

1 ~~Rule 14-510. Prosecution and appeals.~~

2 Rule 11-530. (a) Informal complaint of uUnprofessional conduct Complaints.

3 (a)(1) Filing. The OPC or any person may initiate aA disciplinary proceeding ~~may be~~
4 ~~initiated~~ against any ~~member of the Bar~~ Lawyer ~~by any person, OPC counsel or the~~
5 ~~Committee,~~ by filing ~~with the Bar, in writing,~~an written informal eComplaint in
6 ~~ordinary, plain and~~ concise language setting forth the acts or omissions claimed to
7 constitute unprofessional conduct.

8 (1) If an individual initiates the Complaint, filing is complete when the
9 Complaint is delivered to the OPC office in hard copy or electronic form, or
10 through the OPC's website at opcutah.org. Upon filing, an informal complaint
11 ~~shall be processed in accordance with this article.~~

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

14 (b)(2) Form of informal eComplaint form. The ~~informal e~~Complaint need not be in
15 any particular form or style and may be by letter or other informal writing, although the
16 OPC may provide a form ~~may be provided by the OPC~~ to standardize the ~~informal~~
17 ~~complaint~~ format. ~~It is unnecessary that the~~ The informal eComplaint need not
18 disciplinary rules, ethical canons, or a prayer requesting specific disciplinary action. The
19 Complainant must sign the ~~informal e~~Complaint ~~shall be signed by the complainant~~
20 and ~~shall set forth~~ include the ~~e~~Complainant's address, and may list the names and
21 addresses of other witnesses. The ~~informal e~~Complaint ~~shall must be notarized and~~
22 contain an unsworn declaration ~~verification attesting as~~ to the accuracy of the
23 information ~~contained~~ in the ~~e~~Complaint. ~~In accordance with Rule 14-504(b),~~
24 ecomplaints filed by the OPC are not required to contain ~~a verification~~ such a
25 declaration. ~~The substance of the~~ An informal eComplaint's substance ~~shall~~ prevails over
26 the form.

27 ~~(ca)~~**(3) Initial investigation.** ~~Upon the filing of an informal~~Upon receiving a
28 eComplaint, the OPC counsel shall will conduct a preliminary investigation to ascertain
29 whether the ~~informal eComplaint's allegations is are~~ is are sufficiently clear ~~as to its~~
30 ~~allegations.~~ If ~~it is~~ the allegations are not sufficiently clear, the OPC counsel shall will
31 seek additional facts from the eComplainant; who must, upon the OPC's request,
32 submit a signed writing documents or writings containing any additional facts ~~shall also~~
33 ~~be submitted in writing and signed by the complainant.~~ Within three months after filing
34 a Complaint, the OPC must advise the Complainant concerning the initial investigation
35 of the Complaint.

36 ~~(da)~~**(4) Potential Referral to Professionalism and Civility Counseling Board.** The OPC
37 counsel may – I in connection with any conduct that comes to ~~their its~~ attention, ~~whether~~
38 ~~by means of an informal complaint, a preliminary investigation, or any other means,~~
39 ~~OPC counsel may, at its discretion, –~~ refer any matter to the Professionalism and
40 Civility Counseling Board established ~~pursuant to the~~ under Rule 14-303 ~~Supreme~~
41 ~~Court's Standing Order No. 7.~~ Such referral may be in addition to or in lieu of any
42 further proceedings related to the subject matter of the referral. Such referral should be
43 in writing and, ~~–~~ at the discretion of the OPC counsel, ~~–~~ may include any or all
44 information included in ~~an informal~~ the eComplaint or additional facts submitted by
45 ~~at the~~ eComplainant.

