

**CHAPTER 34**  
**RULES OF PROCEDURE OF THE IOWA SUPREME COURT**  
**ATTORNEY DISCIPLINARY BOARD**

Rule 34.1	Complaints
Rule 34.2	Form of complaint
Rule 34.3	Filing
Rule 34.4	Procedure
Rule 34.5	Board procedure
Rule 34.6	Notification of respondent—response
Rule 34.7	Failure to respond—notice—effect
Rule 34.8	Board actions upon receipt of response
Rule 34.9	Board action upon report and recommendation of investigator
Rule 34.10	Prior notice of witnesses
Rule 34.11	Hearing-meetings
Rule 34.12	Order for mental or physical examination or treatment
Rule 34.13	Deferral of further proceedings
Rule 34.14	Additional board duties
Rules 34.15 to 34.22	Reserved
Rule 34.23	Forms
Form 1:	Iowa Supreme Court Attorney Disciplinary Board Complaint Form



**CHAPTER 34**  
**RULES OF PROCEDURE OF THE IOWA SUPREME COURT**  
**ATTORNEY DISCIPLINARY BOARD**

**Rule 34.1 Complaints.** Complaints shall be accepted from any person, firm, or other entity alleging that a lawyer has committed a disciplinary infraction. The Iowa Supreme Court Attorney Disciplinary Board may, upon its own motion, initiate any investigation or disciplinary action.

[Court Order December 12, 1974; October 30, 1985, effective November 1, 1985; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 34.2 Form of complaint.** Complaint forms, found in rule 34.23, shall be available to the public from the Iowa Supreme Court Attorney Disciplinary Board, the chair of the board, or the chair's designee. Complaints must be certified under penalty of perjury, except when filed by an officer of the court, and shall include whatever exhibits the complainant desires to submit.

[Court Order December 12, 1974; June 20, 1980; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 34.3 Filing.** Complaints shall be filed, without charge, with the Iowa Supreme Court Attorney Disciplinary Board.

[Court Order April 20, 2005, effective July 1, 2005]

**Rule 34.4 Procedure.**

**34.4(1)** Upon receiving a complaint, the assistant director for attorney discipline shall evaluate all information coming to his or her attention from the complaint or from any other sources alleging attorney misconduct or incapacity. The assistant director shall have the authority to decline to open an investigation of a complaint if the information, if true, would not constitute misconduct or incapacity, or if the complaint is facially frivolous, stale, lacking in adequate factual detail, duplicative, or outside the board's jurisdiction, or does not otherwise reasonably warrant investigation. The board may adopt policies to guide the assistant director in the exercise of this authority.

**34.4(2)** The board shall make a record indicating the date filed, the name and address of the complainant, the name and address of the respondent attorney, and a brief statement of the charges made. This record ultimately shall show the final disposition of the matter when it is completed.

**34.4(3)** The board shall keep all files confidential, unless otherwise provided or directed in writing by the chair of the board, or the chair's designee, for disciplinary purposes or by a specific rule of the supreme court. All such files shall be available for examination and reproduction, by the designated officer or agent of the Client Security Commission, pursuant to proceedings under chapter 39 of the Iowa Court Rules.

Any such files, except for the work product of staff counsel, investigators, or administrators of the board, shall be provided to the respondent within a reasonable time upon the respondent's request. For purposes of this rule, "work product" does not include a written statement signed or otherwise adopted or approved by the person making it or a contemporaneous and substantially verbatim transcript or recording of a person's oral statement.

**34.4(4)** A complaint declined pursuant to this rule shall not be deemed a complaint for any purpose. A complaint declined pursuant to this rule shall not be docketed under rule 34.4(2), nor shall it be reported or disclosed by the board or the respondent to any person or authority for any reason.

[Court Order December 12, 1974; November 2, 1981; October 30, 1985, effective November 1, 1985; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, and July 1, 2005, effective July 1, 2005; February 20, 2012; December 10, 2012]

**Rule 34.5 Board procedure.** Upon receipt of any complaint, the board shall notify the complainant in writing that the complaint has been received and will be acted upon or that pursuant to rule 34.4(1) no action will be taken.

[Court Order December 12, 1974; October 30, 1985, effective November 1, 1985; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]

**Rule 34.6 Notification of respondent—response.**

**34.6(1)** The board shall forward to the respondent a copy of the complaint and copies of chapters 34 and 35 of the Iowa Court Rules. However, if the complaint is declined pursuant to rule 34.4(1), the board shall not notify the respondent and no response shall be required.

