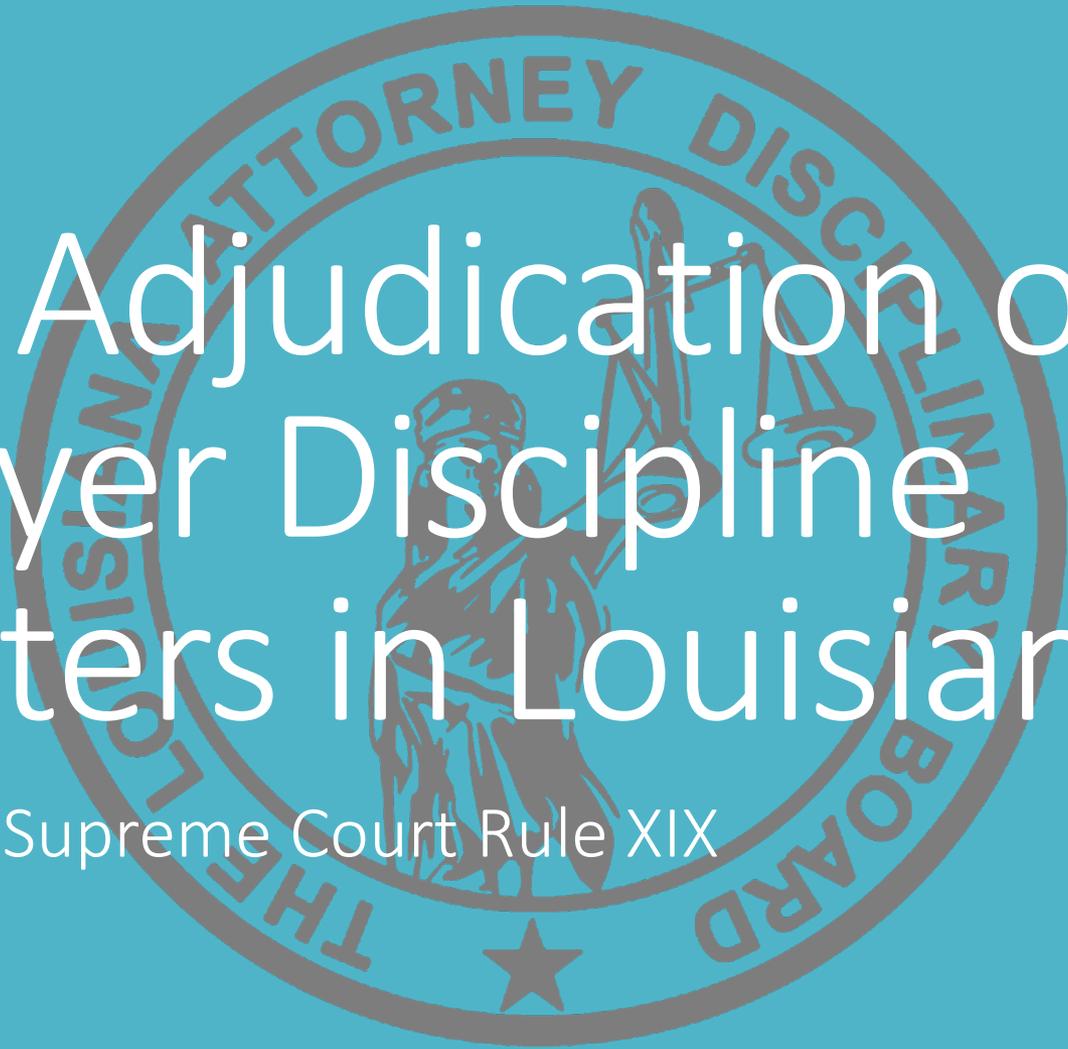


The Adjudication of Lawyer Discipline Matters in Louisiana

Louisiana Supreme Court Rule XIX



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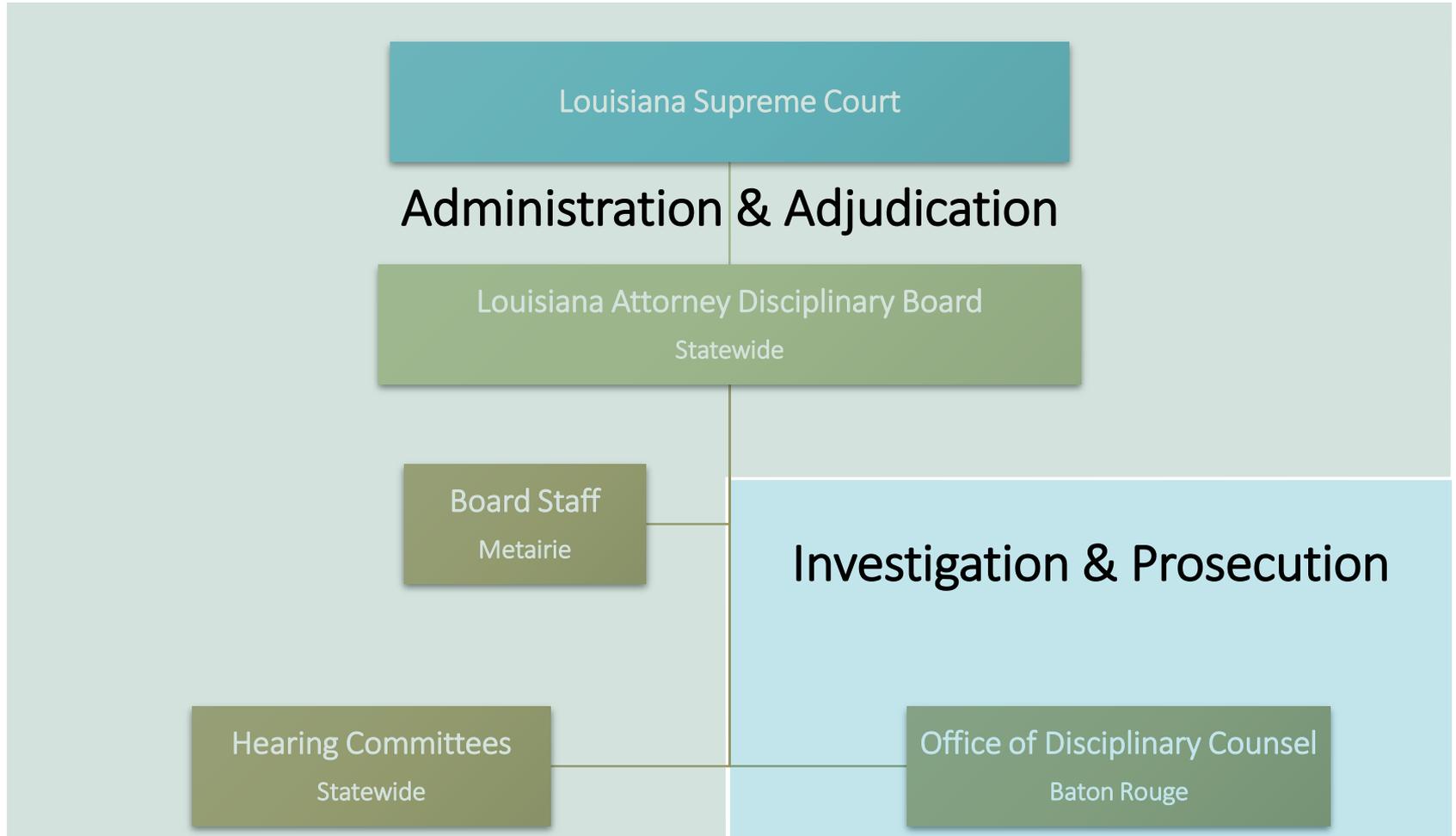
Overview of the System

A System of Volunteers



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Structure of the Agency



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Louisiana Supreme Court

Authority: Exclusive right to regulate lawyers in LA

Jurisdiction:

Any lawyer admitted in LA

Pro Hac Vice

Any lawyer rendering or offering to render legal services in LA

Ultimate decision-maker in *most* lawyer regulatory matters



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Louisiana Attorney Disciplinary Board

Composition & Terms

10 lawyers, 4 public members (*i.e.* non-lawyers)

Appointed by LA Supreme Court

3-year terms; no more than 2 terms

Adjudicative Committee

9 members

3 panels – Chair, Lawyer Member, Public Member

Appellate review & other adjudicative tasks

Administrative Committee

5 members

Financial, human resources, etc.



