



Society of
Graphic Designers of Canada

Société des
designers graphiques du Canada

Grievances

GDC Grievance and Discipline Procedures

2 **Ethics Committee**

3 **Discipline Committee**

3 **Grievances**

4 **Ethics Committee Procedure**

5 **Discipline Committee Procedure**

6 **Penalties and Sanctions**

7 **Confidentialty**

1. **Ethics Committee**

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

1.2 The National Executive shall name the National Ethics Chair as Chair of the Ethics Committee. The chair counts amongst the quorum, and votes in the case of a tie.

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 Associate 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 A above, the committee member must be temporarily replaced. Temporary replacements may be appointed by the Chair from a list of alternatives supplied by the National Executive.

1.6 If a grievance is filed against any Member or Associate for which a committee member believes they are in conflict (i.e., they believe that the determination may not be fair or may not be perceived to be fair should they be involved in the decision-making process), then that committee member shall declare themselves in conflict and shall abstain from participating in the determination of that grievance. Should that committee member be the Chair of the Committee, they can still perform their duties as chair (e.g., chairing a meeting where such a grievance is being discussed).

2. Discipline Committee

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

2.2 The National Executive shall name one of the Discipline Committee members to be Chair of the Discipline Committee. The chair counts amongst the quorum, and votes in the case of a tie.

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 or Associate 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 by a Member or Associate or that a Member or Associate is unfit due to incapacity may be made by any Member or Associate, 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.

3.3 Should, at any point in the process described herein, a Complainant wish to rescind a grievance, the Complainant may make such a request to the Ethics Committee Chair. If such a request is agreeable to both the Member Complained Of and the Ethics Committee, then the grievance shall be rescinded and the Complainant will have waived his or her option to file a similar grievance against the Member Complained Of in the future.

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, preferably in electronic form, in confidence, to the National Secretariat, who will then within seven (7) calendar days pass them to the Chair of the Ethics Committee. Each grievance must be against one Member or Associate only, must include within it any and all non-GDC documents to which it may make reference, and preferably cite the section or sections of the GDC Code of Ethics allegedly breached. Upon receipt of a properly-formed grievance, the National Secretariat will within seven (7) calendar days notify by registered mail the person whose conduct or capacity is to be investigated ("the Member Complained Of"), including a copy of the grievance, these procedures, and notice that they have forty-five (45) calendar days from the notification date in which to deliver in writing to the Chair of the Ethics Committee a document containing any explanations or representations the Member Complained Of may wish to make concerning the matter. The National Secretariat will promptly notify the Chair what date the notification was received.

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 the Society'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 calendar days from the date you received this notice in which to deliver in writing, preferably in electronic form, to the Chair of the Ethics Committee (currently David Berman, R.G.D., FGDC, 340 Selby Avenue, Ottawa, Ontario K2A 3X6, 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 the Ethics Committee has examined and considered the representations of the Complainant and the Member Complained Of relating to the grievance, as well as any other records and documents which, in its sole discretion, the Ethics Committee believes should be examined.

4.4 The Ethics Committee shall, within forty calendar days (40 days of having received the document from the Member Complained Of (or forty calendar days from the expiry of the 45 calendar days that the Member Complained Of has to reply, whichever comes first), formally determine whether the grievance should proceed. In cases where, after reviewing any document submitted by the Member Complained Of, the Ethics Committee has not yet determined that a grievance should proceed, the Ethics Committee is obliged to make the defence known to the Complainant and allow the Complainant up to twenty (20) calendar days to provide a written response. Within 20 calendar days of receiving such a response, the Ethics Committee shall formally determine whether the grievance is frivolous or in the opinion of the Committee otherwise unworthy of pursuing (and if so, shall dismiss the grievance) or whether the grievance should proceed. The Ethics Committee shall not consider additional documents submitted by any parties other than as described above.

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

- a) be made in writing to the National Secretariat; and
- b) be served on the Complainant and the Member Complained Of by registered mail in a letter from the National Secretariat containing the determination; and
- c) 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 Complained Of.

4.9 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 Complainant and the Member Complained Of.

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 Complained Of has breached the Code of Ethics, or whether a Member Complained Of is unfit due to incapacity.

5.4 In dealing with a grievance, the Discipline Committee shall

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

5.5 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.

5.6 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.

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

- a)** dismiss the grievance and decide that no further action be taken, or
- b)** determine whether the Member Complained Of has breached the Code of Ethics or is unfit due to incapacity.

Discipline Committee Procedure (cont'd)

- 5.7** The decision of the Discipline Committee and its reasons shall
- a)** be made in writing;
 - b)** be served on the Complainant and the Member Complained Of by registered mail; and
 - c)** may be appealable under federal law.

5.8 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.

5.9 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. The Discipline Committee Chair may also name an alternate from a list of alternate committee members supplied by the National Executive.

5.10 All hearings conducted by the Discipline Committee shall be conducted in private except where the Member Complained Of requests that it be open to the public.

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

- a)** ordering the National Secretariat to remove the name of the Member Complained Of from the List of Members;
- b)** suspending the Member Complained Of for a period of not more than three years;
- c)** reprimanding the Member Complained Of, in writing by registered mail;
- d)** permitting the Member Complained Of to maintain his or her membership upon such terms and conditions as the Discipline Committee may deem appropriate;
- e)** requiring the Member Complained Of to repeat all the steps of applying for membership before resuming practice as a Member or Associate;
- f)** ordering the Member Complained Of to pay a sum;
- g)** publication any or all of the full name and address of the member, the facts as they appeared to the Committee, the decision including any penalty and reasons therefore, and the text or substance of any reprimand.

6.2 Where a Member has been found not guilty, the identity of the Member shall not be published, but the substance of the proceedings may be published without any identification of any persons involved (for the purpose of providing guidance to others).

7. Confidentiality

7.1 All Committees established hereunder, Members, Associates, 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 Complained Of 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. Both the Member Complained Of and the Complainant may have legal representation present for any/all hearings.



**Society of
Graphic Designers of Canada
National Secretariat**

**Société des
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GDC Grievance and Discipline Procedures (Draft 9)

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*13 April 2005: Draft 9 includes changes to increase precision proposed
by Meenu Ahluwalia Brar B.Sc, LL.B and David Berman R.G.D., FGDC.*