

## Ethics and Grievance Committee Procedure

Rev. 7 8 16

1. All information regarding the complaint will be compiled by the Committee to the best of their ability and distributed to Committee members in a formal Complaint Packet.
2. The Committee will review the Complaint Packet and hold an initial meeting to discuss the complaint(s) and decide if any more information needs to be obtained. A preliminary discussion of the complaints will be heard at this meeting *without* any vote.
3. An email correspondence (see “**Email Notice 1 to Complainant**”) from the Chair will be sent to the Complainant. This email informs the Complainant that their complaint has been accepted, requests any additional information (if any) identified as needed or requested by the Committee, gives the Complainant a time frame to submit any additional information, and gives them the option to appear before the committee to support their complaint. This is an initial “Cause” or “No Cause” determination by the Committee, whereby the Committee only hears from the Complainant and inferences are drawn in favor of the Complainant, in an abundance of caution to favor the merit of any potential violations.
4. An email will be sent to all members which have a complaint registered against them, informing them generally of the complaint (see “**Email #2 Complaint Subject**”).
5. The Committee will provide both parties a copy of these procedures along with Email 1 or Email 2, respectively.
6. Following the conclusion of the time frame/deadline outlined in the Email #1 Notice to Complainant, a committee meeting will be held by the Committee to take and hear any initial documentation obtained or presented, any oral statements by the Complainant, and any other additional information the Committee seeks, and to ultimately make an initial determination of “cause” versus “no cause”. This meeting can include the complainant only, if they have chosen to do so, but this process is akin to a ‘grand jury’ type of proceeding and not a full two party adversarial hearing process.
7. If a determination of “no cause” is made, the Committee will recommend dismissal of the grievance and pass that recommendation to the NCCA board for their consideration. Notice of the “no cause” finding will be emailed to both the Complainant and Complaint Subject, notifying both of the vote and of Complainant’s right to appeal the “no cause” determination to the Board of Directors, by responding with a notice of appeal to the Chair within five (5) days. An initial finding of “cause” by the Committee is not appealable.
8. Upon a Committee determination and recommendation of “no cause,” the Board will notify the Complainant of the time and place of the next Board meeting, during which

time the Board will consider the recommendation of the Committee. If eligible, the Complainant will be given the opportunity to appear before the Board (in person or via telephone) and to present any additional evidence or make any statement the Complainant wishes to make to support the Complaint and appeal, pursuant to procedures and rules that may be promulgated or established by the Board or President. The Board may consider all evidence properly submitted with the Complaint, the minutes and records of the Committee, and any other evidence it wishes to consider regarding the Complaint.

9. Notice shall be given to both parties regarding the final determination by the Board to uphold or reject the Committee's initial "cause" or "no cause" determination. Should the Board vote to uphold the "no cause" finding, this determination shall be binding and final and the complaint shall be dismissed. Should the Board vote to overturn the 'no cause' finding, the Complaint shall be remanded back to the Committee for further two party hearing process proceedings.
10. If a determination of "cause" is made by the Committee (or by the Board and remanded to the Committee) an official two party hearing process will be held by the Committee to determine the outcome of the complaint and recommendation to the Board. The Committee shall now forward the initial information gathered and written complaint to the Complaint Subject. The Complaint and all information considered by the Committee should be provided to the Complaint Subject in advance of the hearing.
11. Both parties will be permitted to provide a written statement in advance of the hearing along with any documentation or evidence (including witness statements) in support of their position, if and only if such statement and documentation is served upon both the Committee and opposing party - by the Complainant at least fourteen (14) days in advance of the hearing and by the Complaint Subject at least seven (7) days in advance of the hearing.
12. Parties will be permitted to deliver an up to 1 hour oral presentation to the Board during the hearing, and to be represented by counsel, if desired, at the hearing. Parties will be subject to questioning by the Committee and its counsel only (exclusive of and in addition to the 1 hour time limit). Parties may not question each other and no witnesses may be called, outside of the documentation or witness statements already properly provided by either party, unless an exception is made by the Committee as substantially necessary to prevent injustice.
13. Once the hearing is complete, the Committee will vote to determine whether the complaint is true and substantiated or not true and not substantiated, and notice of this result will be provided to both parties, along with the right to appeal the vote to the full Board and deadline to respond and file such appeal. Such appeal must be received by the Committee Chair within five (5) days of transmission of the Committee determination.

14. If no appeal is filed, the Committee shall make its recommendation to the full Board without any further statements or evidence by the parties.
15. If an appeal is timely filed, the Board shall provide notice to the parties of the time and place of the next meeting at which time the Committee recommendation shall be considered. Either Party may present a written statement in advance of the hearing, if served upon both the Board and opposing party, at least 14 days in advance of the hearing by the appealing party and 7 days in advance of the hearing by the responding party, along with a limited 15 minute oral presentation to the Board (both only if eligible due to the filing of a timely appeal), and the Board will only consider the oral and written statements submitted by the parties along with the record of the Committee. No additional new evidence will be considered, if not previously provided to and considered by the Committee, absent a finding of absolute necessity by the Board to prevent injustice. The failure of the aggrieved party to properly respond and file an appeal shall preclude their right to appeal.
16. The final vote of the Board shall be binding upon the Parties without further recourse and notice shall be provided to the parties. The result of the vote, findings, and disciplinary action, if any, shall be officially documented in the Board's meeting minutes.

