretion, the OPC may decline to prosecute a Complaint without referral to a screening panel hearing, including when:

(A) the Complaint’s allegations would be more adequately addressed in another forum;

(B) a previous sanction for similar misconduct within the past two years obviates the need for an additional sanction;

(C) the Respondent has remedied the alleged misconduct and little or no harm resulted from the alleged misconduct;

(D) ~~one~~the alleged violation is merely technical or the result of a simple mistake and little or no harm resulted from the alleged misconduct;

(E) the OPC lacks adequate resources to thoroughly investigate the Complaint’s allegations; or

(F) the Complainant appears to be primarily motivated by a desire to harm an opposing party or obtain a strategic advantage in ~~which~~litigation.

108 (3) Letter of Caution. When the OPC dismisses or declines to prosecute a Complaint,
109 it may issue a letter of caution to the Respondent.

110 ~~(2)~~ 4) Notification and appeal.

111 ~~(A).~~ When the OPC dismisses or declines to prosecute a Complaint, it must:

112 ~~(i)~~ A) notify the Complainant and the Respondent that the OPC has dismissed or
113 decline to prosecute the Complaint;

114 ~~(ii)~~ B) state the reasons for dismissal or declination to prosecute; and

115 ~~(iii)~~ C) include a notice of the Complainant's right to appeal an OPC
116 ~~decision~~ dismissal or declination to the Committee chair.

117 ~~(B)~~ (5) New evidence. If the Complainant acquires new evidence material to a
118 potential violation of the Rules of Professional Conduct following the OPC's dismissal
119 or declination to prosecute, the Complainant may file a new complaint with the OPC.

120 (j) Appeal of dismissal or declination to prosecute.

121 (1) The Complainant may appeal the dismissal or declination to prosecute by
122 ~~filing~~ submitting an appeal ~~with~~ of no more than five pages to the Committee clerk ~~and~~
123 ~~serving~~ with a copy ~~of the appeal on to~~ the OPC, within 21 days after the dismissal
124 ~~notification~~ or declination is ~~mailed~~ served.

125 ~~(C)~~ On (2) The Complainant carries the burden of persuasion on appeal. The appeal
126 must identify any aspect(s) of the dismissal that the Complainant believes is
127 erroneous. If the OPC determined that the Complaint was unsupported by fact, the
128 appeal, must identify evidence in the file that supports the allegations in the
129 Complaint.

130 (3) The Complainant may, for good cause shown, seek from the Committee chair or a
131 ~~vice chair will conduct a de novo~~ additional time to file an appeal or leave to include
132 additional pages in the appeal.

133 (4) The Committee chair's review of the file, ~~either~~ on appeal will be limited to the file
134 assembled by the OPC and any publicly-available court dockets or filings.

135 (5) The Committee chair will reverse the OPC's declination to prosecute a Complaint
136 only upon finding an abuse of discretion.

137 (6) The Committee chair will reverse the OPC's dismissal of a Complaint when:

138 (A) the facts material to a potential violation of the Rules of Professional Conduct
139 are in genuine dispute;

140 (B) the OPC failed to address allegations that, if proven, would be sufficient to
141 establish probable cause of a violation of the Rules of Professional Conduct; or

142 (C) the Complainant demonstrates that the OPC erred in some other material
143 respect.

144 (7) After review, the Committee chair may:

145 (A) affirm the dismissal or declination;

146 (B) affirm the dismissal or declination with a letter of caution to the Respondent;

147 (C) reverse the dismissal or declination and require the OPC to ~~prepare a Notice~~
148 conduct additional investigation; or

149 (D) reverse the dismissal or declination and require the OPC to serve a Notice (if
150 ~~necessary~~); no Notice has been served) and set the matter for hearing by a screening
151 panel. ~~If the~~

152 (8) If the Committee chair reverses and requires the OPC to conduct additional
153 investigation, the OPC may, after conducting the additional investigation, dismiss the
154 Complaint, decline to prosecute, or prepare a Notice and set the matter for hearing by
155 a screening panel. If the OPC dismisses or declines to prosecute, the Complainant may
156 appeal under paragraph (j)(1).

157 (9) In addition to or instead of affirming or reversing the dismissal or declination, the
158 Committee chair may refer a matter to the Professionalism and Civility Counseling
159 Board.

160 (10) If the Committee chair recuses, the Committee chair will appoint ~~the~~
161 Committee vice chair or ~~one of the~~ screening panel ~~chairs~~chair to review and
162 determine the appeal.

163 Effective July 22, 2026