

21 NCAC 26 .0510 COMPLAINTS AND DISCIPLINARY REVIEW PROCESS

(a) Any person may file a complaint against a licensed Landscape Architect for an alleged violation of G.S. Chapter 89A or 21 NCAC 26 on a form provided on the Board's website: www.ncbola.org which may also be requested from the Board staff.

(b) The complaint shall set forth the facts upon which the complaint is based and the complainant shall confirm he or she believes the facts stated are true and that he or she is prepared to prove them at a hearing. Supporting documents may be provided.

(c) Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination that evidence of a violation exists, the matter shall be subject to Board investigation and may ultimately be subject to disciplinary action by the Board.

(d) An investigation shall be initiated by a written notice and explanation of the allegation being forwarded to the licensee or entity against whom the charge is made and a response shall be requested of the licensee or firm so charged within 30 days of receipt of said notice to show compliance with all requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.

(e) In the discretion of the Board Chair, a field investigation may be performed.

(f) After additional evidence has been obtained, the Board Chair shall either:

- (1) recommend dismissal of the charge; or
- (2) refer the matter to the Disciplinary Review Committee.

(g) If the Board Chair recommends dismissal, the Chair shall give a summary report to the Board and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter shall be forwarded to the Disciplinary Review Committee for further consideration.

(h) The Disciplinary Review Committee shall be made up of a minimum of one member of the Board, the Board Chair, and legal counsel to the Board.

(i) Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee shall present to the Board a written recommendation that may include the following:

- (1) The charge be dismissed as unfounded or that the Board is without jurisdiction over the matter;
- (2) The charge is admitted as true, whereupon the Board may accept the admission of guilt by the licensee or entity charged and discipline the licensee or entity accordingly;
- (3) The Board may accept a proposed settlement negotiated in an effort to resolve the alleged violations; or
- (4) The charge be presented to the full Board for a hearing and determination of sanctions by the Board in accordance with the substantive and procedural requirements of the provisions of G.S. 150B, Article 3A.

(j) A consultant to the Disciplinary Review Committee shall be designated by the legal counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The consultant shall be a currently licensed landscape architect selected from former Board members or other licensed professionals who are knowledgeable with the Board's processes and have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the Disciplinary Review Committee in making a recommendation as to the merits of the case.

(k) At least 15 days written notice of the date of consideration by the Board of the recommendations of the Disciplinary Review Committee shall be given to the licensee or entity against whom the charges have been brought and the person submitting the complaint.

(l) When the Board issues a notice of hearing against the licensee or entity the licensee or entity may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the person or entity and the Board's Disciplinary Review Committee do not agree to a resolution of the dispute for the full Board's consideration, the original disciplinary review process shall commence. During the course of the settlement conference, no sworn testimony shall be taken.

*History Note: Authority G.S. 89A-3.1(7),(8),(9); 89A-7;
Eff. December 1, 2005;
Amended Eff. March 1, 2015;
Readopted Eff. April 1, 2018;
Amended Eff. January 1, 2022.*