46 ~~(ea)~~**(5) Notice of informal complaint to Respondent.** ~~Upon completion of~~ Upon
47 completing the preliminary investigation, the OPC counsel shall will determine
48 whether the ~~informal eComplaint~~ can be resolved in the public interest, the
49 ~~Respondent's interest,~~ and the eComplainant's interest. ~~OPC counsel and/or the~~
50 ~~screening panel may use their efforts to resolve the informal complaint.~~ If the ~~informal~~
51 eComplaint cannot be ~~so~~ resolved or if it ~~sets forth~~ alleges facts ~~which~~ that, by their very
52 nature, should be brought before the screening panel, or if good cause otherwise exists
53 to bring the matter before the screening panel, the OPC counsel shall cause to be
54 served must:

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

59 (2) attach a copy of the signed Complaint; and

60 (3) mail the documents ~~serve a NOIC by regular mail upon~~ to the ~~r~~Respondent's
61 at the address ~~as~~ reflected in the ~~Bar's~~ records ~~of the Bar.~~

62 ~~The NOIC shall have attached a true copy of the signed informal~~
63 ~~complaint against the respondent and shall identify with particularity the~~
64 ~~possible violation(s) of the Rules of Professional Conduct raised by the~~
65 ~~informal complaint as preliminarily determined by OPC counsel.~~

66 ~~(fa)(6)~~ **Answer to ~~informal e~~Complaint.** Within ~~20~~1 days after the Respondent is
67 ~~serve~~ed ~~of~~with the Complaint and Notice~~NOIC on the respondent~~, the ~~r~~Respondent
68 ~~shall~~must file with the OPC ~~counsel~~ a signed, written ~~and signed~~ answer ~~setting forth~~
69 ~~in full an explanation of~~explaining the facts surrounding the ~~informal e~~Complaint,
70 together with all defenses and responses to the claims of possible misconduct. For good
71 cause ~~shown~~, the OPC ~~counsel~~ may extend the time for ~~the~~ filing ~~of~~ an answer ~~by the~~
72 ~~respondent~~ not to exceed an additional ~~30~~28 days. ~~Upon~~When the answer ~~having been~~is
73 filed or if the ~~r~~Respondent fails to respond, the OPC ~~counsel shall~~will refer the case to a
74 screening panel to make a ~~for investigation, consideration and~~ determination or
75 recommendation. The OPC ~~counsel shall~~must forward a copy of the answer to the
76 Complainant.

77 ~~(ga)(7)~~ **~~Dismissal of informal~~ Dismissing the eComplaint.**

78 (1) Reasons for dismissal. The OPC ~~counsel~~ may dismiss ~~an informal a~~
79 Complaint without referral to a screening panel hearing if the OPC determines
80 the Complaint is: ~~An informal complaint which, upon consideration of all factors,~~
81 ~~is determined by OPC counsel to be~~

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

84 (B) barred by the statute of limitations;

85 (C) more adequately addressed in another forum; or unsupported by fact
86 or which does not raise probable cause of any unprofessional conduct,

87 (D) ~~or one in~~ which the OPC declines to prosecute, ~~may be dismissed by~~
88 ~~OPC counsel without hearing by a screening panel.~~

89 (2) Notification and appeal.

90 (A) When the OPC dismisses a Complaint, it ~~OPC counsel shall~~ must:

91 (i) notify the eComplainant and the Respondent that the OPC has
92 dismissed the informal eComplaint;

93 (ii) ~~and of such dismissal~~ stating the reasons ~~therefor~~ for dismissal;
94 and

95 (iii) include a notice of the Complainant's right to appeal an OPC
96 decision to the Committee chair.

97 (B) The eComplainant may appeal a the dismissal ~~by OPC counsel~~ by filing
98 ~~written notice of an appeal~~ with the ~~Clerk of the~~ Committee clerk and
99 -serving a copy of the notice appeal on the OPC within ~~15~~ 21 days after
100 ~~notification of~~ the dismissal notification is mailed ~~and serving the notice~~
101 on the OPC.

102 (C) ~~On~~ Upon appeal, the Committee chair or a vice chair ~~shall~~ will conduct
103 a de novo review of the file, either affirm the dismissal or require the OPC
104 ~~counsel~~ to prepare a ~~NOIC~~ Notice (if necessary), and set the matter for
105 hearing by a screening panel. ~~In the event of~~ if the chair's recusales, the
106 chair ~~shall~~ will appoint the vice chair or one of the screening panel chairs
107 to review and determine the appeal.