Hearing Committees – “Trial Court”

Composition & Terms

2 lawyers, 1 public member

Chair, Lawyer Member, Public Member

Appointed by the Board (Admin Committee)

3-year terms, no more than 2 consecutive terms

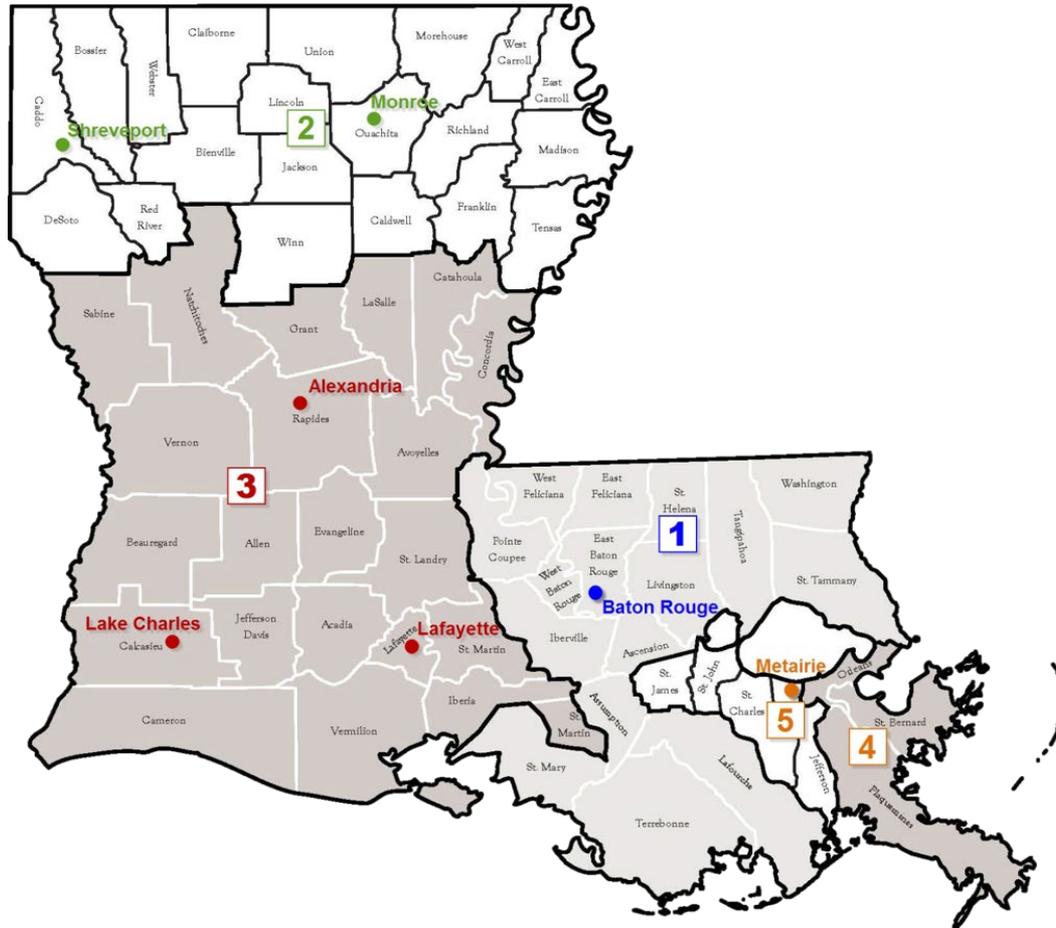
Initial triers of fact

Conduct hearings

Review & decide other filings by ODC



Hearing Committee Locations



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Board Staff – “Clerk of Court”

Composition

Administrator – Donna L. Roberts

General Counsel & 3 Attorneys

Docket Clerks

IT

Functions

Clerk of Court

Legal counsel & training for HC & Board members

CLEs, special projects, etc.



