The South Carolina Department of Labor, Licensing and Regulation (LLR) licenses more than 350,000 individuals or companies through its 41 professional and occupational licensing boards.

Each year, LLR’s Office of Investigation and Enforcement (OIE) receives complaints relating to approximately 2 percent of its licensees, and LLR staff frequently receives questions from licensees regarding what happens once a complaint is filed against them. This brochure has been developed to help licensees know what to expect when a complaint is filed against them.

The Complaint

An initial complaint is accepted by the agency in writing. When the complaint comes in, OIE assigns it to a complaint analyst, who reviews the complaint to determine if a violation of the board’s practice act may have occurred. This process generally takes seven days.

If the complaint analyst determines the complaint does not reasonably allege a violation of the board’s practice act, the complaint is classified as a “Do Not Open” case. A letter is then sent to the complainant letting him or her know why the case was not opened. The case is then officially closed.

If the complaint analyst determines the complaint does reasonably allege a violation of the board’s practice act, the case is assigned to an investigator.

The Investigation

Within 30 days of the case being assigned to an investigator, the licensee (now referred to as a respondent) receives a letter from the investigator advising him or her that a complaint has been filed. The letter includes details of the allegation(s) and requests a written response from the respondent. (For general contractors and residential builders, respondents are notified of substandard work and that a site inspection will be scheduled.)

LLR is often asked whether a respondent should provide a written reply to the investigator. The reply to the investigator is the respondent’s opportunity to communicate to the agency his or her version of the events leading up to the complaint. The agency cannot advise whether a response should be provided because any communication provided to the agency may be used in a legal proceeding. Many respondents consult with an attorney for proper legal guidance. However, if a respondent does not provide a response, the investigation will still continue and the investigator’s findings will be made without any input from the respondent.

The investigator conducts a thorough inspection and may issue subpoenas under South Carolina Code of Laws, Section 40-1-80 (B), for records relevant to the investigation, and conduct interviews. Investigations are generally complete within 60-180 days.

When the investigative process is complete, the investigator prepares a summary report to be reviewed by a chief investigator. The report details the relevant statute or regulation violation(s) and supporting evidence. The final summary report is then presented to an Investigative Review Committee (IRC) for consideration.
The Investigative Review Committee’s Role

The IRC reviews the results of the investigation to determine whether sufficient evidence exists of a violation of the practice act to warrant formal proceedings. The Committee consists of the chief investigator, the board administrator, an LLR attorney from the Office of General Counsel, and a professional member(s) appointed by the Board who is not an LLR employee or current board member.

After thorough review, the IRC makes a recommendation to the board to: dismiss the complaint, issue a formal complaint, or issue a letter of caution.

IRC recommendations are presented to the board, which has final say on case disposition.

The Board Response

The Board can accept the recommendation of the IRC or make its own determination.

If the board decides to:
- Dismiss the complaint – The board administrator sends a letter to the respondent, and the case is closed.
- Issue a formal complaint – The Office of General Counsel prepares a formal complaint outlining the charges and alleged statutory violations. The formal complaint is served on the respondent.
- Issue a letter of caution – The board administrator issues a non-disciplinary letter of caution that explains the board has determined no statutory violation exists, and that the matter is dismissed. However, the letter cautions the respondent to be mindful of a particular statute or regulation.

The Formal Complaint

If based on the facts a formal complaint is warranted, the Investigative Review Committee often sets resolution parameters that contain proposed sanctions. In some cases, the respondent is given an opportunity to sign a consent agreement where the facts, statutory violations, and sanctions are agreed to by the state and the respondent. The consent agreement is then presented to the board for disposition. The board can accept or reject the consent agreement.

In lieu of signing a consent agreement or other negotiated resolution, a respondent can choose to have a full hearing before the board. The hearing before the board is a contested case under the Administrative Procedures Act. Each board has a disciplinary process outlined in its practice act. For specific provisions, please look at the practice act for your profession or occupation.

The Hearing

A hearing before the board is similar to a court proceeding and is conducted pursuant to the Administrative Procedures Act. The parties are the State, which is represented by an attorney from LLR’s Office of General Counsel, and the respondent. The respondent has the right to appear alone or be represented by his or her attorney.

The State presents its case first and has the burden to prove the allegations in the complaint. The respondent then presents his or her case. After the case concludes, the Board deliberates in executive session. After coming out of executive session, the board takes a vote on disposition of the case or takes the matter under advisement.

The Sanctions

Sanctions are derived from statutes and regulations and vary among the boards. However, sanctions generally range from a private or public reprimand up to license revocation.

The Final Order

After the hearing has concluded, the board will issue an order. The board may find a statutory violation has occurred and issue an order setting forth specific findings of facts and conclusions of law that support its ruling. Alternatively, the Board may issue an order dismissing the complaint. All board orders, except those designated as private and those dismissing a case, are public under the South Carolina Freedom of Information Act and are placed on the agency’s website. A Respondent has 30 days to appeal an adverse order of the board to the Administrative Law Court.