



“Everything You Need To
Know To Avoid A State
Bar Grievance, You
Learned In Kindergarten”

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NORTH CAROLINA
STATE BAR

The 2010 Lawyer's Handbook



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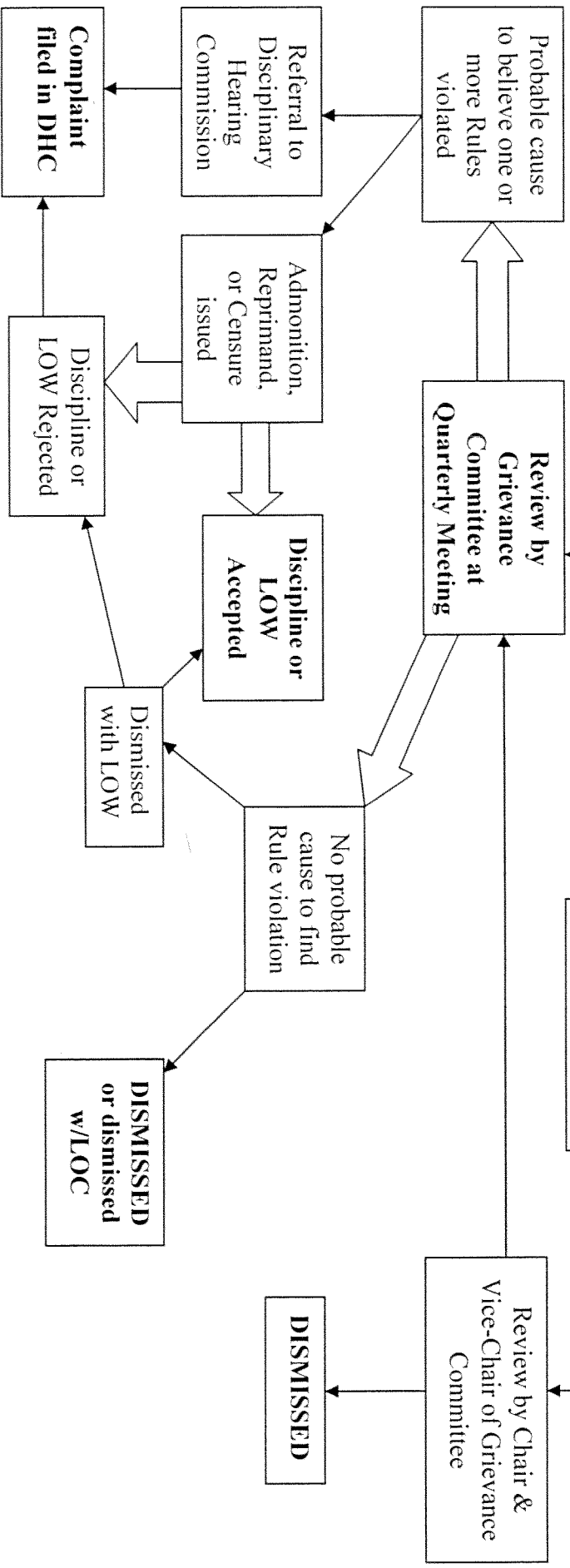
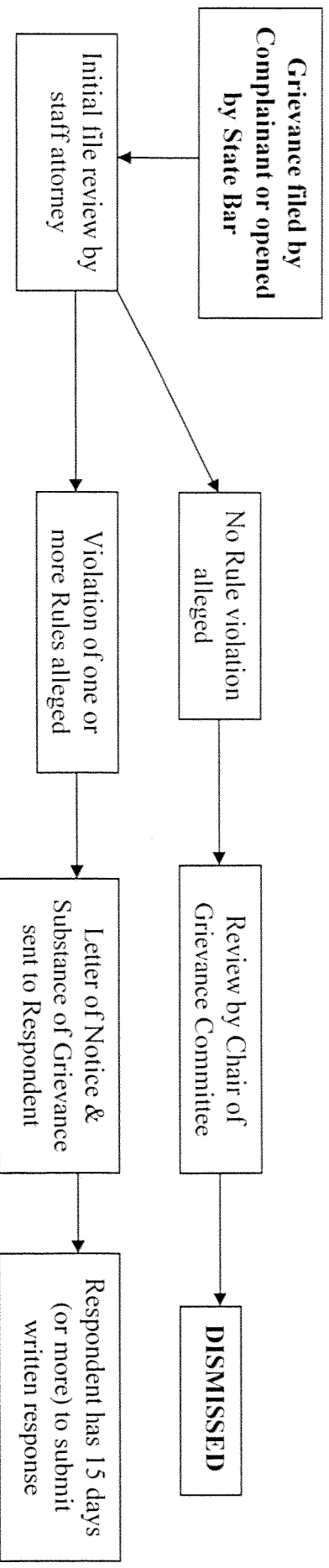
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**The North Carolina State Bar Lawyer's
Handbook 2010 (Abridged)**

An official publication of the North Carolina State Bar containing the most frequently referenced rules of the North Carolina State Bar, annotated Rules of Professional Conduct, all ethics opinions adopted under the Rules and Superseded (1985) Rules, and trust account guidelines.