Office of Disciplinary Counsel – “District Attorney”

Composition

Chief Disciplinary Counsel – Chuck Plattsmier
Deputy Counsel (10)

Receives & screens complaints

Conducts investigations

Prosecutes



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The Discipline Process

From Complaint to Final Adjudication



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How does it all start?



To: ODC
From: Angry Client

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What is a Complaint?

Any information coming to the attention of ODC

Does *not* have to originate with a client

Friends/relatives of clients

Attorneys/judges

Creditors

Information in the media

Approximately 2,700 complaints filed per year

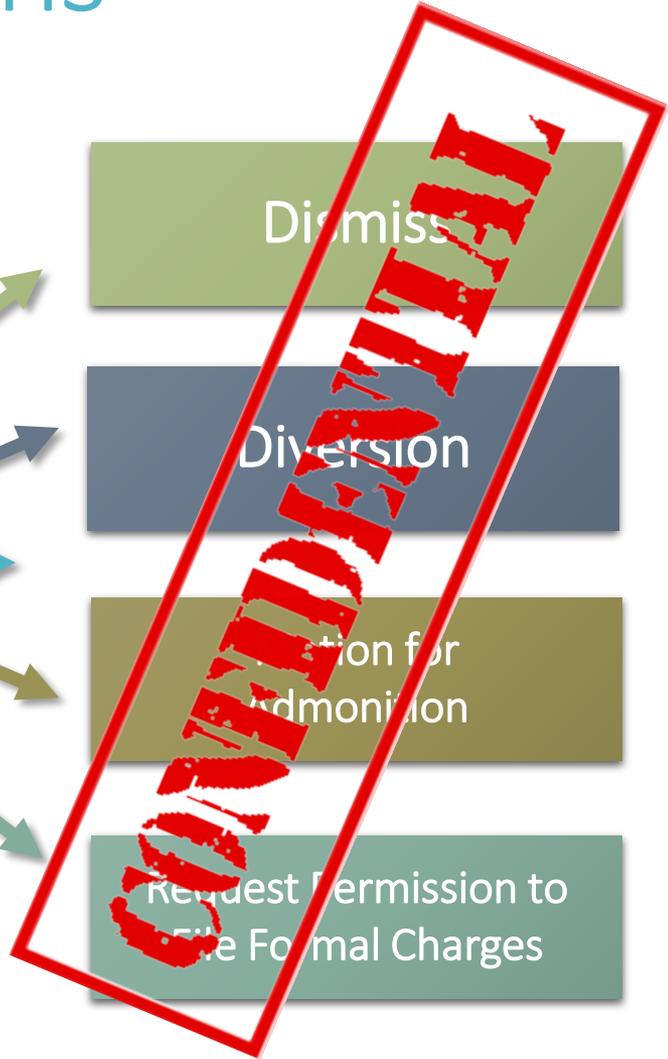
Average of complaints filed in 2016, 2017, and 2018



Screening & (Potential) Investigation



ODC Disposition Options



Dismissal of a Complaint

ODC has the discretion to dismiss complaints...

However, Complainant may appeal...

ODC's entire file reviewed by a Hearing Committee

Abuse of discretion standard

HC approves or disapproves of the dismissal

No direct communication btw. HC & parties

Complainant may appeal HC decision to Board and Court



Diversion

No “adjudicative” involvement

Similar to criminal diversion...

