

## COMPLAINT PROCEDURES

### A. Purpose

Public defenders represent clients in periods of exceptional crisis, and at times when they do not have the funds to hire attorneys of their own choosing. When problems arise during representation, the clients have few remedies through the courts and Board of Professional Responsibility.

For these reasons, the North Dakota Commission on Legal Counsel for Indigents (The Commission) must maintain a system to respond to client complaints promptly, fairly, and respectfully. These Standards are intended to establish a uniform client complaint system for public defenders throughout North Dakota.

### B. Definition of a Client Complaint

A client complaint is a client's written expression of dissatisfaction regarding professional services provided to a public defender client by a lawyer or support staff member. A written expression is required to fully comprehend the nature of the client's expressed concerns and the appropriate response.

If a client is incompetent, her or his legal guardian may make a complaint.

A request to substitute a new attorney is not a complaint unless it accompanies a statement of dissatisfaction with the current attorney.

### C. Concerns by Third Parties

Expressions of dissatisfaction regarding professional services to a client, by family members, court personnel, or others, are not client complaints. However, such an expression must be responded to by the person who would be responsible for responding to a client complaint. The response must explain to the dissatisfied party how the client could make a complaint. The expression of dissatisfaction should be reported to the lawyer or staff member involved in writing.

Public defense supervisors must take particular care in listening to concerns by parents of juvenile court clients. Supervisors should respond courteously and as informatively as possible, keeping in mind that the child is the person with whom the attorney-client relationship exists.

#### D. Formal Complaint Process

The Commission on Legal Counsel for Indigents provides indigent defense services to eligible clients in North Dakota district and juvenile courts. If you have an "appointed attorney," he or she is employed by our agency as a "public defender" or has contracted with our agency to provide representation to indigent clients. Please note, you do NOT have the right to an appointed attorney of your own choice. If you are dissatisfied with your appointed attorney, first let the attorney know what your objection is, and try to resolve your problem. Your attorney will remain your attorney, unless he or she withdraws as counsel, in writing, and the Commission permits the withdrawal (at the beginning of a case), or the judge orders (at any time after the attorney has made "an appearance" in the case) that the attorney is released from the case. If you have a general complaint to lodge against your attorney, you may file a written complaint with the Commission.

Commission on Legal Counsel for Indigents

P.O. Box 149  
Valley City, ND  
58072

Your complaint must include the following:

- 1) your name
- 2) your address
- 3) your phone number
- 4) your attorney's name
- 5) the name(s) of the charge(s), and the county in which you are charged
- 6) the case number(s), if you know it/them

- 7) a detailed explanation of your complaint
- 8) a statement of what you would like done

If you believe your attorney has committed an ethical violation as defined in the North Dakota Rules of Professional Conduct, you should submit a written complaint to the Disciplinary Board of the North Dakota State Bar Association.

Office of Disciplinary Counsel

P.O. Box 2297  
Bismarck, ND  
58502-2297  
701-328-3925

E. Duty to Respond

Any employee may receive a client complaint. If that employee is not the appropriate person to respond to the complaint, the complaint should be referred to the appropriate person as defined in Part F of these standards. Once the complaint has been received by the appropriate person to respond to it, that person should do the following:

1. identify the issue.
2. conduct an appropriate investigation.
3. consider appropriate solutions.
4. choose the best resolution possible under the circumstances.
5. communicate the resolution to the client.
6. maintain the complaint and response as described in G., below.

F. Referral

The appropriate person to respond to a client complaint about an attorney is the Executive Director or Deputy Director of the Commission. The appropriate person to respond to a client complaint about any other person is the immediate supervisor of that person.

When the impartiality of the appropriate supervisor could reasonably be questioned, the complaint should be referred to the Executive Director.

#### G. Documentation

The Commission must maintain a confidential record of the parties involved, the nature of the complaint, and the nature of the resolution of the complaint, for a period of time consistent with the State of North Dakota records retention policy.

*Adopted on April 26<sup>th</sup>, 2006. Amended on November 23<sup>rd</sup>, 2020.*