

ACTION OF GRIEVANCE COMMITTEE

The Grievance Committee is a standing committee of the Local Association. The function of the Grievance Committee is to determine whether a professional standards hearing should be held, or whether the complaint should be dismissed as insufficient on its face. The Grievance Committee does not decide the ultimate issue of guilt or innocence, but merely, whether **assuming the facts as alleged to be true, has a violation of the Code been pleaded.** By analogy, the Committee serves as a grand jury to initially screen complaints.

GC Analyzes the Complaint

- Assume facts to be true as stated
- Send forward for hearing?
 - Do these facts support violation(s) of the Code of Ethics Article(s), MLS Rules or Bylaws cited?
 - If so, send forward for hearing, as is
 - Have the correct parties been named?
 - If so, send forward for hearing, as is

Modifications to Complaint

- Amend the complaint to dismiss one or more alleged violations, if no possible violation is alleged
- Dismiss complaint if no possible violations are alleged
- Amend the complaint to add violations of additional Articles or Rules based on the facts alleged
- Amend the complaint to add any other appropriate party as a respondent
- Amend the complaint to add the Designated REALTOR® as a respondent
- Combine multiple complaints together involving the same respondent for the same acts
- GC may add itself as complainant if the original complainant will not agree to the additions made to the complaint by the GC

Complaint Withdrawn by Original Complainant

If complaint is dismissed by original complainant, after GC sends to hearing but before date of hearing, complaint is referred back to GC, and GC can substitute in as complainant **only** where potential violation of public trust is alleged

- Alternatives open to the Grievance Committee
 - Dismiss the complaint because there is no potential violation of public trust alleged
 - GC substitutes in as complainant and refer the matter, as amended or as is, to hearing

o Conduct that is a breach of “public trust” falls into one of the following categories:

- Misappropriation of a client’s funds or property (stealing from a client);
- Deliberate discrimination; or
- Misrepresentation resulting in substantial economic harm

Information Considered by GC

- GC may render its determination on the basis of the complaint as received
- GC may, in rare circumstances, contact the complainant to clarify alleged facts
- Respondent should not be contacted or advised that a complaint has been filed

No GC Hearings

- **GC does not weigh evidence**
- **GC does not seek additional evidence**
- **GC does not decide who is telling the truth**
- **GC does not find guilt or innocence**

Check List of Major Considerations for GC

- Are the persons named in the complaint members of the Association and/or participants/subscribers of the Association’s MLS? The Association does not have jurisdiction to process complaints against nonmembers.
- Is the complaint in proper form? Is it submitted on Form D-1? Does it include an exhibit which describes in sufficient detail the conduct that occurred and how that conduct violated the cited association and/or MLS duties? If not, the complaint should be returned to the complainant(s) with directions to resubmit it accordingly.
- Assuming the facts alleged are true, does the conduct violate the Code of Ethics, MLS rule(s), and or membership duties cited by the complainant? If not, the complaint should be dismissed. If so, the complaint should be forwarded for hearing before the Professional Standards Committee.
- Should any Articles, MLS rules, or membership duties be DELETED?
- Should any Articles, MLS rules, or membership duties be ADDED?
- Should additional respondents be named? Should the designated REALTOR® or the MLS participant be named, if not already? Note: If the Grievance Committee adds additional respondents and the complainant does not agree the Grievance Committee will have to join as a co-complainant and proceed against such respondents.
- Are there any other complaints involving the same set of facts and circumstances with the Association? If so, should this complaint be combined with the other complaints?
- Does this complaint qualify for a Citation?