

The Investigative Process

The Alabama Licensure Law, Title 34, Chapter 11, Code of Alabama 1975, establishes the authority of the State of Alabama Board of Licensure for Professional Engineers and Land Surveyors to regulate the practice of engineering and land surveying. The Board is responsible for receiving and investigating complaints placed against both licensed professionals and unlicensed individuals who are offering or performing engineering or land surveying services in the State of Alabama. In addition, the Board has the authority to conduct investigations, enforce regulations and impose sanctions when a violation of any provision of the Licensure Law and the Administrative Code has occurred. The following is a description of the investigative process of the Board.

Receipt of Complaint

Step 1

Upon receipt of a complaint, an investigative committee is appointed consisting of a Board Member that directs the investigation, the Board Executive Director, Board Counsel and Board Investigator. The committee then sends a letter to the Complainant acknowledging receipt of the complaint and to the Subject notifying them of the complaint. The Subject is advised to respond to the complaint within fourteen days.

The Subject has the right to seek legal counsel at any stage of the investigation.

Response from Subject

Step 2

The Subject provides a response to the complaint and the **investigation** continues.

Investigation

Step 3

The Investigative Process involves several steps which sometimes require months to complete..

1. Tech Review

Complaints concerning competency issues are forwarded to a Board Technical Advisor with expertise in the questioned area of practice. The questioned documents are sanitized, (all identifying information is removed) and the Advisor is requested to provide a report within 30 days. Once the report of the Board Technical Advisor is received a copy is sanitized and forwarded to the Subject for review and response. A copy of the response or comments made by the Subject relative to the report is sanitized and forwarded to the Board Technical Advisor for review.

2. Interviews

The complainant, Subject and witnesses are interviewed.

3. Site Visit

If necessary, an investigator will travel to the site of the complaint and document its condition.

4. Report

The investigator prepares the investigative report which contains information obtained through interviews, technical reviews and documents obtained during the investigation. The report and case file are then provided to the remaining members of the investigative committee for review.

Investigative Committee Review

Step 4

The Investigative Committee reviews the case file and Investigator's report to determine if probable cause does or does not exist that a violation occurred. The Investigative Committee then formulates a course of action which may include one or more of the following options:

1. Close without disciplinary action.

2. Close with informal disciplinary action, Letter of caution, reprimand, etc., (non-public record)
3. Close with formal disciplinary action, **Consent Order** or **Formal Hearing** (public record)
4. Present to Circuit Court for criminal prosecution.
5. Refer to other agencies for their action.

POSSIBLE OUTCOMES

Step 5

1. Consent Order

A Consent Order is a proposed settlement agreement between the Investigative Committee and Subject. Once the Subject and Investigative Committee agree to a Consent Order, it is presented to the Board for approval at a scheduled meeting. If the Board accepts the proposed Consent Order, a Final Order will be issued which concludes the case. Both the Consent Order and Final Order then become public record.

If the Consent Order is rejected, the Board then provides instruction to the Investigative Committee as to the continued investigation.

2. Formal Hearing

Formal Hearings are routinely held at the office of the Board and the proceedings are conducted by an Administrative Law Judge. The Board may or may not be present. Charges are mailed to the Subject a minimum of 30 days prior to the scheduled date of a Formal Hearing. Subpoenas to appear will be issued to the appropriate individuals and if requested, the Board may issue subpoenas for additional witnesses.

Within 30 days after the hearing, or 30 days after receipt of the Administrative Law Judge recommendations, the Board will determine whether any disciplinary action should to be taken as set forth in Title 34, Chapter 11, Code of Alabama 1975, § 34-11-11.

The Board's Final Order is sent to the Subject via certified and regular mail and the Order becomes public record.

3. Appeal of Formal Hearing Orders

Once a Final Order is issued by the Board the Subject may file an application to the Board for rehearing pursuant to the Alabama Administrative Procedures Act within 15 days of the date the Board issues it's Final Order. In addition, pursuant to the Alabama Administrative Procedures Act an appeal of the Board's Final Order may be filed with the Circuit Court of Montgomery County within 30 days of the date the Board issues a Final Order.

4. Informal Hearing

The Investigative Committee, with the agreement of the Subject, may request an informal hearing before the Board at a regularly scheduled meeting. These are routinely held at the office of the Board and the proceedings are conducted by the Board Chair. The Board will be present. As with any stage of the complaint process, the Subject may be represented by legal counsel. The actions that may result from an informal hearing are: (1) No action taken, (2) private reprimand or (3) public reprimand.

Please feel free to contact Mr. Rick Huett, Assistant Executive Director of the Board, directly at (334) 242-5049 or toll free at (866) 461-7640 if you have any questions or need assistance.