



The Office of the Indiana Attorney

General


Perspectives on Professional Licensing

Enforcement

~ and ~

Disciplinary Actions

Step 1: A person files a consumer complaint with our office.



CONSUMER COMPLAINT
Office of the Indiana Attorney General
(R4 / 11-16)

INSTRUCTIONS: To prevent delay, please be sure to complete **both sides** of this form in full. Please print clearly or type. **Do not include your Social Security Number** on this form or in any accompanying documents. **Please note:** If you have already obtained a judgment, or there is pending litigation, we may be limited or unable to take further action on your complaint.

Section 1: Your Information			
Salutation <input type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/> Dr. <input type="checkbox"/> Miss <input type="checkbox"/> Rev.		Street Address	
Full Name or Organization/Agency		City	State Zip Code
If an Organization/Agency provide a Primary Contact Name		County	Daytime Phone
Age Group <input type="checkbox"/> 18-24 <input type="checkbox"/> 25-34 <input type="checkbox"/> 35-44 <input type="checkbox"/> 45-54 <input type="checkbox"/> 55-59 <input type="checkbox"/> 60+		Email Address	
		May we contact you by email? If yes, we will not contact you by regular mail <input type="checkbox"/> Yes <input type="checkbox"/> No	
		Are you or your spouse active military? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Section 2: Who is the Complaint Against?			
Individual/Business		Name of Individual/Representative you dealt with	
Street Address		City	State Zip Code
County	Daytime Phone	Email Address	

Section 3: Transaction/Incident Details	
3-A: Date of Transaction/Incident	3-B: If a Transaction, what was the Transaction for? <input type="checkbox"/> My business <input type="checkbox"/> My family/household <input type="checkbox"/> My farm <input type="checkbox"/> Non-Profit/Church
3-C: Where did the Transaction/Incident occur? (check box where applicable)	
<input type="checkbox"/> My home <input type="checkbox"/> By Internet/Email <input type="checkbox"/> At the location of the business <input type="checkbox"/> By Telephone <input type="checkbox"/> Away from the location of the business (work, convention, etc.) <input type="checkbox"/> By Social Media <input type="checkbox"/> By Mail <input type="checkbox"/> Other _____	
3-D: What was the very first contact between you and the Individual/Business?	
<input type="checkbox"/> I telephoned the individual/business <input type="checkbox"/> I received information in the mail <input type="checkbox"/> I responded to a printed advertisement	

What is a consumer complaint?

- Consumer feels legally wronged by someone in the course of a transaction

Attorney General's Jurisdiction

- Our office only has jurisdiction to try cases that we are specifically authorized to try under the law.
- Ind. Code § 25-1-11-5 provides the general set of statutes for prosecuting violations of surveyors and engineers (and others)

Who may file a consumer complaint?

- As a matter of law...anyone.
- Except for employees of the Attorney General's office acting in their official capacity, a complaint may be filed by any person..." Ind. Code § 25-1-7-4.

How can a person file a consumer complaint?

- <http://www.indianaconsumer.com/>
- In person at our office
- By mail
- Must be in writing

Everyone is our constituent; not
just those who file complaints.

Step 2: An investigation is conducted.

- If a licensee is under investigation, he or she will know about it.
- Every story has two sides. If a complaint is brought, we want to hear the accused party's side too.

The Investigative Process (Pt. I)

- A complaint relevant to our division (e.g. a complaint against a professional surveyor) is routed to us.
- The Supervising DAG assigns a DAG to the case, who in turn assigns the matter to an investigator or analyst to investigate.
- Opening letters go out at the DAG's discretion - in most cases both the Complainant and the Respondent (the licensee subject to the complaint) receive a letter.

The Investigative Process (Pt. II)

- The opening letters request further information from both sides.
- If you are the Complainant, it is best to attach as much evidence as possible when you file the complaint. Sharpens investigation and speeds the process.
- The investigator or analyst may follow up to request further information: asking questions or seeking documentation.
- Complainant should be responsive and cooperative. Investigations that might otherwise have merit end may be closed due to lack of cooperation from the Complainant.

The Investigative Process (Pt. III)

- If you are the Respondent, the opening letter that you receive will give you a copy of the allegations made against you, and will ask you for your response.
- As needed, the State does have the right to compel testimony from a Respondent or other witnesses in order to investigate a complaint.

The Investigative Process (Pt. IV)

- The process can take time. A few month investigation is a reasonably quick one.
- Our staff handles hundreds of investigative files at a time, and in some cases we cannot control the timetable; waiting for responses from witnesses or other parties that we subpoena for information can make for a lengthy process.
- Frustration is understandable - investigations hanging over the heads of both Complainants and Respondents. Goal is to wrap things up as efficiently as possible.
- However, the right result is worth more than a quick result.