OVERVIEW OF NORTH CAROLINA STATE BAR GRIEVANCE PROCESS



FORMS OF DISCIPLINE

Letter of Caution

Communication stating that conduct, while not basis for discipline, is unprofessional or not in accord with accepted professional practice

Letter of Warning

Communication stating that conduct, while not basis for discipline, is unintentional, minor or technical breach of Rules and may be basis for discipline if continued

Admonition

Imposed for minor violations of Rules

Reprimand

Imposed in cases in which attorney violates one or more Rules and causes harm or potential harm to client, professional, administration of justice, or public, but a censure is not required

Censure

Imposed in cases in which attorney violates one or more Rules, causing harm or potential significant harm to client, professional, administration of justice or public, but a suspension is not required

**Suspension up to 5 years
(all or part may be
stayed with conditions)**

May only be imposed by DHC or Courts

Disbarment

Requires a minimum of 5 years before attorney may seek reinstatement. May only be imposed by DHC or Courts

NONDISCIPLINARY
ACTIONS

DISCIPLINARY ACTIONS

Type of Action	Disability	Letter of Caution	Letter of Warning (Letter of Admonition)	Admonition (Private Rep or Reprimand 11/13/90-12/5/91)	Reprimand	Censure	Suspensions Disbarments	Disability	Reinstatement
Given by	GC/DHC	GC/DHC	GC/DHC	GC/DHC	GC/DHC	GC/DHC	GC/DHC	GC/DHC	Sec/Council
Kept in Bar Files	Permanent	1 yr/ Permanent	3 yrs/ Permanent	Permanent	Permanent	Permanent	Permanent	Permanent	Permanent
Copy to Complainant	Yes	No	No/ Given Order Not LOW	No/ Given Order but Not Admonition	Yes	Yes	Yes	Yes	N/A
Recorded in NCSB Judgment Book	Yes	No	No	No/Yes	Yes	Yes	Yes	Yes	Yes
Becomes Public Record	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes
Published in Journal	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes
Put on Website	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes
Sent to Courts	Yes	No	No	No	No	Yes	Yes	Yes	Yes
Sent to Media with News Release	Yes	No	No	No/Yes	No/Yes	Yes	Yes	Yes	Yes

MOST OF WHAT LAWYERS NEED TO KNOW TO AVOID STATE BAR GRIEVANCES, WE LEARNED IN KINDERGARTEN

Have you ever awakened from a nightmare where you had been dreaming that Bruno DeMolli was being interviewed by Action 9 News on the front steps of your law office? Have you ever had that dream? You know the one, where your secretary is frantically shredding your files as Dan Rather, microphone in hand, is knocking on your office door.

If you have had that dream or one similar, take heart. There is hope for you. This is because most of what lawyers need to know about State Bar Grievances, we've already learned in kindergarten...lessons learned by all of us when we were 5, which will help us avoid most State Bar Grievances.

Here are 6 important lessons from kindergarten for lawyers.

1. Answer "Here", when your name is called.

What was the first thing your kindergarten teacher did every day? She called roll. It was first because it was very important. It is also very important in practicing law because your clients are calling your name too. They need to know that you are present. They need your help, your expertise, your loyalty and your time. Be sure to respond when your clients call your name. Promptly return their phone calls, emails and letters. Remember these clients have chosen you to help them with some of life's most difficult problems. What a special gift our clients give us when they give us their trust.

The best defense against grievances is open, honest, forthright communication between you and your clients. Answer "here" when your client calls your name.

2. Don't take things that don't belong to you.

You learned to leave your classmates snacks alone, not to take their crayons, not to wear coats and mittens belonging to someone else.

This also applies to the practice of law. Leave your clients' money alone. No matter how desperate you are, no matter how scared you may be, no matter that you are sure that no one will ever know and no matter that you can pay it back next week...leave your clients' money alone. Period.

3. Be responsible for your mistakes.

When your teacher asked, "Who spilled the kool-aid all over the floor?", you may have shut your eyes and put your hands in front of your face, thinking, "If I can't see her, she can't see me". You learned that this didn't work.

It won't work when the State Bar sends you an inquiry either. If you receive an inquiry, answer it promptly. Don't hide behind "more pressing matters". Your failure to respond is a violation in and of itself.

If your answer is too hard to deal with, seek help from an attorney friend or from your State Bar Councilor or from the Lawyer Assistance Program through PALS or FRIENDS. Help (hope) is available. There are caring people who may not know you, but who are willing to get to know you and to help you. After all, isn't that why most of us became lawyers – to help others?

4. Handle your crayons with care.

In kindergarten, we learned about crayons. Some were sharp and could be used to color within the lines; some were dull and harder to work with; some were bright colors; some drab; some had strange names like "magenta". Many were different colors. If you pressed too hard on a crayon, it broke. All had to be put back into the same crayon box.

Our clients are like crayons. Be careful with them. Remember, when the legal system is through with them, most go back into the same box. Remember each client is a unique individual who has come to you for help. Respect the dignity of each and every client.

5. Prepare for open house.

In kindergarten, you learned to do your best work on projects to be displayed for open house. You were proud because your parents, grandparents, brothers and sisters were coming to visit your class. You carefully traced the outline of your hand to make the turkey feathers for the Thanksgiving drawing so that it would be the best you could do, because your mom and dad were coming to see it at open house.

As lawyers, often our work is on display. Make it your best. Prepare your work as if tonight were open house and your mom and dad were coming.

6. Share.

We learned to share in kindergarten.

It is also important for us as lawyers, to share our unique talents. Our training and experience qualifies us to make a difference in our community and in our world. Share your talents. Be a catalyst for good.

There you have it. Six kindergarten lessons which you can use in your law practice. If you follow these examples, maybe you won't have those "Dan Rather" nightmares.