

**ELC 5.1
GRIEVANTS**

(a) Filing of Grievance. Any person or entity may file a grievance against a lawyer who is subject to the disciplinary authority of this jurisdiction.

(b) Consent to Disclosure.

(1) Subject to paragraph (2), by filing a grievance, the grievant consents to disclosure of all information submitted. This includes disclosure to the respondent lawyer or to any person under rules 3.1 – 3.4.

(2) Disclosure may be specifically restricted, such as:

(A) when a protective order is issued under rule 3.2(e); or

(B) when the grievance was filed under rule 5.2; or

(C) when necessary to protect a compelling privacy or safety interest of a grievant or other individual.

(3) By filing a grievance, the grievant also agrees that the respondent or any other lawyer contacted by the grievant may disclose to disciplinary counsel any information relevant to the investigation, unless a protective order is issued under rule 3.2(e).

(4) Consent to disclosure under this rule by submitting information to disciplinary counsel does not constitute a waiver of any privilege or restriction against disclosure in any other forum.

(c) Grievant Rights. A grievant has the following rights:

(1) to be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made;

(2) to have a reasonable opportunity to communicate with the person assigned to the grievance, by telephone, in person, or in writing, about the substance of the grievance or its status;

(3) to receive a copy of any response submitted by the respondent, subject to the following:

(A) Withholding Response. Disciplinary counsel may withhold all or a portion of the response from the grievant when:

(i) the response refers to information protected by RPC 1.6 or RPC 1.9 to which the grievant is not privy; or

(ii) the response contains information of a personal and private nature about the respondent or others; or

(iii) the interests of justice would be better served by not releasing the response.

(B) Challenge to Disclosure Decision. Either the grievant or the respondent may transmit a written challenge to disciplinary counsel's decision to withhold or not withhold all or a portion of a grievance or response within 20 days of the date of transmittal of the decision by disciplinary counsel. The challenge shall be resolved by a review committee, unless the matter has previously been dismissed under rule 5.7(d) or the time period for submitting a request for review of a dismissal has expired under rule 5.7(b).

(4) to attend any hearing conducted into the grievance, subject to these rules and any protective order issued under rule 3.2(e), except that if the grievant is also a witness, the hearing officer may order the grievant excluded during the testimony of any other witness whose testimony might affect the grievant's testimony;

(5) to provide relevant testimony at any hearing conducted into the grievance, subject to these rules and any protective order issued under rule 3.2(e);

(6) to be notified of any proposed decision to refer the respondent to diversion and to be given a reasonable opportunity to submit to disciplinary counsel a written comment thereon;

(7) to be advised of the disposition of the grievance; and

(8) to request reconsideration of a dismissal of the grievance as provided in rule 5.7(b).

(d) Duties. A grievant should do the following:

(1) give the person assigned to the grievance documents or other evidence in the grievant's possession, and witnesses' names and addresses;

(2) assist in securing relevant evidence; and

(3) appear and testify at any hearing resulting from the grievance.

(e) Vexatious grievants.

(1) The Chair of the Disciplinary Board may enter an order declaring an individual or entity a vexatious grievant and restraining that individual from filing grievances or pursuing other rights under this rule, pursuant to the procedures set out in this subsection. A "vexatious grievant" is a person or entity who has engaged in a frivolous or harassing course of conduct that so departs from a reasonable standard of conduct as to render the grievant's conduct abusive to the disciplinary system or participants in the disciplinary system.

(2) Either disciplinary counsel or a lawyer who has been the subject of a grievance may file a motion to declare the grievant vexatious.

(3) The motion must set forth with particularity (A) the facts establishing that the grievant's conduct is vexatious and (B) the restrictions on the grievant's conduct that are sought.

(4) The moving party must serve a copy of the motion on the grievant. If the motion is filed by a respondent lawyer, the motion must also be served on disciplinary counsel.

(5) The grievant, disciplinary counsel, and the respondent lawyer shall have 20 days to file a written response.

(6) If the Chair finds that the person is a vexatious grievant, the Chair shall enter an order setting out with particularity (A) the factual basis for such finding, (B) the restrictions imposed on the grievant's conduct, and (C) the basis for imposing such restrictions. The restrictions must be no broader than necessary to prevent the harassment and abuse found.

(7) The moving party, the grievant, and the disciplinary counsel may seek review of the Chair's order by a petition for discretionary review under rule 12.4. No other appeal of the order shall be allowed.

(8) The fact that a person or entity has been determined to be a vexatious grievant and the scope of any restrictions imposed shall be public information. All other proceedings and documents related to a motion under this subsection are confidential.

[Adopted effective October 1, 2002; Amended effective January 1, 2014; January 1, 2014;
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