**34.6(2)** The board may forward the complaint to the respondent by restricted certified mail, marked “Confidential,” to the respondent’s last address as shown by records accessible to the court or by personal service in the manner of an original notice in civil suits.

**34.6(3)** If service cannot be obtained pursuant to rule 34.6(2), the board may serve the complaint on the clerk of the supreme court who is appointed to receive service on behalf of lawyers subject to Iowa’s disciplinary authority. Iowa R. Prof’l Conduct 32:8.5 cmt. [1]. Service upon the clerk of the supreme court is deemed to be receipt of the complaint by the respondent. Simultaneously with serving a complaint on the clerk of the supreme court, the board shall forward the complaint to the respondent by restricted certified mail, marked “Confidential,” to the respondent’s last address as shown by records accessible to the court, and the board shall file with the clerk of the supreme court an affidavit attesting that it has done so.

**34.6(4)** The respondent is required to provide a written response within 20 days of receipt of the complaint.

[Court Order December 12, 1974; May 13, 1983; October 30, 1985, effective November 1, 1985; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]

**Rule 34.7 Failure to respond—notice—effect.**

**34.7(1)** *Failure to respond—separate ethical violation.* If after 20 days no response has been received, the respondent shall be notified by restricted certified mail that unless a response is made within 10 days from receipt of notice, the board may file a complaint with the Grievance Commission of the Supreme Court of Iowa for failure to respond, and concerning all or any portion of the matter about which the original complaint was made. If service cannot be obtained by restricted certified mail, the board may serve the notice on the clerk of the supreme court who is appointed to receive service on behalf of attorneys subject to Iowa’s disciplinary authority. Iowa R. of Prof’l Conduct 32:8.5 cmt. [1]. Service upon the clerk of the supreme court is deemed to be receipt of the notice by the respondent.

**34.7(2)** *Enlargement of time to respond.* The board may grant an enlargement of time to respond under rule 34.6 or 34.7(1) for good cause shown.

**34.7(3)** *Failure to respond—temporary suspension.* If a response is not provided within 10 days of receipt of the notice issued pursuant to rule 34.7(1) or within the time allowed under rule 34.7(2), the board shall certify the respondent’s failure to respond to the clerk of the supreme court.

*a.* Upon receipt of the board’s certificate, the clerk shall issue a notice to the attorney that the attorney’s license to practice law will be temporarily suspended unless the attorney causes the board to file a withdrawal of the certificate within 20 days of the date of issuance of the clerk’s notice.

*b.* If the attorney responds to the complaint within the 20-day period, the board shall immediately withdraw the certificate and no suspension shall occur.

*c.* If the board has not withdrawn the certificate and the 20-day period expires, the court shall enter an order temporarily suspending the attorney’s license to practice law in the state of Iowa.

*d.* If the attorney responds to the complaint after a temporary suspension order is entered, the board shall, within 5 days of receiving the response, either withdraw the certificate or file with the supreme court a report indicating that the attorney has responded, but stating cause why the attorney’s license should not be reinstated and the suspension should be continued under the provisions of Iowa Ct. R. 35.4, 35.14, or 35.16.

*e.* If the board seeks to continue the suspension under the provisions of Iowa Ct. R. 35.4, 35.14, or 35.16, the supreme court shall either reinstate the attorney or enter an appropriate order under the applicable rule.

*f.* If the board files a withdrawal of the certificate after temporary suspension of the attorney’s license, the supreme court shall immediately reinstate the attorney’s license to practice law if the attorney is otherwise eligible under the rules of the court.

*g.* During the initial 30 days of a temporary suspension under this rule, the attorney shall give the notice required by Iowa Ct. R. 35.22 to those clients whose interests may be adversely affected by the attorney’s suspension.

*h.* When the suspension period under this rule exceeds 30 days, the attorney shall comply with the requirements of Iowa Ct. R. 35.23 as to all clients.

*i.* An attorney whose license is suspended under the provisions of rule 34.7(3)(c) shall pay a fee of \$100.00 as a condition precedent to reinstatement.

[Court Order December 12, 1974; November 16, 1984, effective November 26, 1984; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; April 25, 2008; February 20, 2012]

**Rule 34.8 Board actions upon receipt of response.**

**34.8(1)** Upon receipt of a response, the board shall do one of the following:

- a.* Dismiss the complaint, and so notify the complainant and the respondent in writing.
- b.* Cause the case to be docketed for consideration by the board at its next hearing-meeting.
- c.* Arrange for investigation of the complaint either by the board's counsel or a local bar association as the chair, or the chair's designee, deems appropriate.

