

DOPL'S INVESTIGATIVE PROCESS AND BOARD RESPONSIBILITIES

DOPL's **investigative process** involves thorough procedures designed to ensure professional conduct and accountability. The **Board's role** is integral in advising on investigations, participating in hearings, and making recommendations on license statuses. The process is designed to balance **due process, fairness, and accountability** within the regulated professions, providing a clear path for resolving complaints while protecting the public.

I. INTRODUCTION

- The **Division of Professional Licensing (DOPL)** is responsible for investigating unlicensed practice and professional conduct issues within regulated professions.
- The DOPL operates under the Utah Administrative Procedures Act (UAPA) and is empowered by various state laws, including sections **58-1-201**, **58-1-202**, and **58-1-203**.
- The **Board** plays a key role in assisting DOPL's investigations and handling disciplinary actions related to professional conduct.

II. DUTIES AND RESPONSIBILITIES OF THE BOARD (58-22-201(3))

1. Assisting in Investigations:

- A **designated board member** is appointed (on a permanent or rotating basis) to:
 - **Review complaints** regarding unlawful or unprofessional conduct of licensees, if needed.
 - **Advise the division** on investigations into these complaints.

2. Disqualification from Adjudicative Proceedings:

- A board member involved in investigating or advising on a case may be **disqualified** from participating in any adjudicative proceedings regarding that case to ensure impartiality.

3. Presiding Officer Duties (58-1-201(1)(f)):

- The board may act as a **presiding officer** in **adjudicative proceedings** and issue **recommended orders** after hearings. This is done in collaboration with DOPL's investigations.

III. DOPL'S INVESTIGATIVE PROCESS

• Bureau of Investigation:

- The Bureau is tasked with conducting investigations and employs **11 investigators**, many of whom are experienced law enforcement professionals.
- Complaints are received from various sources, including the public, licensing board members, professional associations, and other agencies.

1. Complaint Review and Initial Determinations:

- Complaints are entered into an investigative database to analyze behavioral patterns.
- The **Investigation Supervisor** reviews each complaint and makes one of the following initial determinations:
 1. **No Violation:** The complaint is closed, and no action is taken.
 2. **Violation Does Not Meet Criteria for Investigation:** DOPL lacks jurisdiction or authority to investigate, and the complaint may be referred to another agency.
 3. **Violation Meets Criteria for Investigation:** The complaint falls within DOPL's jurisdiction, and an investigator is assigned.

2. Investigation Procedures:

- Investigators use **judgment** and established procedures to determine the steps needed for each case.
- Possible investigation steps include:
 - Determining the **elements** of the alleged violation.
 - Reviewing **aggravating, extenuating, and mitigating circumstances**.
 - **Interviews** with the complainant, witnesses, and the involved individual.
 - **Obtaining records** and other evidence (including subpoenas).
 - Consulting with experts or the Utah Attorney General's Office when necessary.

3. Resolution of Cases:

- Investigations are typically resolved through one of two processes: **informally** or **formally**.

IV. INFORMAL RESOLUTION PROCESSES

1. Verbal Warning:

- A **non-disciplinary** warning given to an individual, indicating that further violations could result in action.

2. Letter of Concern:

- A written notice expressing DOPL's concern over alleged misconduct. It does not impose sanctions but allows the licensee to respond and clarify the situation.

3. Administrative Citation:

- A formal **fine** and/or **cease-and-desist** order imposed for violations such as practicing without a license or exceeding the scope of a license.
- Resolved through either admission and payment of fine, request for a pre-citation hearing, or contesting the citation.

4. Informal Adjudicative Proceeding:

- A case resolved through an **informal hearing** before an Administrative Law Judge, typically following an **Administrative Citation**.

V. FORMAL RESOLUTION PROCESSES

1. Stipulated Agreements:

- A **written settlement** between DOPL and the licensee. It may include measures such as additional continuing education (CEs), probation, or voluntary surrender of a license.

2. Formal Adjudicative Proceeding:

- Cases may proceed to a **formal hearing** before a licensing board and an Administrative Law Judge. It follows a **court-like procedure** with limited discovery and the presentation of evidence, testimony, and defenses.
- At the conclusion, the board makes a **recommendation** regarding the license status, which is submitted to the DOPL Director for final action.
- Outcomes may include **disciplinary sanctions** or **license revocation**, and the findings are public and reportable unless otherwise specified.

VI. ROLE OF THE BOARD IN ADJUDICATIVE PROCEEDINGS

- The board may serve as the **presiding officer** in formal hearings, overseeing the presentation of evidence and making final determinations on the case.

- After considering all the evidence, the board will make a **recommendation** regarding the license status, which is submitted to the DOPL Director or designee.

VII. PUBLIC DISCLOSURE

- **Informal actions** (such as verbal warnings and letters of concern) are generally confidential.
- **Formal actions** (such as administrative citations, stipulated agreements, and formal adjudications) are **publicly disclosed** and may be reported.