

Response to Misconduct Complaints against Professionals

By

Producing an effective response to a professional misconduct complaint requires a thorough approach to collecting the details surrounding the conduct and crafting a comprehensive yet compelling written reply to the allegations. It must be based on an accurate presentation of the facts and provide a dispassionate cogent argument refuting the accusations. Quite often, it is preferable to have a well-trained, experienced attorney either provide assistance or write the actual response from a knowledgeable and objective point of view.

Preparing the response is likely to be difficult for professionals because they will understandably tend to vociferously defend themselves, often resorting to aggressive language or emotional descriptions of events that occurred. Any communication to be filed with a licensing board in response to a complaint made by a client or third party should be written in a tone that does not incite the recipient to respond in an offensive manner. The goal is to persuade the reader that the actions taken by the professional regarding the conduct in question were reasonable under the circumstances, and were not in violation of any standards of professional conduct or law.

Prior to submitting the official response, a draft version should be reviewed, revised and blessed by an objective advisor conversant with the standards of conduct and law. The vetting of the verbiage by that advisor is needed to confirm that the response fully - and fairly - recites the facts and presents the arguments that reflect compliance with the standards of conduct. Skipping this critical step in the process, in many cases, has caused the complaint to be escalated to further proceedings and include additional allegations by either the complainant or the licensing or disciplinary authority to be made.

In all circumstances, the careful preparation of any response nearly assures a more favorable result, unless the alleged misconduct is, in fact, conduct that is a colorable violation of the standards of conduct or law. There is an important lesson to be learned by both the accused professional and the trained legal advisor: *even if you did not do what you are accused of doing, it is essential to properly reply to the allegations to secure a positive outcome to a professional misconduct complaint.*