(1) All investigations done by a person or entity other than the board's counsel or its in-house staff shall be done in a manner as directed and under the supervision of the board.

(2) The results of the investigation shall be forwarded to the board along with any recommendation for final action by the board.

**34.8(2)** The board shall have subpoena power during any investigation conducted on its behalf to compel the appearance of witnesses or the production of documents before the person designated to conduct the investigation on behalf of the board.

**34.8(3)** The board chair, or other board member in the absence of the chair, shall have authority to issue a subpoena.

**34.8(4)** The district court for the county in which the investigation is being conducted shall have jurisdiction over any objection or motion relating to a subpoena and authority to punish disobedience of a subpoena in a contempt proceeding.

**34.8(5)** Counsel for the board or any other person authorized to administer oaths shall have authority to administer an oath or affirmation to a witness.

[Court Order December 12, 1974; October 30, 1985, effective November 1, 1985; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; December 17, 2002; April 20, 2005, effective July 1, 2005]

**Rule 34.9 Board action upon report and recommendation of investigator.** When the report and recommendation of the investigator is returned to the board, the board shall do one of the following:

**34.9(1)** Dismiss the complaint, and so notify the complainant and the respondent.

**34.9(2)** Cause the case to be docketed for consideration by the board at its next hearing-meeting.  
[Court Order December 12, 1974; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 34.10 Prior notice of witnesses.** If any witness or party is required to give testimony before the board, such person shall be given at least seven days' written notice in advance of the hearing-meeting at which the witness or party is requested to attend and testify.

[Court Order December 12, 1974; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 34.11 Hearing-meetings.** Hearing-meetings shall be held at least quarterly and may be held telephonically. A majority of the board shall constitute a quorum. The chair, or the chair's designee, shall see to the preparation of a record of such meetings which shall become a part of the permanent files of the supreme court. Any evidence taken shall be under oath or affirmation and may be made of record. Upon completion of the consideration of any matter before the board, the members, by majority vote of those present, shall do one of the following:

**34.11(1)** Continue the matter.

**34.11(2)** Dismiss the complaint and notify the complainant and the respondent.

**34.11(3)** Admonish the lawyer, who shall be notified in writing that the lawyer has 30 days from the date of mailing thereof to file exceptions with the administrator of the board, who shall then refer the admonition to the board, which may dismiss, admonish, reprimand, or file a formal complaint

with the grievance commission. In cases of admonition, the board shall notify the complainant of the board's opinion concerning the matter and its communication with the lawyer involved.

**34.11(4)** Reprimand the lawyer and file the reprimand as provided in Iowa Ct. R. 35.3.

**34.11(5)** File a complaint before the Grievance Commission of the Supreme Court of Iowa and prosecute the complaint to final determination.

[Court Order December 12, 1974; October 20, 1982; February 9, 1983; October 30, 1985, effective November 1, 1985; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005]

**Rule 34.12 Order for mental or physical examination or treatment.**

**34.12(1)** *Order requiring examination or treatment.* An attorney who is licensed to practice law in the state of Iowa is, as a condition of licensure, under a duty to submit to a mental or physical examination or subsequent treatment as ordered by the Iowa Supreme Court Attorney Disciplinary Board. The board may order the examination or treatment based upon a showing of probable cause to believe the attorney is suffering from a condition that currently impairs the attorney's ability to discharge professional duties. The board may order that the examination or treatment be at the attorney's expense.

**34.12(2)** *Show cause hearing.* Before the board may order an attorney to submit to examination or treatment, it shall schedule a hearing to permit the attorney to show cause why the order should not be entered. At least three members of the board shall participate in the hearing. At the hearing, the board's staff counsel shall first present evidence of probable cause supporting the need for evaluation or treatment. The attorney may then respond to the board's showing and rebut the board's claim that the evaluation or treatment is necessary. The hearing shall be informal and rules of evidence shall not be strictly applied. Following the hearing, the board, by majority vote, shall either dismiss the matter or enter an order requiring the examination or treatment.

**34.12(3)** *Content of order.* The board's order for mental or physical examination or treatment shall include all of the following terms:

- a. A description of the type of examination or treatment to which the attorney must submit.
- b. The name and address of the examiner or treatment facility that the board has identified to perform the examination or provide the treatment.
- c. The time period in which the attorney must schedule the examination or enter treatment.
- d. The amount of time in which the attorney is required to complete the examination or treatment.
- e. A requirement that the attorney cause a report or reports of the examination or treatment results to be provided to the board within a specified period of time.
- f. A requirement that the attorney communicate with the board regarding the status of the examination or treatment.
- g. A provision allowing the attorney to request additional time to schedule or complete the examination or to request that the board approve an alternative examiner or treatment facility. The board shall, in its sole discretion, determine whether to grant such a request.

