

# The Adjudication of Lawyer Discipline Matters in Louisiana

Louisiana Supreme Court Rule XIX



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## Mark S. Dupuis

Chair  
Hearing Committee



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# Overview of the System

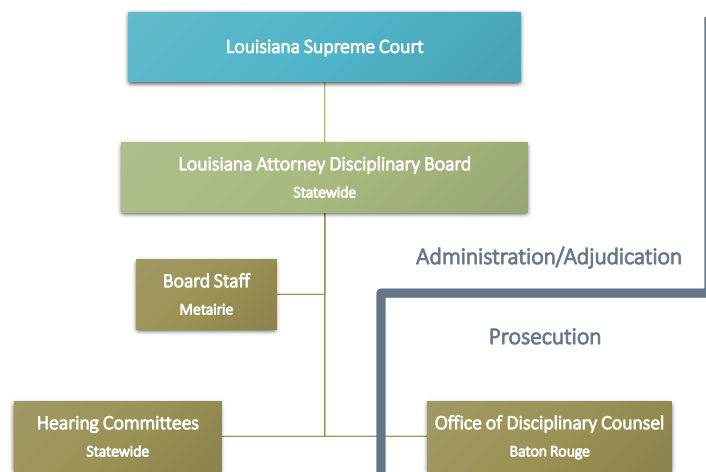
A System of Volunteers



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## Structure of the Agency



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# Louisiana Supreme Court

Authority: Exclusive right to regulate lawyers in LA

Jurisdiction:

Any lawyer admitted in LA

Pro Hac Vice

Any lawyer rendering or offering to render legal services in LA

Ultimate decision-maker in **most** lawyer discipline matters



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## Louisiana Attorney Disciplinary Board

Composition & Terms

10 lawyers, 4 public members (*i.e.* non-lawyers)

Appointed by LA Supreme Court

3-year terms; no more than 2 terms

Adjudicative Committee

9 members

*3 panels – Chairperson, Lawyer Member, Public Member*

Appellate review & other adjudicative tasks

Administrative Committee

5 members

Financial, human resources, etc.



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## Hearing Committees – “Trial Court”

### Composition & Terms

2 lawyers, 1 public member

*Chairperson, Lawyer Member, Public Member*

Appointed by the Board (Admin Committee)

3-year terms, no more than 2 consecutive terms

Initial triers of fact

Conduct hearings

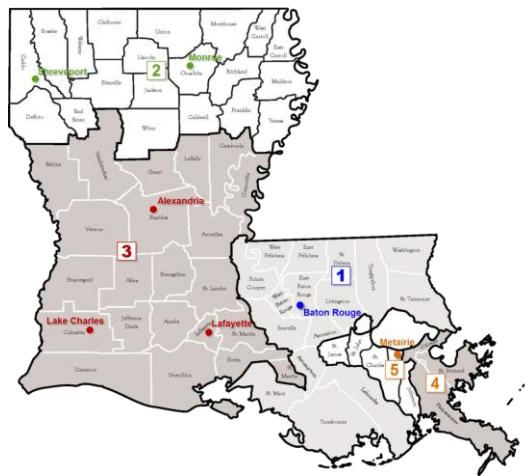
Review & approve other filings by ODC



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## Hearing Committee Locations



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## Board Staff – “Clerk of Court”

### Composition

Administrator – Donna L. Roberts  
 General Counsel & 3 Staff Attorneys  
 Docket Clerks & Paralegals  
 IT

### Functions

Clerk of Court  
 Legal counsel & training for HC & Board members  
 CLEs, special projects, etc.



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## Office of Disciplinary Counsel – “District Attorney”

### Composition

Chief Disciplinary Counsel – Chuck Plattsmier  
 Deputy Counsel (9)

Receives & screens complaints  
 Conducts investigations  
 Prosecutes



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# The Discipline Process

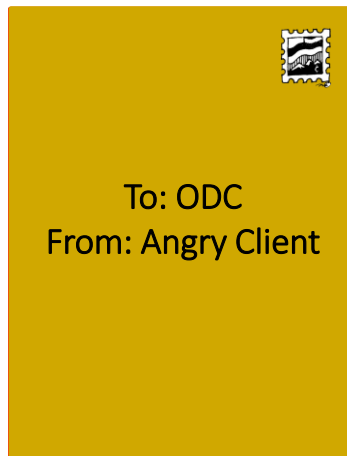
From Complaint to Final Adjudication



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## How does it all start?



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## What is a Complaint?