## Email Notice #1 to Complainant:

“Dear Dr./Mr./Ms. –

I hope this finds you well. I have been appointed as the Chair of the NCCA Board of Directors’ Ethics & Grievance Committee. I am working closely with the Board’s attorney and our full Committee to address your grievances.

Our committee has reviewed and discussed your various grievances, in detail, and we would like to give you the opportunity to present any additional information you would like for the Committee’s consideration. You may submit any additional information (documents, emails, etc.) you would like the Committee to consider within the next week, **on or before the close of business next (insert day/deadline)**. You can email or fax it directly to me via the information below.

Additionally, we would like to give you the opportunity to orally present your grievances to the full Committee in an initial fact finding ‘cause’ hearing/conference call (if you would like to do so) shortly following the deadline, during which time you can present any information you like and may be asked questions by Committee Members and the Board’s attorney. You can also have your attorney, if any, present on the fact finding call if you would like. Please let us know by the deadline if you would like to present and we will schedule the conference call.

You can also of course waive either or both (i) the submission of any additional documentation and/or (ii) this oral presentation opportunity, and simply ask us to proceed solely on your written grievance documentation; please let us know if that’s the case. This will automatically occur and the Committee will proceed solely upon the written grievance, without any additional documentation or oral presentation, if you don’t respond to us by the deadline.

It is important to note this is a one-sided initial cause determination, whereby the complainant (you) is given the opportunity to present everything in support of their grievance position. Following this documentation and/or presentation by you (the complainant) (if any), or the passing of the deadline, the Committee will enter formal deliberations and make an initial determination of ‘cause’ or ‘no cause’ and determine whether there is, in the Committee’s view, any cause to believe there are potential violations and thus move forward with a formal two party full hearing process.

If there is an initial finding of cause, this finding will be made in writing and notice will be given to the respondent of both the grievances and the cause finding, and both the complainant (yourself) and the respondent will be given the opportunity to engage in a full and fair in-person hearing process before the Committee whereby each party is permitted the opportunity to present evidence and documentation, to confront their accusers and present evidence, and to be represented by counsel if they so choose. Written recommended findings will be issued by the Committee following such a hearing (if any).

Alternatively, if there is no initial cause finding, the grievance will be recommended for dismissal with a similar written notice provided to both parties. Regardless of either result, the Committee will notify you of its findings of ‘cause’ or ‘no cause’ and of its intent to make this final recommendation to the full Board of Directors, which will then vote to approve, modify, or reject the Committee’s recommendation, at which time additional procedures may be available for you to additionally present to the full Board prior to their final vote upon the matter. It is important to note that if you waive your right to present any additional information to the Committee,

including any additional documentation or oral or in person testimony to the Committee, by either expressly waiving this right or failing to respond to this email, you will be precluded from later appearing before the board and/or submitting any additional information to the Board in any appeal of the determination. Such appeal will be determined solely upon the information already submitted to the Committee. The determination of the Board is binding and final without any further recourse.

Please let me know if you have any questions or concerns. We look forward to continuing to work with you to ensure your grievances are handled in a fair and professional manner.

Thanks,

Dr. Mike Poplak, DC  
Interim Chair, Ethics & Grievance Committee”

**Email #2 Complaint Subject Email:**

Dear

I am writing on behalf of the NCCA Board of Directors' Ethics and Grievance Committee ("Committee"). This email is to inform you that an ethics and grievance charge has been filed against you by Dr. XXX. The Committee takes all such complaints very seriously and has adopted orderly rules and procedures for these types of matters. These procedures are designed to ensure deference to the Complainant and that any interpretations or inferences are (at the very initial stage) given to the Complainant, prior to an additional full and fair two sided hearing process. The written grievance has been reviewed by the Committee, and the Committee will seek additional information from the Complainant prior to making its initial vote as to "Cause" or "No Cause" determination. A "Cause" determination means that the grievance will proceed further with a full and fair opportunity for both sides to be heard through a Committee hearing, before a recommendation of findings is made to the full Board of Directors, while an initial "No Cause" determination means that the Committee has determined there is an insufficient basis to proceed and that the grievance should be recommended for dismissal to the Board of Directors without any further proceedings. This email is to simply provide you notice and no further action is needed at this point in time. You will be notified in writing of the Committee's initial "Cause" or "No Cause" determination and of any further proceedings.

Thank you,

Dr. Michael Poplak  
Interim Chair of the Ethics and Grievance Committee