

1.5: PART IV- ATTORNEY ETHICS

All attorneys who practice law are subject to a Code of Ethics and can be professionally disciplined for failing to meet minimal performance and ethical standards.

How ATTORNEYS ARE professionally disciplined.

Complaints alleging attorney misconduct whether brought by clients, fellow attorneys, or others can be made to an attorney grievance commission. The commission conducts a thorough investigation, and issues a written report, either dismissing the complaint or recommending to the Appellate Division, that the attorney be disciplined in one of three ways ranging from least to most serious.

Censure: This is a public statement that an attorney has done something wrong. Censure is the least serious form of attorney discipline. While embarrassing to the attorney, it does not include any restrictions on the attorney's right to continue to practice law in NYS.

Suspension: This is for more serious professional misconduct. It requires an attorney to take a "leave" from the practice of law in NYS for a period of time ranging from months to years. It may require restitution and/or rehabilitation measures such as counseling and treatment for alcohol and/or drug abuse. A written report that a suspended attorney's problem has been resolved may result in his/her re-instatement to practice law.

Disbarment: This is the most serious of all attorney discipline measures, and results in a lifetime ban on any further practice of law in NYS. With reciprocity agreements, it is also a lifetime ban on the practice of law in any other state as well. An attorney's felony conviction that has not been reversed on appeal is a reason for disbarment. Other possible grounds for disbarment include creation of evidence known to be false, perjury, and assisting a client in conduct known to be illegal. Some attorneys choose to voluntarily resign from the Bar when facing imminent disbarment. Upon a voluntary resignation from the Bar, the lifetime ban on the practice of law is the same as for disbarment. Voluntary resignation amounts to an attorney opting for a face-saving action. President Clinton chose to resign from the Arkansas Bar, rather than face pending perjury charges.

Analogous to attorney disciplinary actions applicable to NYS judges, from least serious to most serious, are censure, admonition, and removal from office, with resignation always an ultimate alternative.

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