Step 3: The investigation is concluded; a legal decision is made.

- Investigator/analyst gathers evidence, formulates summary and recommendation.
 - Charge, Close, or Close with Warning Letter.
- Three-step approval process:
 - Deputy Attorney General
 - Supervising Deputy Attorney General
 - Liaison from the State Board of Registration for Professional Surveyors or Engineers.

Step 4a. Closures

- Two Forms of closure:
 - Close
 - Close with a Warning Letter

Step 4b. Charges

- A charge is recommended and fully approved.
- An Administrative Complaint or another appropriate pleading is filed.
- The license litigation process begins.

Step 5 (optional): Settlement Conferences

- The licensee, now a Respondent for purposes of litigation, may request a settlement conference.
- The State may or may not be agreeable to settling the matter short of an administrative hearing.
- Attended by DAG, Respondent, Board Liaison, and in some cases witnesses.
- Informal, non-binding proceeding.

Step 5 (optional): Settlement Conferences (Pt. II)

- The possible sanctions that can be imposed on a licensee are:
 - Financial Penalties
 - Civil Penalties (up to \$1,000 per violation)
 - Payment of restitution
 - Payment of cost of proceedings
 - \$5 health records fee
 - Letter of Reprimand
 - Censure
 - Probation on license
 - Suspension of license
 - Permanent revocation of license

Step 5 (optional): Settlement Conferences (Pt. III)

- Subject to approval by the Board.
- If settlement possibilities are exhausted or either party does not wish to settle, we go to hearing.

Step 6: Disciplinary Hearing

- The Board schedules a hearing and serves notice to both the State and the Respondent.
- Respondent has the right to be represented at hearing by an attorney (at his or her own cost).
- Respondent may also simply show up and represent themselves.
- Possible results of hearing – discipline or finding of no violation.

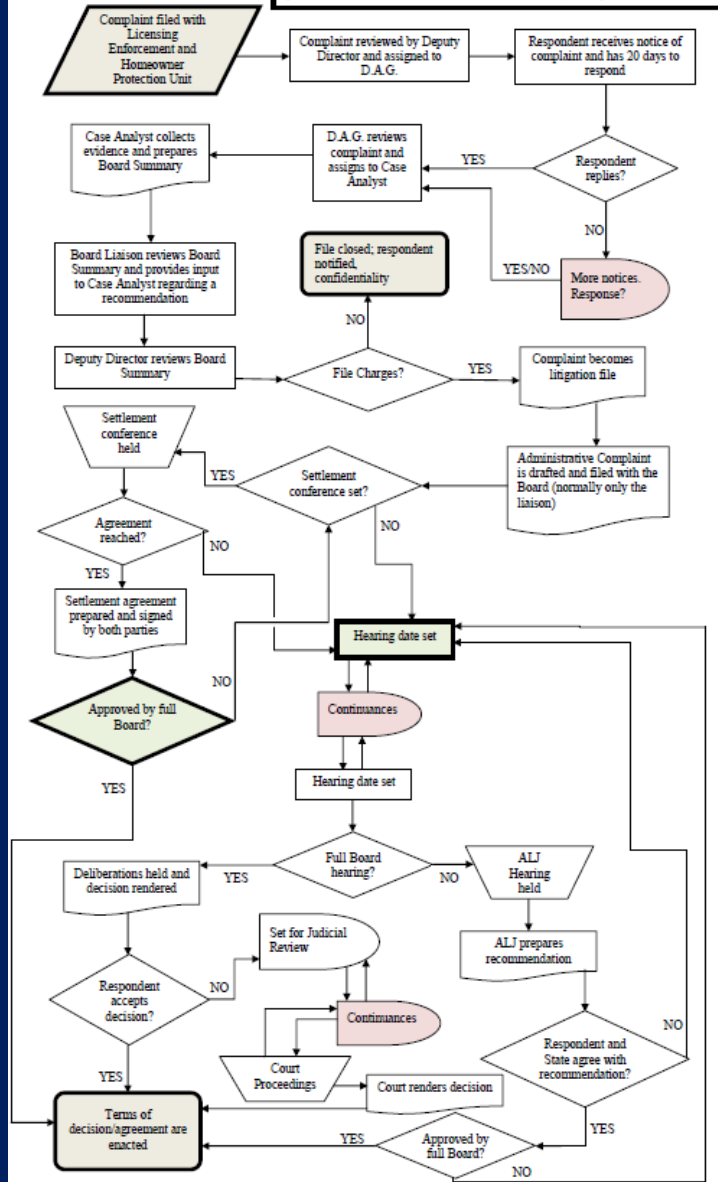
Step 6: Disciplinary Hearing (Results)

- Board will decide and vote whether or not Respondent has committed any violations.
- If the Board finds that the Respondent has committed no violations, the case is closed without imposition of any sanctions.

