



SENATE BILL 790: State Bar Review Committee Recommendations.

2023-2024 General Assembly

Committee:	Date:	August 15, 2024
Introduced by:	Prepared by:	Kristen L. Harris
Analysis of:		Staff Attorney

OVERVIEW: *S.L. 2024-25 makes various changes to Article 4 (North Carolina State Bar) in Chapter 84 (Attorneys-At-Law) of the North Carolina General Statutes, as recommended by the State Bar Review Committee, as follows:*

- *Requires the North Carolina State Bar (State Bar) to provide a copy of the complaint and supporting materials when issuing a letter of notice to a respondent attorney, when requested by the respondent attorney, and to provide certain other materials and information when recommending disciplinary action against the respondent attorney.*
- *Allows a respondent attorney to address the Grievance Committee and hear the Office of Counsel's presentation to the Grievance Committee.*
- *Allows the chair of the Grievance Committee to designate a person a vexatious complainant if the complainant has initiated grievances to the State Bar warranting dismissal in a manner and volume that amounts to an "abuse of the bar disciplinary process."*
- *Specifies who can file a grievance with the State Bar.*

S.L. 2024-25 also requires the State Bar to adopt rules to implement an expungement process for certain disciplinary actions against respondent attorneys by the State Bar, as recommended by the State Bar Review Committee.

This act became effective August 1, 2024, and applies to grievances filed on or after that date.

CURRENT LAW:

Letter of Notice

Pursuant to 27 NCAC 01B.0107(2) and 27 NCAC 01B.0105, when the State Bar determines there is probable cause to believe a respondent attorney has violated the Rules of Professional Conduct, a letter of notice with a brief description of the rule allegedly violated and the pertinent facts will be sent to the respondent attorney.

Proceedings before the Grievance Committee

Meetings before the Grievance Committee to determine whether there is probable cause to believe a respondent is guilty of misconduct justifying disciplinary action are closed. Only counsel, deputy counsel, the testifying witness, interpreters, a stenographer, or an operator of a recording device can be present while the committee is in session. 27 NCAC 01B .0113

Standing

A grievance can be filed by any person against a member of the State Bar. 27 NCAC 01B.0111

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Director



Legislative Analysis
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919-733-2578

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BILL ANALYSIS:

Section 1.(a) requires the State Bar, when issuing a letter of notice to a respondent attorney and when requested by the respondent attorney, to provide a copy of the complaint and any supporting materials. If the complaint is submitted by an attorney or judge, pursuant to his or her professional obligations to report misconduct, the State Bar can redact his or her identifying information.

If the Office of Counsel recommends disciplinary action against a respondent attorney, the State Bar, pursuant to rules adopted by the Council, must provide the attorney with all non-privileged, non-work product material and financial audits provided to the Grievance Committee in the respondent attorney's matter and any evidence in the State Bar's possession which indicates the respondent attorney did not engage in the alleged misconduct or certify that it does not possess any such evidence. The materials required to be provided to the respondent attorney must be provided at least 30 days prior to the Office of Counsel's presentation to the Grievance Committee.

The respondent attorney is allowed to address the Grievance Committee and hear the Office of Counsel's presentation of the factual basis for its recommendation.

Section 1.(b) makes a conforming change.

Section 1.(c) allows the chair of the Grievance Committee to designate a person a vexatious complainant if the complainant has initiated grievances to the State Bar warranting dismissal in a manner and volume that amounts to an "abuse of the bar disciplinary process" which includes inappropriate, repetitive, or frivolous actions or communications by the complainant, but goes beyond conduct that is merely contentious or unsuccessful. A notice of the designation is mailed to the complainant's last known address. If a person designated as a vexatious complainant does not request a review of the designation, the designation is final and not subject to further review.

A vexatious complainant can seek review of the designation by filing a request for review with the chair of the Disciplinary Hearing Commission (DHC). The Office of Counsel can file a response to the request for review. Based on the written submissions, the chair of the DHC can either uphold or vacate the designation. The designation is final and conclusive and not subject to review or reversal.

The Office of Counsel is not required to review and process subsequent grievances from a vexatious complainant unless the grievance is submitted with a verification signed by the complainant that the alleged misconduct is true under penalty of perjury and is submitted on his or her behalf by a member of the State Bar who has an active license, is not a vexatious complainant him or herself, and is not currently the respondent in a pending grievance investigation or the defendant in a disciplinary proceeding. If the vexatious complainant is a licensed North Carolina attorney, the grievance must be submitted on his or her behalf by a member of the State Bar who has an active license, is not a vexatious complainant him or herself, and is not currently the respondent in a pending grievance investigation or the defendant in a disciplinary proceeding.

Section 1.(d) allows the following individuals, in addition to the State Bar, to file grievances with the State Bar:

- An attorney or judge pursuant to their obligation to report misconduct in accordance with the Rules of Professional Conduct.
- A judge, attorney, court staff member, juror, party, or client in the legal matter that is the subject of the grievance.
- A person who has a cognizable interest in or connection to the legal matter or facts alleged in the grievance, or that person's representative.

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Section 1.(e) allows the State Bar to adopt rules to implement the new discipline and disbarment statutory provisions and the new vexatious complainant and standing statutes.

Section 2.(a) requires the State Bar to adopt temporary rules to implement an expungement process for certain disciplinary actions against respondent attorneys by the State Bar by October 31, 2024, and permanent rules by January 31, 2025. The rules must be consistent with recommendations by the State Bar Review Committee.

Section 2.(b) makes a conforming change.

EFFECTIVE DATE: The act became effective August 1, 2024, and applies to grievances filed on or after that date.

BACKGROUND: The State Bar Review Committee met five times between January 24, 2024 and March 14, 2024. A copy of the Committee's Final Report can be found [here](#).