



Society of
Graphic Designers of Canada

Société des
designers graphiques du Canada

Grievances

GDC Grievance & Discipline Procedures

(Draft 4, April 27/2004)

**Proposed by David Berman, RGD, FGDC
GDC National Ethics Committee Chair**

1. Ethics Committee

1.1 The National Executive shall establish an Ethics Committee comprised of a quorum of at least three Members, all MGDC or FGDC, and including one member of the National Council, all in good standing, none of whom are Discipline Committee members.

1.2 The National Executive shall name the National Ethics Chair as Chair of the Ethics Committee.

1.3 The Ethics Committee shall, upon receipt of a written grievance received from the National Secretariat, review all grievances and attempt, where appropriate, to mediate and informally resolve them.

1.4 The Ethics Committee shall refer non-frivolous grievances to the Discipline Committee for a hearing, and in so doing, shall surrender all documents to the Discipline Committee held during their review.

1.5 If an Ethics Committee member files a grievance against a Member or a grievance is filed against an Ethics Committee member, that committee member shall forthwith resign from the committee for the period of adjudicating that particular grievance. If the resulting committee no longer complies with (1.1) above, the committee member must be temporarily replaced.

2. Discipline Committee

2.1 The National Executive shall establish a Discipline Committee comprised of a quorum of at least three Members, MGDC or FGDC, including at least one member of the National Council, none of whom are Ethics Committee members.

2.2 The National Executive shall name one of the Discipline Committee members to be Chair of the Discipline Committee.

2.3 The Discipline Committee shall upon a referral from the Ethics Committee, hold a hearing to consider a grievance alleging a breach of the standards of practice or that the Member is unfit due to incapacity.

2.4 If a Discipline Committee member files a grievance which is referred to the Discipline Committee or such a grievance is filed against a Discipline Committee member, that committee member shall forthwith resign from the committee for the period of adjudicating that particular grievance. If the resulting committee no longer complies with (2.1) above, the committee member must be temporarily replaced.

3. Grievances

3.1 A grievance alleging a breach of the Code of Ethics or that a Member is unfit due to incapacity may be made by any Member, by any member of the public, or by the Society through a decision of the National Executive to so proceed.

3.2 Alternatively, the National Executive, upon learning of any situation or circumstance that may give rise to a grievance, shall at its next regularly scheduled meeting or a special meeting specifically called by the National Executive for that purpose, consider such circumstance or situation where in the opinion of a majority of the National Executive it is in the best interests of the Society to do so, and the Secretary-Treasurer shall, as the representative of the Society, file a written grievance with the Ethics Committee.

4. Ethics Committee Procedure

4.1 There shall be an Ethics Committee as described above.

4.2 Except as set out herein, the Ethics Committee may establish its own procedures.

4.3 All grievances must be made in writing, in confidence, to the National Secretariat, who will then immediately pass them along to the Chair of the Ethics Committee. Each grievance must be against one Member only. Upon receipt of a properly formed grievance, the National Secretariat will immediately notify the Member whose conduct or capacity is to be investigated, including a copy of the grievance, these procedures, and notice that they have forty-five (45) days in which to submit in writing to the Chair of the Ethics Committee a document containing any explanations or representations the Member may wish to make concerning the matter.

Here is an example of the form that this notice could take:

"A grievance has been made in writing to the GDC regarding you, in accordance with GDC's grievance procedure. For your convenience, I have attached both a copy of the grievance and a copy of the grievance procedures. In conformity with this procedure, I am hereby notifying you that you are being investigated regarding the matter, and that you have forty-five days in which to submit in writing to the Chair of the Ethics Committee (currently David Berman, FGDC, 283 Ferndale Avenue, Ottawa, Ontario K1Z 6P9, gdc@davidberman.com) a document containing any explanations or representations you may wish to make concerning the matter."

No action shall be taken by the Ethics Committee unless:

- 4.3.1 the Ethics Committee has considered the representations of the complainant and the Member relating to the grievance; and
- 4.3.2 the Ethics Committee has examined the representations referred to earlier in the paragraph, as well as any other records and documents which, in its sole discretion, the committee believes should be examined.

4.4 The Ethics Committee shall, within forty days (40) days of having received the document from the Member whose conduct or capacity is to be investigated (or the expiry of the 45 days that the Member has to reply, whichever comes first), the Member against whom the grievance has been lodged, determine whether the grievance is frivolous or in the opinion of the Committee otherwise unworthy of pursuing, and if so, shall dismiss the grievance.

Where the Committee determines that a grievance should proceed, the Committee may, where in the opinion of the Committee it is appropriate, attempt to facilitate the mediation or other consensual resolution of the grievance. For all grievances which have not been dismissed by the Committee as frivolous or otherwise unworthy of pursuing, or which have not been successfully mediated, the Committee shall refer such grievances to the Discipline Committee for a hearing.

4.5 For the purposes of carrying out its duties set out in (4.4) immediately above, the Ethics Committee may take such action as it considers appropriate in the circumstances and that is not inconsistent with the constitution or by-laws of the Society.

