

21 NCAC 34A .0126 COMPLAINTS; PRELIMINARY DETERMINATIONS

(a) A person who believes that any person, firm or corporation is in violation of any provision of G.S. 90, Article 13A, 13D, 13E, or 13F or Title 21, Chapter 34, of the North Carolina Administrative Code, may file a written complaint with the Board's staff. If the accused is subject to the jurisdiction of the Board, the complaint shall be handled pursuant to this Rule.

(b) A complaint shall be handled initially by the Board's Executive Director, or staff designated by him or her. If a complaint on its face appears to be outside the jurisdiction of the Board, the Executive Director or his or her staff designees may forward the complaint to the Board's disciplinary committee without following the procedures of Paragraphs (c) through (e) of this Rule and may forward the matter to any federal or state agency with the appropriate jurisdiction.

(c) The Executive Director or his or her staff designees shall notify the accused of the complaint in writing. Such notice shall be served by hand or by certified mail, return receipt requested; shall state the allegations as contained in the complaint, or may enclose a copy of the complaint; and shall contain a request that the accused submit a response in writing within 10 days from the date the notice of the complaint is received by the accused.

(d) If the accused responds to the allegations, the Executive Director or his or her staff designees shall forward a summary of the response, or the response itself, to the person who filed the complaint and give him or her 15 days to respond. Following a receipt of a rebuttal by the complainant or after 15 days without having received a rebuttal and any additional investigation deemed necessary by the Executive Director or his or her staff designees, the matter shall then be referred to the disciplinary committee.

(e) If the accused does not respond to the allegations, the Executive Director or his or her staff designees shall investigate the allegations and refer the complaint and any other available evidence to the Board's disciplinary committee for review.

(f) In accordance with Paragraphs (d) through (e) of this Rule, the disciplinary committee shall review the complaint file. The disciplinary committee may request additional investigation of a file or make a preliminary determination to recommend that the Board take one of the following actions:

- (1) that the complaint be dismissed because of insufficient grounds to believe one or more licensees has violated any law or regulation of the Board or other grounds requiring dismissal;
- (2) that a letter of caution be issued;
- (3) that the case be compromised pursuant to G.S. 90-210.25(e)(1), 90-210.123(g), or 90-210.69(c);
- (4) that the case be set for a contested case hearing because sufficient grounds exist to believe one or more licensees may have violated a law or regulation of the Board justifying disciplinary action; or
- (5) Any other action the Board may take that is authorized by law.

(g) The Board may accept or reject, in whole or in part, the recommendations of the disciplinary committee.

History Note: Authority G.S. 90-210.23(a),(d); 90-210.25(e); 90-210.69(a),(c); 90-210.80; 90-210.123(g); 90-210.134(a); Eff. October 1, 1993; Amended Eff. February 1, 2009; July 1, 2004; August 1, 1998; November 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.