**34.12(4)** *Review.* An attorney who disagrees with the board's order may seek review from the supreme court. The attorney may do so by filing nine copies of a petition for review with the clerk of the supreme court and serving one copy of the petition on the board within seven days after receipt of the board's order. The board may file nine copies and serve one copy of a response to the petition within seven days after service of the petition. The matter shall be promptly set for hearing before one or more justices of the supreme court. The board's order is stayed upon the filing of the petition for review.

**34.12(5)** *Hearing.* At the hearing on the petition, the board shall present evidence of probable cause supporting its order and the necessity for the evaluation or treatment. The attorney may then respond to the board's showing and rebut the board's claim that the evaluation or treatment is necessary. The hearing shall be informal and rules of evidence shall not be strictly applied. Following the hearing, the court may affirm, vacate, or modify the board's order or may enter such order as the circumstances warrant.

**34.12(6)** *Failure to submit.* The failure of an attorney to submit to the evaluation or treatment ordered by the board under this rule may be grounds for discipline through the normal disciplinary process.

**34.12(7)** *"Condition."* For purposes of this rule, "condition" means any physiological, mental or psychological condition, impairment or disorder, including drug or alcohol addiction or abuse.

**34.12(8) Confidentiality.** All records, papers, proceedings, meetings, and hearings filed or conducted under this rule shall be confidential, unless otherwise ordered by the supreme court. [Court Order April 20, 2005, effective July 1, 2005]

**Rule 34.13 Deferral of further proceedings.**

**34.13(1) Deferral.** With the agreement of the board's administrator and the attorney, the board may determine to defer further proceedings pending the attorney's compliance with conditions imposed by the board for supervision of the attorney for a specified period of time not to exceed one year unless extended by the board prior to the conclusion of the specified period. Proceedings may not be deferred under any of the following circumstances:

- a. The conduct under investigation involves misappropriation of funds or property of a client or a third party.
- b. The conduct under investigation involves a criminal act that reflects adversely on the attorney's honesty, trustworthiness, or fitness as a lawyer in other respects.
- c. The conduct under investigation resulted in or is likely to result in actual prejudice (loss of money, legal rights or valuable property rights) to a client or other person, unless restitution is made a condition of deferral.
- d. The attorney has previously been disciplined or has been placed under supervision as provided in this rule.
- e. The attorney has failed to respond to the board's notices of complaint concerning the conduct under investigation.

**34.13(2) Conditions.** In imposing such conditions, the board shall take into consideration the nature and circumstances of the conduct under investigation by the board and the history, character and condition of the attorney. The conditions may include, but are not limited to, the following:

- a. Periodic reports to the diversion coordinator and the board's administrator.
- b. Supervision of the attorney's practice or accounting procedures.
- c. Satisfactory completion of a course of study.
- d. Successful completion of the Multistate Professional Responsibility Examination.
- e. Compliance with the provisions of the Iowa Rules of Professional Conduct.
- f. Restitution.
- g. Psychological counseling or treatment.
- h. Substance abuse or addiction counseling or treatment.
- i. Abstinence from alcohol or drugs.
- j. Cooperation with the Iowa Lawyers Assistance Program.
- k. Fee arbitration.

**34.13(3) Affidavit.** Prior to the board's deferral of further proceedings, the attorney shall execute an affidavit setting forth all of the following:

- a. An admission by the attorney of the conduct under investigation by the board.
- b. The conditions to be imposed by the board for supervision of the attorney, including the period of supervision.
- c. The attorney's agreement to the conditions to be imposed.
- d. An acknowledgement that the attorney understands that, should the attorney fail to comply with the conditions imposed by the board, a formal complaint may be filed with the grievance commission, both for the matters raised in the original complaint to the board and for the attorney's failure to cooperate with the conditions of supervision.
- e. A statement that, if the attorney fails to cooperate with the conditions of supervision, the admissions by the attorney with respect to the attorney's conduct may be introduced as evidence in any subsequent proceedings before the grievance commission.
- f. An acknowledgement that the attorney joins in the board's deferral determination freely and voluntarily and understands the nature and consequences of the board's action.

**34.13(4) Supervision.** The diversion coordinator shall be responsible for supervising the attorney's compliance with the conditions imposed by the board. Where appropriate, the diversion coordinator may recommend to the board modifications of the conditions and shall report to the board the attorney's failure to comply with the conditions or to cooperate with the diversion coordinator.