Reserved for minor misconduct with little or no injury

Diversion monitored by LSBA Practice Assistance Counsel

Lawyer executes a contract

Practice Assistance Counsel, ODC, Lawyer

If successfully completed, the complaint is dismissed

May be considered as “prior misconduct” if there are future Rule violations

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Motion for Admonition

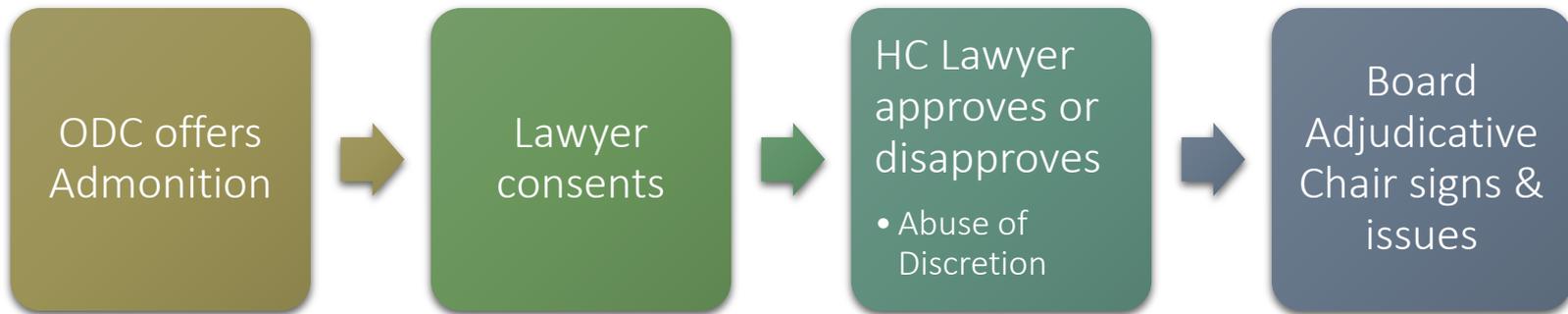
Admonition - order telling the lawyer what he/she did wrong

Reserved for cases of minor misconduct w/ little or no injury

Lawyer must consent

Can be imposed only *prior* to filing of formal charges

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Request for Permission to File Formal Charges – “Grand Jury”

Probable Cause

Reviewed by HC Lawyer

HC Lawyer approves or disapproves



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Interim Suspension – “The TRO”

“Substantial threat of serious harm to the public”

