

**BOARDS AND COMMISSIONS**  
**Board of Licensed Professional Counselors**  
**(Amendment)**

**201 KAR 36:050. Complaint management process.**

RELATES TO: KRS 335.540, 335.545

STATUTORY AUTHORITY: KRS 335.515(3), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) requires the board to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS 335.500 to 335.599. This administrative regulation establishes the procedures for filing, investigating, and addressing a complaint filed against a professional counselor.

**Section 1. Receipt of Complaints.**

(1) A complaint:

(a) May be submitted by an:

1. Individual;
2. Organization; or
3. Entity;

(b) Shall be:

1. In writing and provided on the Complaints Form, DPL-LPC-12; and
2. Signed by the person offering the complaint; and

(c) May be filed by the board based upon information in its possession.

(2)

(a) Upon receipt of a complaint, a copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(3)

(a) Upon receipt of the written response of the individual named in the complaint, a copy of his response shall be sent to the complainant.

(b) The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

**Section 2. Initial Review.**

(1) After the receipt of a complaint and the expiration of the period for the individual's response or reply, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any other relevant material available, and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

- (a) Dismiss the complaint; and
- (b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

- (a) Authorize an investigation into the matter; and
- (b) Order a report to be made to the complaint screening committee at the earliest opportunity.

**Section 3. Results of Formal Investigation; Board Decision on Hearing.**

(1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee

shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS 335.500 to 335.599 or the administrative regulations promulgated thereunder and a complaint should be filed.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint or take action pursuant to KRS 335.540(3); and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint, which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B.

(4) If the board determines that a person may be in violation, it shall:

(a) Order the individual to cease and desist from further violations of KRS 335.505;

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 335.505 with a request that appropriate action be taken under KRS 335.599; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 335.505.

#### Section 4. Settlement by Informal Proceedings.

(1) The board, through counsel and the complaint screening committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.

(3) The board may employ mediation as a method of resolving the matter informally.

#### Section 5.

(1) If the complaint screening committee determines that a violation has occurred but is not serious, the complaint screening committee may recommend the issuance of a private written reprimand to the board. If the board accepts the recommendation, the board shall issue a private written reprimand to the credential holder.

(2) A copy of the private written reprimand shall be placed in the permanent file of the credential holder.

(3) A private written reprimand shall not:

(a) Be subject to disclosure to the public under KRS 61.878(1)(1); or

(b) Constitute disciplinary action.

(4) A private written reprimand may be used by the board for statistical purposes or in any subsequent disciplinary action against the credential holder or applicant.

Section 6. If the board determines that there is reasonable cause to believe that a license holder or applicant for a license is physically or mentally incapable of practicing professional counseling with reasonable skill and safety to clients, the board may order the license holder or applicant to submit to an examination by a mental health professional or a physician designated by the board to determine the license holder's or applicant's mental health or physical status to practice professional counseling.

Section 7. Notice and Service Process. A notice required by KRS 335.500 to 335.599 or this administrative regulation shall be issued pursuant to KRS Chapter 13B and 201 KAR 36:090.

Section 8. Notification. The board shall make public:

- (1) Its final order in a disciplinary action under KRS 335.540 with the exception of a written admonishment issued pursuant to KRS 335.540(3); and
- (2) An action to restrain or enjoin a violation of KRS 335.505. 201 KAR 36:050.

Section 9. Incorporation by Reference.

- (1) "Complaint Form, DPL-LPC-12 July 2023 is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensed Professional Counselors, 500 Mero Street, Frankfort, Kentucky 40601, from 8:00 a.m. to 4:00 p.m., Monday through Friday. This material is also available on the board's Web site at [lpc.ky.gov](http://lpc.ky.gov).

*DR. HANNAH COYT, Chair*

APPROVED BY AGENCY: September 13, 2023

FILED WITH LRC: September 14, 2023 at 2 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 28, 2023 at 1:00 p.m. EST in Room 127CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Members of the public may also utilize the following link to attend the meeting by video conference: Topic: LPC Regulation Public Hearing, Time: Nov 28, 2023 01:00 PM Eastern Time. Join from PC, Mac, Linux, iOS or Android: <https://us06web.zoom.us/j/87588899726?pwd=ME5WeXp6dk9xRXJmMnI1K0ZDd3M5dz09>, Password: 186265, Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free), Conference code: 387980. Individuals interested in attending this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until 11:59 pm on November 30, 2023. Written notification of intent to attend the public hearing or written comments on the proposed administrative regulation should be made by using the Public Protection Cabinet website at the follow address: [https://ppc.ky.gov/reg\\_comment.aspx](https://ppc.ky.gov/reg_comment.aspx). Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, phone (502) 782-2709, fax (502) 564-4818, email [Sara.Janes@ky.gov](mailto:Sara.Janes@ky.gov), Link to public comment portal: [https://ppc.ky.gov/reg\\_comment.aspx](https://ppc.ky.gov/reg_comment.aspx).