

## Types of Discipline

MANY OF YOU HAVE HAD THE OPPORTUNITY to hear presentations by members of the Actuarial Board for Counseling and Discipline (ABCD) at local actuarial clubs or within your company or firm. The members of the ABCD are eager to attend programs that allow them to talk interactively about the role of the ABCD and in which there is time to discuss a number of case studies. We believe these sessions further the understanding of what is ethical conduct and allow “safe” opportunities to discuss situations that any of us might encounter during our actuarial careers. There is real value in providing a forum for actuaries to talk about challenging issues.

During these presentations, we frequently mention that requests for guidance far outnumber cases in which a formal complaint is brought against another actuary. Still, there is value in talking about those less frequent (but far more worrying) situations involving a formal complaint to the ABCD. While it is to be hoped that you will never face such a situation, it’s important to understand the process.

### A Thoughtful Process

A complaint usually begins when someone, generally another actuary, notifies the ABCD that an actuary (known as the subject actuary) has done something that the complainant believes is a

violation of the Code of Professional Conduct. (There are some situations—when there is a news report of personal or professional misconduct, for example—in which the ABCD may initiate an investigation on its own.) For all complaints, the ABCD’s chairperson and vice chairpersons perform a preliminary evaluation to determine whether they should be dismissed, mediated, or investigated.

In an investigation, an actuary with appropriate business and technical experience in the subject matter to which

the complaint applies, is appointed by the ABCD to look into the matter. The subject actuary has an opportunity to object to the appointment of a particular investigator for good cause. The next step is a thorough and often lengthy information-gathering phase in which the investigator interviews the complainant, the subject actuary, and others with pertinent information. Various materials (such as court transcripts and relevant actuarial communications), which are sometimes lengthy and often complex, may need to be reviewed. When the investigative report is complete, the subject actuary has 30 days in which to review the report and respond with comments or clarifications. The complaint, the investigator’s report, and the subject actuary’s response then are passed along to the full ABCD.

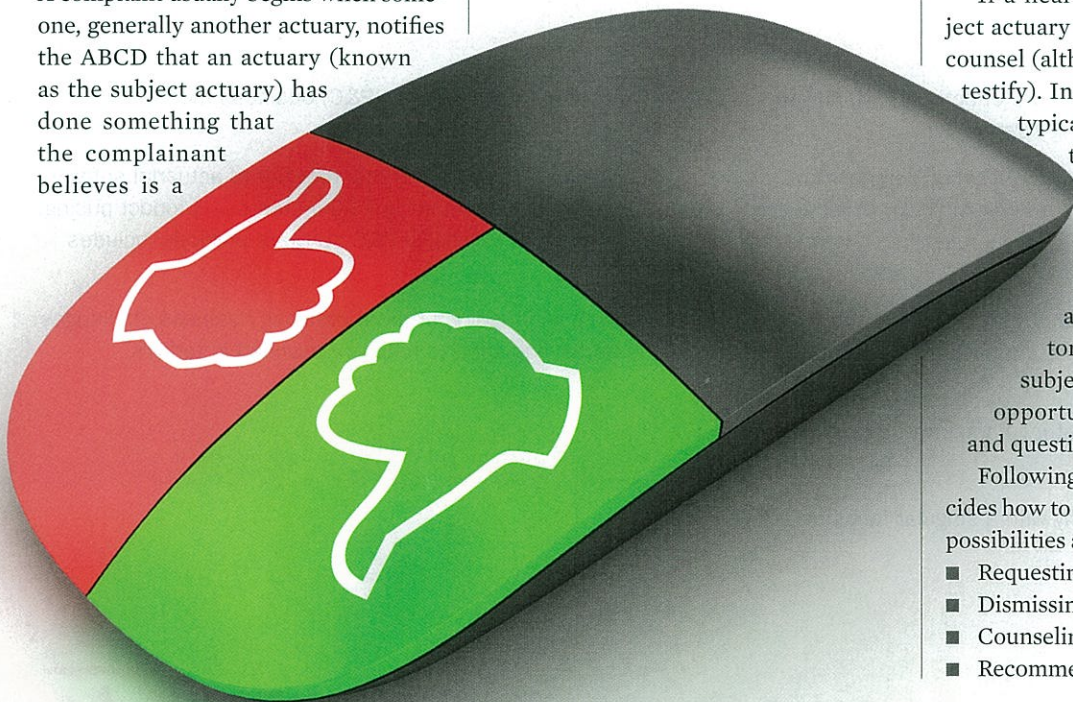
At that point, the ABCD may decide to:

- Request additional information,
- Dismiss the case,
- Counsel the subject actuary,
- Hold a formal hearing.

If a hearing is indicated, the subject actuary may choose to bring legal counsel (although the counsel may not testify). In addition, the investigator typically will be present. During the hearing, the investigative report is reviewed and members of the ABCD have the opportunity to ask the subject actuary and the investigator additional questions. The subject actuary also is given the opportunity to make a statement and question the investigator.

Following the hearing, the ABCD decides how to dispense with the case. The possibilities are:

- Requesting additional information,
- Dismissing the case,
- Counseling the subject actuary,
- Recommending discipline.





Action	Reason	Next Steps
Dismissed	Doesn't appear to be a material violation	Inform subject actuary and complainant
Mediated	Involves a dispute but not a material violation	Subject actuary and complainant are offered the opportunity to mediate the issue
Investigated	Involves a possible material violation	Subject actuary has the opportunity to respond, and an investigator is appointed

There are four levels of discipline that the ABCD may recommend, and—as you might expect—the varying levels reflect the seriousness of the charge and its effect on the public. Potential disciplinary action includes:

- Private reprimand,
- Public reprimand,
- Suspension,
- Expulsion.

For any of those recommended disciplinary actions, a written report is prepared and sent to each participating organization of which the subject actuary is a member. The precepts in the Code of Professional Conduct that were deemed to have been violated and the nature of the violation are discussed in the report. In addition, the participating organization receives a transcript of the hearing along with all other documents that were used by the ABCD in making its disciplinary decision. The subject actuary also receives this information.

### Discipline Revision

Keep in mind that the ABCD doesn't make the final decision on what happens after it recommends discipline. Each participating organization currently comes to its own conclusion after receiving the ABCD's recommendation for discipline. If the subject actuary belongs to several organizations, this can be expensive and time-consuming for all concerned.

The U.S. actuarial profession is in the process of considering potential revisions to the current practice. These include establishing a single body, with representation from each of the participating organizations to which a subject actuary belongs, to determine the appropriate level of discipline. All participating organizations involved in the matter would abide by that body's decision. In cases in which the recommendations for discipline involve long suspensions or expulsions, however, the member organizations still would make their own final decisions.

As our work increasingly depends on actuarial judgment, it's imperative that we understand our responsibilities and the impact of our work. Since joining the ABCD earlier this year, I have been impressed with the measures the ABCD takes to ensure that all cases are reviewed thoroughly, that all parties are treated fairly,

and that all information is handled confidentially by members of the ABCD at every phase in the process. In this way, the ABCD protects the public as well as the profession's reputation. □

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