ODC files petition w/ LASC

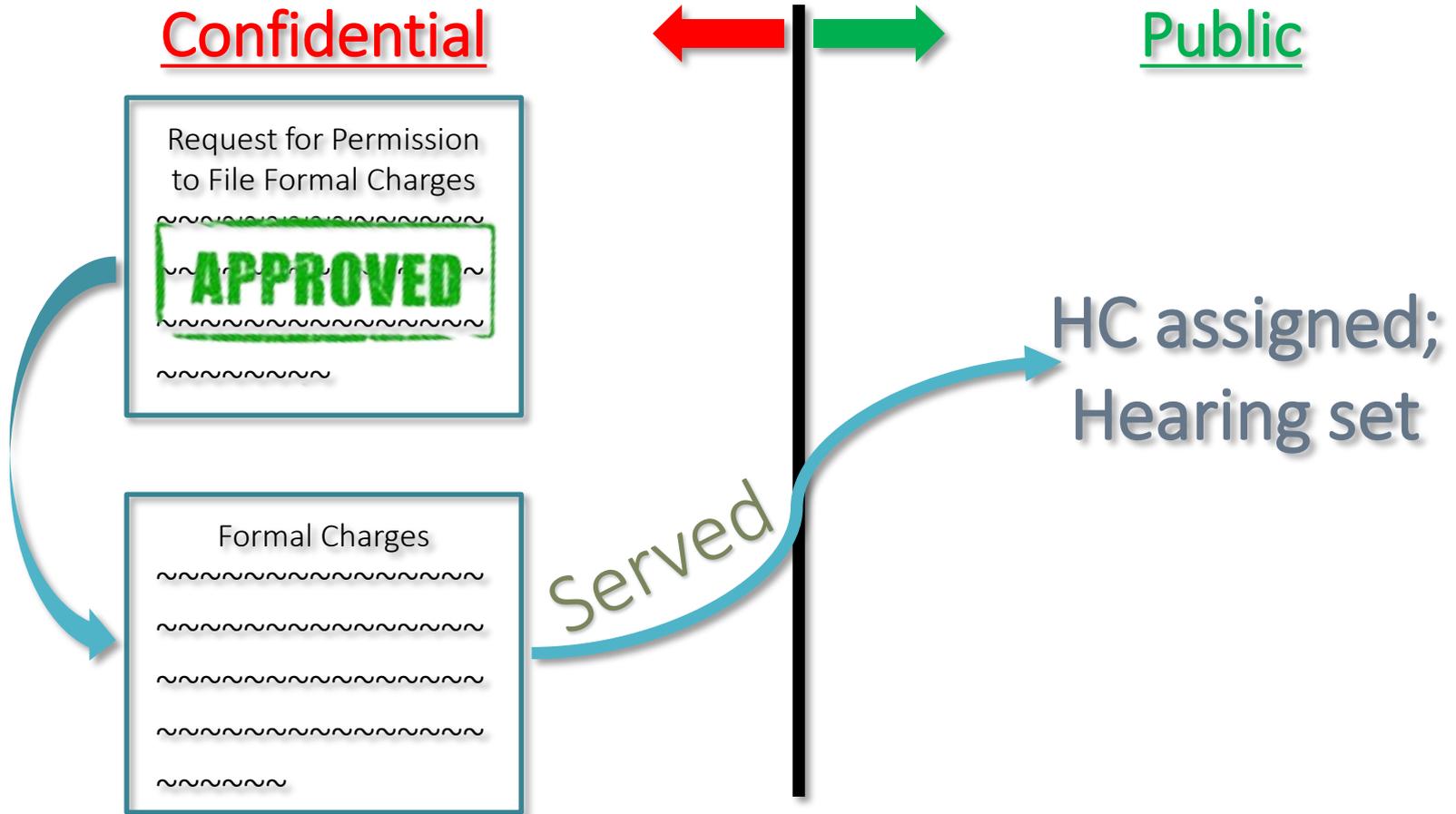
LASC *may* order a hearing before HC

ODC *shall* file petition when lawyer convicted of “serious crime”

“Serious Crime” - Louisiana Supreme Court Rule XIX, §19(B)



Initiation of a Public Disciplinary Proceeding



Confidential

Public

Request for Permission
to File Formal Charges

APPROVED

Formal Charges

Served

HC assigned;
Hearing set



Formal Charges

Formal allegations of professional misconduct (*i.e.* RPC violations)

Burden – ODC

Standard – Clear & Convincing Evidence



Formal Charge Proceeding



“Deemed Admitted” Rule

Answer must be filed within 20 days of service

If not, factual allegations can become “deemed admitted”

ODC will file “deemed admitted” motion

HC Chair will rule

20 days to file motion to recall

Must demonstrate “miscarriage of justice”

LASC has been very liberal with recalls

No hearing held unless mitigation hearing demanded



The Formal Charge Hearing & Report

Hearing similar to typical criminal trial - ODC v. Lawyer

The complainant is **NOT** a party

HC members **can and will** question witnesses

HC charged with creating a clear record

LASC wants a “full” record

HC report:

Factual findings

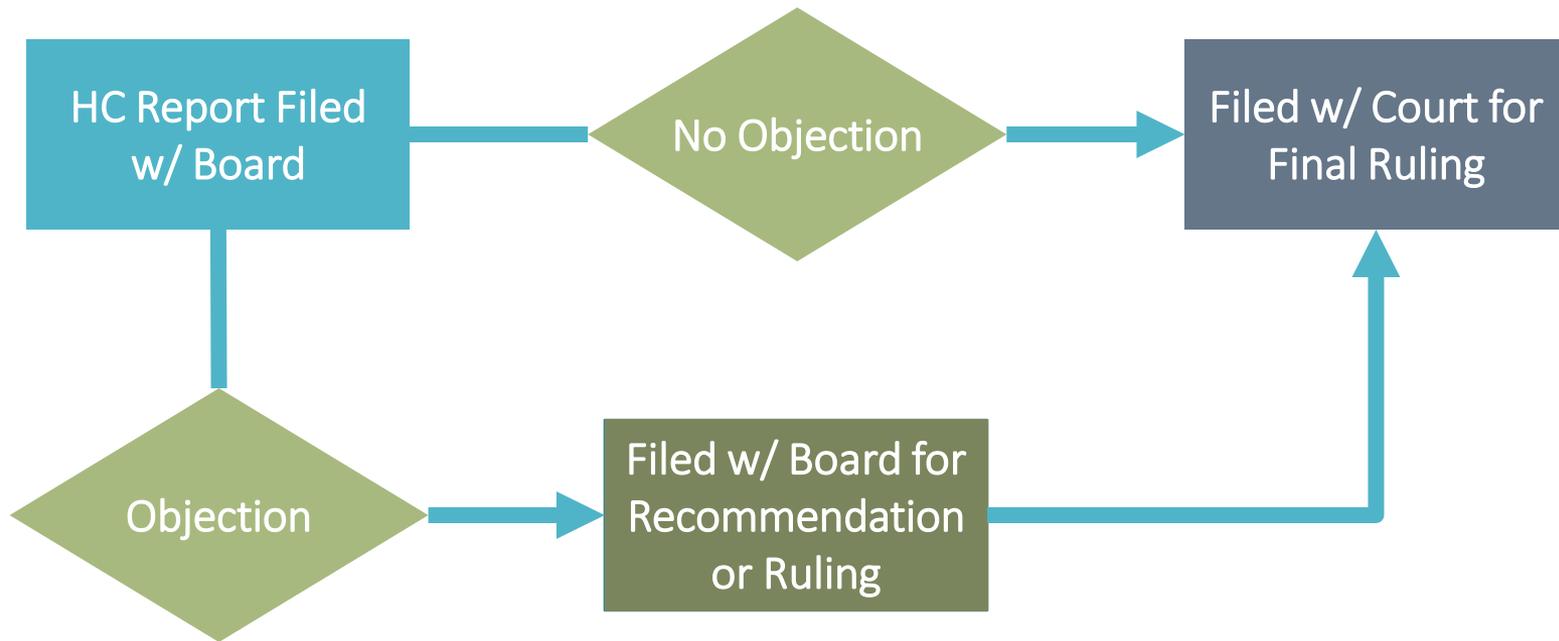
Credibility determinations

Rule violations

Sanction recommendation (if rules are violated)



After the HC Report



Public Sanctions

Public Reprimand

Suspension (up to 3 years)

Disbarment (can apply for readmission after 5 years)

Permanent Disbarment



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Louisiana Rules of Evidence & Procedure

Discipline Matters are *Sui Generis*



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Rules of Evidence are Relaxed

LACE “shall guide, but not restrict the development of a full evidentiary record.”

Louisiana Supreme Court Rule XIX, §18(B)

Prior testimony admissible if opportunity to cross-examine

Louisiana Supreme Court Rule XIX, §18(B)

Proffers are allowed.



Criminal Convictions

Typically, matter does not proceed until conviction is final

Evidence of Conviction = Conclusive evidence of guilt

Sole issue – whether crime warrants discipline

Lawyer may offer mitigating evidence not inconsistent with essential elements of the crime

Louisiana Supreme Court Rule XIX, §19(E)



LACCP applies, except...

No dispositive motions

Does not apply to discovery except depositions & subpoena

Louisiana Supreme Court Rule XIX, §18(B)



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Other Proceedings Under Rule XIX...



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Other Proceedings...

Disability

Reinstatement/Readmission

Probation Revocation

Conditional Admission Revocation



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2018 Numbers



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2018 - Complaints & Formal Charges

COMPLAINTS FILED

FORMAL CHARGES FILED

2532

77



2018 - Sanctions

Sanction	Total
Permanent Resignation	6
Permanent Disbarment	5
Disbarment	14
Suspension	37
Public Reprimand	5
Admonition (Private)	4



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2018 – Other Actions

Action	Total
Probation Revoked	1
Reinstatement/Readmission Granted	7
Reinstatement/Readmission Denied	1



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Conclusion



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Volunteering as HC Member

Lawyers:

LA law license must be in good standing

Licensed at least 5 years

Cannot represent individuals before the LADB

No more than 2 members from the same firm

Cannot hold elected or appointed public office

Pass background check



Practice Guide

www.ladb.org



Louisiana Attorney Disciplinary Board Formal Hearing Practice Guide

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