Step 6: Disciplinary Hearing (Results)

- If the Board finds violations, the possible sanctions are:
 - Financial Penalties
 - Civil Penalties (up to \$1,000 per violation)
 - Payment of restitution
 - Payment of cost of proceedings
 - \$5 health records fee
 - Letter of Reprimand
 - Censure
 - Probation on license
 - Suspension of license
 - Permanent revocation of license

FLOWCHART SHOWING COMPLAINT/HEARING PROCESS
(PREPARED BY GARY R. KENT 10/01/2011)



Statutes and Rules Governing the Surveying and Engineering Professions

IC 25-1-11-5(a)(1)

- IC 25-1-11-5(a)(1)(A): Engaging in or knowingly cooperating in fraud or material deception in order to obtain a license to practice.
- IC 25-1-11-5(a)(1)(B): Engaging in fraud or material deception in the course of professional services or activities.
- IC 25-1-11-5(a)(1)(C): Advertising services or goods in a false or misleading manner.
- IC 25-1-11-5(a)(1)(D): Being convicted of a crime or assessed a civil penalty involving fraudulent billing practices.

IC 25-1-11-5(a)(2)

- IC 25-1-11-5(a)(2)(A): Being convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently.
- IC 25-1-11-5(a)(2)(B): Being convicted of a crime that is harmful to the public.

IC 25-1-11-5(a)(3)

- IC 25-1-11-5(a)(3): Knowingly violating a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed.

IC 25-1-11-5(a)(4)

- IC 25-1-11-5(a)(4)(A): Continuing to practice despite becoming unfit to practice due to professional incompetence.
- IC 25-1-11-5(a)(4)(B): Continuing to practice despite becoming unfit to practice due to failure to keep abreast of current professional theory or practice.
- IC 25-1-11-5(a)(4)(C): Continuing to practice despite becoming unfit to practice due to physical or mental disability.
- IC 25-1-11-5(a)(4)(D): Continuing to practice despite becoming unfit to practice due to addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely.

IC 25-1-11-5(a)(5)

- IC 25-1-11-5(a)(5): Engaging in a course of lewd or immoral conduct in connection with the delivery of services to the public.

IC 25-1-11-5(a)(6)

- IC 25-1-11-5(a)(6): A practitioner allowing his or her name or license to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence.

IC 25-1-11-5(a)(7)

- IC 25-1-11-5(a)(7): A licensee having had disciplinary action taken against themselves or their license to practice in another state or jurisdiction on grounds similar to those under IC 25-1-11.

IC 25-1-11-5(a)(8)

- IC 25-1-11-5(a)(8): Assisting another person in committing an act that would constitute a ground for disciplinary sanction under this chapter.

IC 25-1-11-5(a)(9)

- IC 25-1-11-5(a)(9): Allowing a license issued by a board to be used by another person or displayed to the public when the license has expired, become inactive, or been revoked or suspended.

IC 25-1-11-5(a)(10)

- IC 25-1-11-5(a)(10): Failing to comply with a board order imposing sanctions pursuant to IC 25-1-11-5(a)(12).

IC 25-15-8-1.5

- A licensee may not display public credentials of a license that is no longer active, whether it has been revoked or has expired.

IC 25-15-8-7

- A practitioner must notify the Board of a change of name or residential address within 30 days of the change.

Indiana Administrative Code

- Each Registration Board also has its own rules that a licensee must be complied with

Current Statistics – License Status

Status	Engineers	Surveyors
Probation	4	4
Suspension	15	14
Revocation	40	12
Cease and Desist	0	0
Voluntary surrender	6	13
Emergency suspension	0	0

Complaint Statistics

	Engineers	Surveyors
Complaints open 1/1/17	2	13
Complaints opened in 2017	8	10
Complaints closed in 2017	3	4
Complaints open 1/1/18	7	19
Complaints opened in 2018	1	0
Complaints closed in 2018	1	2
Average age of open complaints	6.7 months	11.1 months

Litigation Statistics

	Engineers	Surveyors
Litigation cases open 1/1/17	3	5
Litigation cases opened in 2017	0	0
Litigation cases closed in 2017	1	4
Litigation cases open 1/1/18	2	1
Litigation cases opened in 2018	1	0
Litigation cases closed in 2018	0	0
Average age of open cases	23.6 months	37.8 months

Final Thoughts