

**COMPLAINTS REGARDING CASE PERFORMANCE AND CASE
RELATED CONDUCT OF CPCS CASE TAKING STAFF ATTORNEYS**
3/23/18

I. Introduction

The Committee for Public Counsel Services (“CPCS”) monitors case taking staff counsel in all its divisions and evaluates these attorneys to ensure compliance with the performance standards and insure competent representation of clients in all courts of the Commonwealth. CPCS has established the following procedures for the review and disposition of client complaints or other case related allegations regarding inadequate attorney representation, attorney misconduct, or an attorney’s noncompliance with performance standards, guidelines, policies, and other requirements.

II. Scope

These procedures apply to any CPCS case taking staff attorney who is the subject of any of the following: A complaint that the attorney has failed to provide competent representation to a client to whom the attorney is or was assigned; an allegation that the attorney has engaged in case related misconduct; and/or an allegation that the attorney is unable to or has failed to comply with performance standards, guidelines, policies, or other requirements that are established by CPCS, provided that the allegation relates to the attorney’s representation of or relationship with one or more of their CPCS clients.

III. Investigation Procedure

A. Complaint Investigations

CPCS staff shall consider any complaint, regardless of the manner in which or the person by whom it is submitted. Complaints shall be investigated to the extent and in the manner deemed appropriate by the Deputy Chief Counsel or Director of the pertinent Division (hereinafter collectively referred to as the Deputy Chief Counsel) or their designee. Typically the designee will be the Attorney-in-Charge (AIC) of the office in which the subject staff attorney practices and/or the Managing Director or Assistant Director of the Division in which the staff attorney practices.

Subject to staff availability, complaints alleging that an attorney is rendered unable to provide proper client representation due to illness, physical or mental, or substance abuse, or is charged with a crime or is subject to a decision by the Board of Bar Overseers to impose discipline, will be investigated within ten business days, except for extension for good cause. Investigations must be coordinated with the Director of Human Resources, or their designee, whenever the complaint alleges that an attorney is unable to provide proper client representation due to illness, physical or mental, or substance abuse, or for any other reason that potentially

implicates an employee's rights under the Family and Medical Leave Act or the American with Disabilities Act.

Complaints alleging neglect by failure to communicate with the client will be investigated within 15 business days, except for extension for good cause.

All other case related complaints will be investigated within 20 business days, except for extension for good cause. Extensions may be allowed by the Deputy Chief Counsel of the pertinent Division.

Notice shall be provided promptly to any attorney subject to a complaint if it is determined that the investigation requires consultation with a third party outside CPCS.

B. Interim Remedial Measure

If, at any time, a Deputy Chief Counsel or their designee determines that any case related interim remedial measures are warranted to ensure that clients are adequately represented, the Deputy Chief may take action on a temporary basis pending final resolution of the complaint.

C. Attorney Cooperation

The subject staff attorney shall cooperate fully with requests and inquiries from the Deputy Chief Counsel or their designee regarding the investigation.

D. Complaint Dispositions

Once the investigation is complete, the Deputy Chief Counsel or designee may do any of the following:

1. Conclude that the complaint is unfounded.
2. Conclude the complaint is founded and
 - a. Take no action,
 - b. Issue a warning, either written or verbal,
 - c. Require that the attorney participate in a written performance improvement plan,
 - d. Suspend the attorney for an indefinite period, with written conditions that must be met prior to the attorney's return to work, or
 - e. Terminate the attorney.

E. Notice

Within five business days after any decision under subsection D, the Deputy Chief Counsel or their designee shall notify the attorney of the decision and the basis for the decision. Any notice required under this subsection shall be by CPCS e-mail.

F. Scope of Review

Any disciplinary action taken under subsection D will be done so in accordance with the CPCS Personnel Policies Manual in effect at the time the discipline is imposed.