

27 NCAC 01B .0103 DEFINITIONS

Subject to additional definitions contained in other provisions of this subchapter, the following words and phrases, when used in this subchapter, will have, unless the context clearly indicates otherwise, the meanings given to them in this rule.

- (1) Admonition - a written form of discipline imposed in cases in which an attorney has committed a minor violation of the Rules of Professional Conduct.
- (2) Appellate division - the appellate division of the general court of justice.
- (3) Board - the Board of Continuing Legal Education.
- (4) Board of Continuing Legal Education - a standing committee of the council responsible for the administration of a program of mandatory continuing legal education and law practice assistance.
- (5) Censure - a written form of discipline more serious than a reprimand issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require suspension of the attorney's license.
- (6) Certificate of conviction - a certified copy of any judgment wherein a member of the North Carolina State Bar is convicted of a criminal offense.
- (7) Chairperson of the Grievance Committee - councilor appointed to serve as chairperson of the Grievance Committee of the North Carolina State Bar.
- (8) Commission - the Disciplinary Hearing Commission of the North Carolina State Bar.
- (9) Commission chairperson - the chairperson of the Disciplinary Hearing Commission of the North Carolina State Bar.
- (10) Complainant or complaining witness - any person who has complained of the conduct of any member of the North Carolina State Bar to the North Carolina State Bar.
- (11) Complaint - a formal pleading filed in the name of the North Carolina State Bar with the commission against a member of the North Carolina State Bar after a finding of probable cause.
- (12) Consolidation of cases - a hearing by a hearing panel of multiple charges, whether related or unrelated in substance, brought against one defendant.
- (13) Council - the Council of the North Carolina State Bar.
- (14) Councilor - a member of the Council of the North Carolina State Bar.
- (15) Counsel - the counsel of the North Carolina State Bar appointed by the council.
- (16) Court or courts of this state - a court authorized and established by the constitution or laws of the state of North Carolina.
- (17) Criminal offense showing professional unfitness - the commission of, attempt to commit, conspiracy to commit, solicitation or subornation of any felony or any crime that involves false swearing, misrepresentation, deceit, extortion, theft, bribery, embezzlement, false pretenses, fraud, interference with the judicial or political process, larceny, misappropriation of funds or property, overthrow of the government, perjury, willful failure to file a tax return, or any other offense involving moral turpitude or showing professional unfitness.
- (18) Defendant - a member of the North Carolina State Bar against whom a finding of probable cause has been made.
- (19) Disabled or disability - a mental or physical condition which significantly impairs the professional judgment, performance, or competence of an attorney.
- (20) Grievance - alleged misconduct.
- (21) Grievance Committee - the Grievance Committee of the North Carolina State Bar or any of its panels acting as the Grievance Committee respecting the grievances and other matters referred to it by the chairperson of the Grievance Committee.
- (22) Hearing panel - a hearing panel designated under Rule .0108(a)(2), .0114(d), .0114(x), .0118(b)(2), .0125(a)(6), .0125(b)(7) or .0125(c)(2) of this subchapter.
- (23) Illicit drug - any controlled substance as defined in the North Carolina Controlled Substances Act, section 5, chapter 90, of the North Carolina General Statutes, or its successor, which is used or possessed without a prescription or in violation of the laws of this state or the United States.
- (24) Incapacity or incapacitated - condition determined in a judicial proceeding under the laws of this or any other jurisdiction that an attorney is mentally defective, an inebriate, mentally disordered, or incompetent from want of understanding to manage his or her own affairs by reason of the excessive use of intoxicants, drugs, or other cause.

- (25) Investigation - the gathering of information with respect to alleged misconduct, alleged disability, or a petition for reinstatement.
- (26) Investigator - any person designated to assist in the investigation of alleged misconduct or facts pertinent to a petition for reinstatement.
- (27) Lawyer Assistance Program Board – the Lawyer Assistance Program Board of the North Carolina State Bar.
- (28) Letter of caution - communication from the Grievance Committee to an attorney stating that the past conduct of the attorney, while not the basis for discipline, is unprofessional or not in accord with accepted professional practice.
- (29) Letter of notice - a communication to a respondent setting forth the substance of a grievance.
- (30) Letter of warning - written communication from the Grievance Committee or the commission to an attorney stating that past conduct of the attorney, while not the basis for discipline, is an unintentional, minor, or technical violation of the Rules of Professional Conduct and may be the basis for discipline if continued or repeated.
- (31) Member - a member of the North Carolina State Bar.
- (32) Office of the Counsel - the office and staff maintained by the counsel of the North Carolina State Bar.
- (33) Office of the secretary - the office and staff maintained by the secretary-treasurer of the North Carolina State Bar.
- (34) Party - after a complaint has been filed, the North Carolina State Bar as plaintiff or the member as defendant.
- (35) Plaintiff - after a complaint has been filed, the North Carolina State Bar.
- (36) Preliminary hearing - hearing by the Grievance Committee to determine whether probable cause exists.
- (37) Probable cause - a finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action.
- (38) Reprimand - a written form of discipline more serious than an admonition issued in cases in which a defendant has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.
- (39) Respondent - a member of the North Carolina State Bar who has been accused of misconduct or whose conduct is under investigation, but as to which conduct there has not yet been a determination of whether probable cause exists.
- (40) Revised Rules of Professional Conduct - the Rules of Professional Conduct adopted by the Council of the North Carolina State Bar and approved by the North Carolina Supreme Court effective July 24, 1997.
- (41) Rules of Professional Conduct - the Rules of Professional Conduct adopted by the Council of the North Carolina State Bar and approved by the North Carolina Supreme Court and which were in effect from October 7, 1985 through July 23, 1997.
- (42) Secretary - the secretary-treasurer of the North Carolina State Bar.
- (43) Supreme Court - the Supreme Court of North Carolina.
- (44) Will - when used in these rules, means a direction or order which is mandatory or obligatory.

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