

CHAPTER 4

PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

Rule 6.4.1

Reviewing and Resolving Complaints

A. Written notice of the procedure for resolving complaints will be provided in each courtroom at the adult client's first appearance. The child's attorney must provide written notice of the procedure to a child 10 years of age or older or to the caregiver of a child under 10 years of age. Information regarding the procedure will be available in the clerk's office.

B. Any participant who has a complaint about the performance of a juvenile court attorney may lodge a written complaint with the court hearing the matter (hereinafter, the court).

C. Upon receipt of a written complaint, the court will notify the attorney in question and his or her supervisor, if any, provide the attorney with a copy of the complaint and give the attorney 20 days from the date of the notice to respond to the complaint in writing. The attorney should attempt to obtain an informal resolution of the matter before responding to the complaint.

D. After the attorney has responded to the complaint or the time for submission of a response has passed, the court will review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or policies of the court or has acted incompetently. The court may ask the complainant or the attorney for additional information before making a determination on the complaint.

E. If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted contrary to the rules or policies of the court, the court may reprove the attorney, either privately or publicly, and may, in cases of willful or egregious violations of local rules or policies, issue such reasonable monetary sanctions against the attorney as the court may deem appropriate.

F. If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six months, that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have acted incompetently, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the court may order additional hearings to determine whether that attorney should be relieved. The court may refer the matter to the State Bar of California for further action.

G. The court will notify the attorney at the attorney's address of record and the complaining party in writing of its determination of the complaint. If the court makes a finding of improper conduct, incompetence, or harm to the client under subdivision E. or F., the attorney may request a hearing in writing concerning the court's proposed action. If the attorney does not request a hearing within 10 days from the date the notice was sent, the court's determination will become final.

H. If the attorney requests a hearing, the hearing will be held as soon as practicable after the attorney's request therefor, but in no case will it be held more than 30 days after it has been requested except by stipulation of the parties. The complainant and the attorney will each be given at least 10 days' notice of the hearing. The hearing may be held in chambers. The hearing will not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or other member of the Bar to act as hearing officer.

I. At the hearing, each party will have the right to present arguments to the hearing officer with respect to the court's determination. Such arguments must be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within 10 days after the hearing, the court or hearing officer will issue a written determination upholding, reversing, or amending the court's original determination. The hearing decision will be the final determination of the court with respect to the matter. A copy of the hearing decision will be provided to both the complainant and the attorney.

J. Nothing in these rules precludes any person or public agency from pursuing rights afforded them by any other statute or rule of law.

(Adopted 1/1/1997; Renum. 7/1/2001; Rev. 1/1/2002; Renum. 1/1/2006; Rev. 1/1/2010)