**Any** information coming to the attention of ODC

Does **not** have to originate with a client

Friends/relatives of clients

Attorneys/judges

Creditors

Information in the media

Approximately 3,100 complaints filed per year



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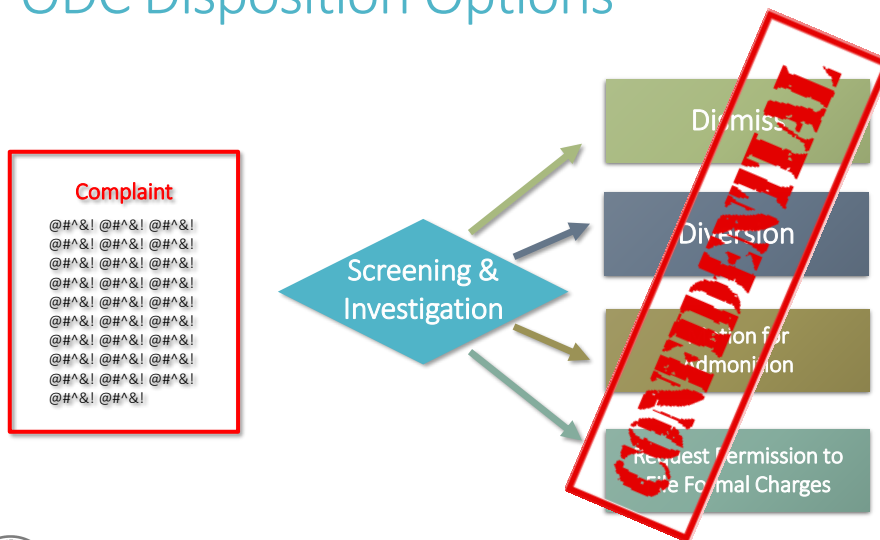
## Screening & (Potential) Investigation



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## ODC Disposition Options



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## Dismissal of a Complaint

ODC has the discretion to dismiss complaints...

However, Complainant may appeal...

ODC's entire file reviewed by HC

Abuse of discretion

HC approves or disapproves (*i.e.* remand)

No direct communication btw. HC & parties

Complainant may appeal to Board and Court



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## Diversion

No “adjudicative” involvement

Similar to criminal diversion...

Reserved for minor misconduct with little or no injury

Diversion monitored by LSBA Practice Assistance Counsel

Lawyer executes a contract

*Practice Assistance Counsel, ODC, Lawyer*

If successfully completed, the complaint is dismissed

May be considered as “prior misconduct” if there are future Rule violations



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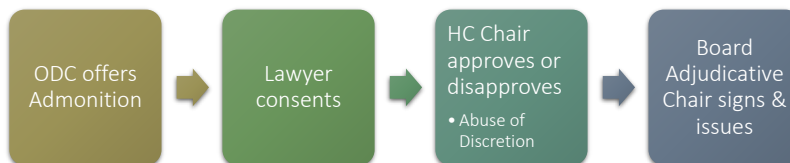
## Motion for Admonition

Admonition - order telling the lawyer what he/she did wrong

Reserved for cases of minor misconduct w/ little or no injury

Lawyer must consent

Can be imposed only **prior** to filing of formal charges



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## Request for Permission to File Formal Charges – “Grand Jury”

Probable Cause

Reviewed by HC Chair (or Lawyer Member)

HC Chair approves or disapproves



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## Interim Suspension – “The TRO”

“Substantial threat of serious harm to the public”

ODC files petition w/ LASC

LASC **may** order a hearing before HC

ODC **shall** file petition when lawyer convicted of “serious crime”

“Serious Crime” -

“a felony or any other crime, the necessary element of which  
as determined by the statute defining such crime, reflects  
upon the attorney’s fitness to practice law.”

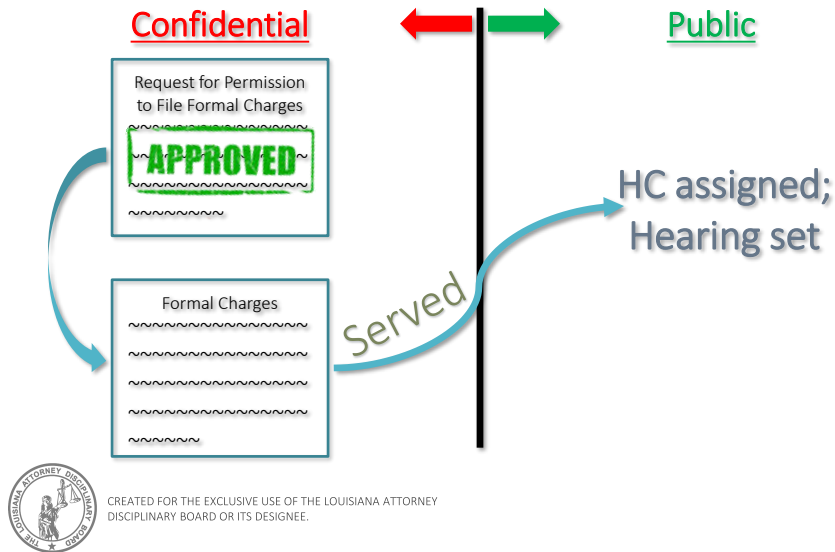
*Louisiana Supreme Court Rule XIX, §19(B)*