**34.13(5) Compliance.** Upon the attorney's successful compliance with the conditions imposed by the board, the board shall dismiss or close the investigations pending before it at the time it determined to defer further proceedings. The attorney will not be considered to have been disciplined,

but the attorney's admission of misconduct may be considered in imposing sanctions in a subsequent disciplinary matter not arising out of the same conduct.  
[Court Order April 20, 2005, effective July 1, 2005]

**Rule 34.14 Additional board duties.**

**34.14(1)** The board may authorize participation and directory listing by Iowa lawyers in an organization or association of lawyers engaged in a particular area of practice, as provided in Iowa Rule of Professional Conduct 32:7.7(c)(2), and may revoke such authorization at any time for any reasons it deems appropriate. Authorization shall not be granted unless all of the following facts have been established to the satisfaction of the board:

*a.* All Iowa participants have complied with the requirements of Iowa Rule of Professional Conduct 32:7.4.

*b.* Participation is based upon meeting stated high standards of professionalism and competence in the area of practice.

*c.* The organization or association regularly conducts training or professional learning and exchange concerning the area of practice involved.

*d.* Neither the organization or association nor anyone other than the Iowa lawyer has any part in or share in the conduct or practice of law in the area of practice of law involved and does not participate in any way in fees charged by the Iowa participant.

**34.14(2)** The board shall approve a reporting form for legal services plans as contemplated by Iowa Rule of Professional Conduct 32:7.7(d)(4)(x). The legal service plan shall be required to report the terms of its plan, its schedule of benefits, its subscription charges, agreements with counsel, and financial results of its legal service activities. If it appears from such annual report or any other source that the organization is not operating in accordance with the rules of the supreme court and the Iowa Rules of Professional Conduct, such facts shall be reported by the board to the court for such action as the supreme court may deem appropriate.

**34.14(3)** The board may approve organizations through which attorneys can be certified as specialists in particular fields of law.

**34.14(4)** The board shall retain copies of written solicitations and direct or e-mail communications which attorneys are required to file with the board pursuant to Iowa R. Prof'l Conduct 32:7.3.

[Court Order April 20, 2005, effective July 1, 2005]

**Rules 34.15 to 34.22** Reserved.



**Rule 34.23 Forms.****Rule 34.23 — Form 1: Iowa Supreme Court Attorney Disciplinary Board Complaint Form.**

**THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD  
Complaint Form**

(Complete a separate form for each attorney about whom you are complaining.)

1. **Your name:** \_\_\_\_\_ **Email Address:** \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Telephone: Home** \_\_\_\_\_ ; **Cell** \_\_\_\_\_ ; **Business** \_\_\_\_\_

2. **Name of attorney** about whom you are complaining: \_\_\_\_\_

**Street Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_ **Telephone:** \_\_\_\_\_

3. Did you hire the attorney (yes or no)? \_\_\_\_\_ If yes, when did you hire the attorney? \_\_\_\_\_

If no, what is your connection to the attorney? \_\_\_\_\_

4. If your complaint is about a lawsuit or court case, answer the following:

a. Name of court (examples: Iowa District Court for Polk County; United States District Court for Northern District of Iowa) \_\_\_\_\_

b. Case title (examples: Smith vs. Jones; State vs. Doe) \_\_\_\_\_

c. Case no. \_\_\_\_\_

5. Type or write neatly on one or more separate sheets of paper a detailed factual statement of what the attorney did or did not do. Return the sheet(s) with this form. **Write on only one side of the complaint form and the additional sheets of paper.** Please attach copies of documents that prove or help to explain your complaint, such as fee agreements, letters, checks, receipts, itemized billings, and court papers. **Send only copies, not original documents, as we are not able to return your documents to you.**

**In filing this complaint, you are waiving confidentiality and attorney-client privileges, if any, between you and the attorney named above. This waiver allows the attorney to disclose your confidential information to the extent reasonably necessary to respond to the complaint.**

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the allegations of this complaint are true and correct.

Date \_\_\_\_\_ Signature \_\_\_\_\_

Send the completed form to: Iowa Supreme Court Attorney Disciplinary Board  
Judicial Branch Building  
1111 East Court Avenue  
Des Moines, IA 50319  
Telephone: (515) 725-8017

[Court Order June 23, 1975; March 6, 1987, effective May 1, 1987; December 28, 1989, effective February 15, 1990; December 15, 1994, effective January 3, 1995; December 9, 1997; November 9, 2001, effective February 15, 2002; April 20, 2005, effective July 1, 2005; February 20, 2012]