

DISCIPLINARY COUNSEL INVESTIGATIVE PROTOCOL

1. Sworn complaint is received and evaluated by Disciplinary Counsel's office. As part of this initial evaluation, additional information may be requested from complainant if needed for evaluation.
2. If complaint, plus any additional information obtained, alleges specific facts (not conclusions), that would cause a reasonable person to believe there is a substantial probability that the conduct involved violates TCA 17-5-302, Disciplinary Counsel initiates a preliminary investigation. If the complaint does not allege said facts, Disciplinary Counsel summarily dismisses the complaint. TCA 17-5-304(a).
3. Upon summary dismissal, Disciplinary counsel notifies the complainant of the dismissal and of the complainant's right to appeal the dismissal to an investigative panel. The Judge against whom the complaint is made is also advised of the complaint, dismissal, and given a copy of the complaint.
4. Preliminary investigations are normally started by advising the applicable Judge of the complaint, and asking the Judge for a non-sworn explanation of the matters raised in the complaint, that might indicate a violation within the jurisdiction of the Court of the Judiciary. Other interviews and the examination of applicable evidence may also occur during the preliminary investigation.
5. When Disciplinary Counsel believes, after the preliminary investigation, that facts alleged are true which would cause a reasonable person to believe that a substantial violation of TCA 17-5-305 has occurred, Disciplinary Counsel shall recommend to the investigative panel assigned to the case that a full investigation be authorized. Disciplinary counsel may also ask that a full investigation be authorized when there are grounds to believe that evidence that would cause a reasonable person to believe that a substantial violation has occurred could be obtained by subpoena or other further investigation. In all other cases Disciplinary Counsel will recommend that the matter be dismissed. TCA 17-5-304(b)(2).
6. The investigative panel reviews the recommendations of the Disciplinary Counsel and either dismisses the complaint or authorizes a full investigation. TCA 17-5-304(b)(3).
7. A full investigation is characterized by the giving of notice to the judge being investigated of the specific allegations being investigated, the canons or rules allegedly violated, the judge's duty to respond, the judge's opportunity to meet with

Disciplinary Counsel, and generally the name of the complainant.. This notice is sent to the judge by certified mail by Disciplinary Counsel. TCA 17-5-304(c)(1)(A-D). It is at this stage of the investigation that permission may be sought for the use of administrative Subpoenas. TCA 17-304(b)(1)

8. At the conclusion of the full investigation Disciplinary Counsel may recommend to the investigative panel any or any combination of dismissal, private reprimand or censure, public reprimand or censure, deferred discipline agreement, the filing of formal charges, referral to an appropriate agency, or a stay. TCA 17-5-304(d)(1)(A-E).