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## Initiation of a Public Disciplinary Proceeding



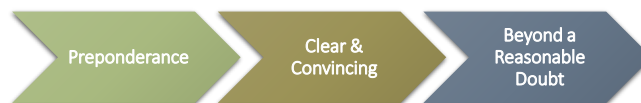
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## Formal Charges

Formal allegations of prof. misconduct (*i.e.* RPC violations)

Burden – ODC

Standard – Clear & Convincing Evidence



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## Formal Charge Proceeding



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## “Deemed Admitted” Rule

Answer must be filed within 20 days of service

If not, factual allegations can become “deemed admitted”

ODC will file “deemed admitted” motion

HC Chair will rule

20 days to file motion to recall

*Must demonstrate “miscarriage of justice”*

*LASC has been very liberal with recalls*

No hearing held unless mitigation hearing demanded



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## The Hearing & Report

Hearing similar to typical criminal trial - ODC v. Lawyer

The complainant is **NOT** a party

HC members **can and will** question witnesses

HC charged with creating a clear record

LASC wants a “full” record

HC report:

Factual findings

Credibility determinations

Rule violations

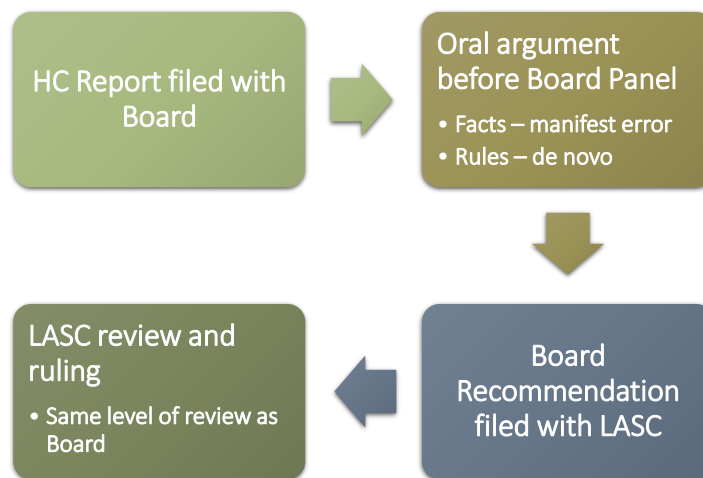
Sanction recommendation (if rules are violated)



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## After the Hearing...



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## Public Sanctions

Public Reprimand

Suspension (up to 3 years)

Disbarment (can apply for readmission after 5 years)

Permanent Disbarment



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## Louisiana Rules of Evidence & Procedure

Discipline Matters are *Sui Generis*



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## Rules of Evidence are Relaxed

LASC is “guided but not confined by strict application of the Code of Evidence”

*In re Quaid, 646 So.2d 343 (La. 11/30/94).*

Prior testimony admissible if opportunity to cross-examine

*Louisiana Supreme Court Rule XIX, §18(B)*

When in doubt, allow the proffer.



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## Criminal Convictions

Typically, matter does not proceed until conviction is final

Certificate of Conviction = Conclusive evidence of guilt

Sole issue – whether crime warrants discipline

Lawyer may offer mitigating evidence not inconsistent with essential elements of the crime

*Louisiana Supreme Court Rule XIX, §19(E)*



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## LACCP applies, except...

No dispositive motions

Does not apply to discovery except depositions & subpoena

*Louisiana Supreme Court Rule XIX, §18(B)*



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# 2018:

Stats & Numbers



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## 2018 - Complaints & Formal Charges

COMPLAINTS FILED

FORMAL CHARGES FILED

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## 2018 - Sanctions

Sanction	Total
Permanent Resignation	6
Permanent Disbarment	4
Disbarment	14
Suspension	36
Public Reprimand	5
Admonition (Private)	3



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## 2018 – Other Actions

Action	Total
Probation Revoked	1
Reinstatement/Readmission Granted	7
Reinstatement/Readmission Denied	1



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## Volunteering as HC Member

### Lawyers:

- LA law license must be in good standing
- Licensed at least 5 years

Cannot hold elected or appointed public office

Cannot represent individuals before the LADB

Pass background check



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