

SUBCHAPTER 22L – ADMINISTRATIVE HEARINGS AND DISCIPLINE

21 NCAC 22L .0101 COMMITTEE ON INVESTIGATIONS

- (a) The Board President shall appoint two Board members for a standing Committee on Investigations. The Committee on Investigations shall investigate complaints submitted to the Board, unless administratively closed as described in Paragraph (d) of this Rule.
- (b) The complainant shall submit a signed Board-approved complaint form set forth in this Rule. The complaint form is available on the Board website (www.nchalb.org) or by contacting the Board office. The complaint form requires the following:
- (1) the complainant first and last name;
 - (2) the complainant address;
 - (3) the complainant phone number;
 - (4) the licensee, apprentice, or registered sponsor first and last name;
 - (5) the licensee, apprentice, or registered sponsor business address;
 - (6) the nature of the complaint; and
 - (7) the complainant signature and attestation of truthfulness.
- (c) The Board shall not respond to or investigate anonymous complaints or inquiries.
- (d) The Board staff shall administratively close:
- (1) any complaint anonymously submitted;
 - (2) a complaint that alleges an advertising violation of 21 NCAC 22J .0103 that occurred more than one year prior to notifying the Board of the alleged violation;
 - (3) a complaint withdrawn by the complainant at any stage of the investigation; or
 - (4) incomplete forms. The Board staff shall return incomplete forms to the complainant, if a complainant is listed on the incomplete form.
- (e) After a review of a complaint, the Committee on Investigations shall:
- (1) recommend to the Board a finding that there is no probable cause to believe a violation of the law or rules exists and close the complaint when the Board finds that there is no probable cause to believe a violation of the law or rules exists. The Committee shall send a letter to the complainant stating the same. This letter is not a public record pursuant to G.S. 93D-13(c);
 - (2) serve the licensee, apprentice, or registered sponsor with a written explanation of the charges if there is evidence that probable cause of a violation exists;
 - (3) hire an investigator or such persons as it deems necessary to determine whether there is probable cause to believe a violation exists in order to support formal disciplinary action against a licensee, apprentice, or registered sponsor;
 - (4) subpoena persons to provide the Committee with sworn testimony or documents, provided that the subpoena is signed by the President or Secretary-Treasurer of the Board; or
 - (5) make inquiries designed to assist the Committee in its review of matters under investigation.
- (f) The respondent shall respond in writing within 20 days of receipt of the notification of charges.
- (g) The Committee may offer the complainant a summary of the response. The Committee shall make this decision on a case-by-case basis, considering the nature of the complaint and the response.
- (h) The Committee shall offer the parties an opportunity to present oral statements to the Committee after the response is received from the respondent, if the Committee determines that further information is required from the complainant or respondent. Neither party shall be compelled to attend.
- (i) With assistance from the Board's legal counsel, the Committee shall determine the validity and merit of the charges, and whether the accused party has violated any standard of conduct that would justify a disciplinary action based upon the grounds as specified in G.S. 93D-13 or this Chapter.
- (j) The Committee on Investigations shall present its findings and recommendation to the Board, including proposed discipline, if any, but shall not identify the parties to the complaint to the full Board except by descriptive titles, such as licensee, apprentice, sponsor, and consumer.
- (k) The Board may find no probable cause for disciplinary action and dismiss the charges. The Committee on Investigations shall notify the parties of the Board action.
- (l) The Board may find no probable cause for disciplinary action but issue a letter of caution to the respondent.
- (m) The Board may find probable cause for disciplinary action and serve the respondent with a private reprimand. The private reprimand letter is not a public record pursuant to G.S. 93D-13(c). The Board shall deem the private reprimand accepted as formal discipline in the matter unless the respondent submits a refusal to accept the private reprimand, which shall:

- (1) be in writing, addressed to the Committee on Investigations;
 - (2) be filed with the Board staff within 20 days after service of the private reprimand; and
 - (3) include a request for a contested case hearing in accordance with 21 NCAC 22L .0103.
- (n) The Board may find probable cause for disciplinary action and authorize the Committee on Investigations, by and through the Board's legal counsel, to undertake negotiations with the respondent to settle the matter without a hearing when such settlement accomplishes the Board's duty to protect the consuming public.
- (o) If the Board and respondent fail to settle the matter under Paragraph (n) of this Rule, the Board shall:
- (1) serve a notice of hearing on the accused party as required by G.S. 150B, Article 3A., which may also be released to any requesting member of the public pursuant to G.S. 93D-13(c);
 - (2) designate a presiding officer for the contested case; and
 - (3) conduct a hearing in accordance with the rules of this Subchapter.

*History Note: Authority G.S. 93D-3; 93D-13; 150B-38;
Eff. January 1, 1992;
Amended Eff. December 1, 2013; February 1, 2010; April 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;
Amended Eff. October 1, 2016.*