4.6 The determination of the Ethics Committee shall

- 4.6.1 be made in writing; and
- 4.6.2 be served on the Member in question and the complainant by registered mail, and
- 4.6.3 may be appealable under appropriate federal law (e.g., the Corporations Act for federally incorporated bodies)

4.7 Where a grievance has been dismissed by the Ethics Committee as being frivolous or otherwise unworthy of pursuing, the complainant shall have the right to request the Discipline Committee to review the Ethics Committee's position on the grievance.

4.8 Notwithstanding (4.4) above, for the purpose of maintaining the integrity of the standards of the Society, the National Executive shall have the right to refer a grievance to the Discipline Committee for a hearing, despite a mediated solution of the grievance having been reached by the Ethics Committee, to the satisfaction of both the complainant and the Member.

4.8 For the purposes of maintaining the integrity of the standards of the Society, the Ethics Committee shall have the right to refer the grievance and surrender all documents to the Discipline Committee for a hearing, where, in its opinion, it is desirable to do so, notwithstanding the successful mediation of a grievance to the satisfaction of the Member and the complainant.

5. Discipline Committee Procedure

5.1 There shall be a Discipline Committee as described above.

5.2 Except as set out herein, the Discipline Committee may establish its own procedures.

5.3 When so directed by the Ethics Committee, the Discipline Committee shall hold a hearing to consider and determine whether a Member has breached the Code of Ethics, or whether a Member is unfit due to incapacity.

5.4 In dealing with a grievance, the Discipline Committee shall

- 5.4.1 notify the Member in writing of the nature and substance of the grievance made against him or her;
- 5.4.2 forward to the Member a copy of the grievance;
- 5.4.3 give all parties an opportunity to inspect any material the Committee will consider, in advance of a hearing;
- 5.4.4 give all parties the right to appear before the Committee at a hearing with witnesses and counsel if so requested to answer the grievance.

5.4.5 The Discipline Committee has the power to swear in witnesses, accept testimony under oath and require witnesses to produce in evidence any documents, drawings or materials specified by the Committee.

5.4.6 The Discipline Committee shall give all parties the right to cross-examine witnesses as may be reasonably required for full and fair disclosure of the facts in relation to which such witnesses have given evidence.



5.5 Upon considering the grievance and having afforded the Member an opportunity to answer the grievance at a hearing, the Discipline Committee shall

5.5.1 dismiss the grievance and decide that no further action be taken, or

5.5.2 determine whether the Member has breached the Code of Ethics or is unfit due to incapacity.

5.6 The decision of the Discipline Committee and its reasons shall

5.6.1 be made in writing;

5.6.2 be served on the Member in question and the complainant by registered mail; and

5.6.3 may be appealable under federal law.

5.7 Where so requested by a complainant, the Discipline Committee shall review a determination by the Ethics Committee that a grievance is frivolous or otherwise unworthy of pursuing, and, where in the opinion of the Discipline Committee the disposition of the matter by the Ethics Committee was unreasonable, the Discipline Committee may proceed to hold a hearing on the merits of the grievance. While the complainant has a right to request the Discipline Committee to review the dismissal of the grievance by the Ethics Committee, the Discipline committee shall not be required to hold a hearing as part of such review.

5.8 Where the Discipline Committee commences a hearing and a committee member becomes unable to act, the remaining committee members, if they constitute a quorum, may complete the hearing despite the absence of the withdrawing committee member.

5.9 All hearings conducted by the Discipline Committee shall be conducted in private except where the Member against whom the grievance has been made requests that it be open to the public.

5.10 Discipline Committee members holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject matter of the hearing, and shall not communicate directly or indirectly in relation to the subject matter of the hearing with any person or with any party or representative of a party, except upon notice to, and opportunity for both parties to participate.

6. Penalties and Sanctions

6.1 Where the Discipline Committee finds that a Member has breached the Code of Ethics or is unfit due to incapacity, the Discipline Committee may take such action against the Member as the Committee determines to be appropriate in the circumstances, including and limited to any or all of the following:

6.1.1 ordering the National Secretariat to remove the name of the Member from the List of Members;

6.1.2 suspending the Member for a period of not more than three years;

6.1.3 reprimanding the Member, in writing by registered mail;

6.1.4 permitting the Member to maintain his or her membership upon such terms and conditions as the Discipline Committee may deem appropriate;

6.1.5 requiring the Member to repeat all the steps of applying for membership before resuming practice as a Member;

6.1.6 ordering the Member to pay a sum.

7. Confidentiality

7.1 All Committees established hereunder, GDC Members, employees, agents, and /or consultants having knowledge of or involved with the keeping of any records relating to, or the conduct of, any disciplinary proceedings shall maintain total confidentiality except where disclosure is required in the course of carrying out their duties herein or the Constitution or other by-laws of the Society.

7.2 All disciplinary hearings conducted by the Discipline Committee shall be conducted in private except where the Member against whom the grievance is alleged requests that it be open to the public, unless the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.