



BRITISH COLUMBIA MEDIATOR ROSTER SOCIETY COMPLAINT PROCESS

The British Columbia Mediator Roster Society (the “Society”) provides a process by which complaints received by the Society concerning members of its Civil and Family Rosters may be resolved informally by the parties or by means of a formal hearing process.

Part 1 – Definitions

1.1 DEFINITIONS

In this complaint process, unless the context otherwise requires:

“**appeal**” means an appeal by a complainant under paragraph 3.4(a) from a decision of the complaint resolution officer;

“**board**” means the board of directors of the Society;

“**complainant**” means a person who delivers a complaint to the Society;

“**complaint**” means a written allegation of misconduct or breach of the Society’s Standards of Conduct by a member of the Civil or Family Roster;

“**discipline committee**” means the committee of the board of directors to which the executive committee may refer complaints under paragraph 5.1;

“**executive committee**” means the executive committee of the board of directors of the Society;

“**member**” means a member of the Society’s Civil or Family Roster;

“**president**” means the president of the Society;

“**Roster Coordinator**” means the Roster Coordinator of the Society;

“**Society**” means the British Columbia Mediator Roster Society.

Part 2 – Guiding Principles and Time Limits

2.1 GUIDING PRINCIPLES

The complaint process is guided by the following principles:

(a) *Timeliness*: Complaints will be dealt with in reasonable timeframes;

- (b) *Confidentiality*: Subject to Part 8, the process will respect the right to privacy of the complainant and the member;
- (c) *Transparency*: The process, decisions and reasons for decisions will be fully disclosed to the complainant and the member;
- (d) *Opportunity to be heard*: Both the complainant and the member against whom a complaint is directed will be accorded an opportunity to be heard; and
- (e) *Public interest*: The paramount consideration in decision-making under this complaint process will be the public interest.

2.2 If a complaint is received under paragraph 3.1, it may be referred to the executive committee or discipline committee notwithstanding that the complainant subsequently indicates that he or she wishes to withdraw the complaint if the Roster Coordinator, under paragraph 3.4(e), or executive committee, under paragraph 5.1(a), determines that such referral is in the public interest.

2.3 TIME LIMITS

The executive committee may waive any time limit provided in this complaint process if the executive committee deems it necessary in order to comply with the guiding principles in paragraph 2.1.

Part 3 – Receipt and Preliminary Handling of Complaint

3.1 RECEIPT OF COMPLAINTS

A complaint must be in writing, must identify the complainant and provide contact information, including mailing address, and must be delivered to the Society within 90 days of the alleged misconduct or breach of the Society's Standards of Conduct.

3.2 PRELIMINARY REVIEW OF COMPLAINTS BY THE ROSTER COORDINATOR

- (a) The Roster Coordinator must, within 14 days of its receipt by the Society, review each complaint received under paragraph 3.1 in order to determine that it concerns alleged misconduct or breach of the Society's Standards of Conduct by a member.
- (b) Where the Roster Coordinator decides that a complaint does not concern alleged misconduct or breach of the Society's Standards of Conduct by a member, or is manifestly without merit, or the complainant is without standing, the Roster Coordinator must, within 14 days, so advise the complainant and the member in writing and indicate that he or she does not intend to take further action with respect to the complaint. Within 14 days of being so advised, the complainant may appeal the Roster Coordinator's decision to the executive committee by delivering written notice of appeal to the president at the office of the Society.
- (c) If a complainant delivers a notice of appeal under paragraph 3.2(b), the Roster Coordinator must, within 14 days, refer the notice of appeal and the complaint to the executive committee.

(d) Unless the Roster Coordinator proceeds under paragraph 3.2(b), he or she must, within 14 days, respond to the complainant in writing acknowledging receipt of the complaint and forward a copy of the complaint to the member against whom the complaint is directed.

3.3 RESPONSE TO COMPLAINTS BY MEMBERS

Subject to paragraph 3.2(b) and paragraph 3.5, the member must respond to a complaint in writing within 30 days of receipt of a copy of the complaint from the Roster Coordinator. The member must send his or her response to the Roster Coordinator who must forward it to the complainant.

3.4 THE ROSTER COORDINATOR'S HANDLING OF COMPLAINTS

(a) The Roster Coordinator, on his or her own initiative, may refer a complaint to the executive committee at any time, and must refer a complaint to the executive committee

- (i) if the Roster Coordinator is of the opinion that the complaint is of a serious nature and that it is in the public interest that it be dealt with promptly by the executive committee; or
- (ii) if the Roster Coordinator is of the opinion that he or she is in a conflict of interest in connection with the complaint.

(b) Within 7 days of receiving the members' response under paragraph 3.3, the Roster Coordinator must write to the complainant forwarding the member's response to the complaint, and request that the complainant advise whether he or she wishes to withdraw the complaint or proceed further with the complaint process.

(c) If, within 30 days from the date of the Roster Coordinator's letter, the Roster Coordinator has not been advised by the complainant that he or she wishes to proceed further with the complaint process, the complaint will be regarded as having been withdrawn.

(d) If the Roster Coordinator is advised by the complainant that he or she wishes to proceed further with the complaint process, the Roster Coordinator must, within 14 days, refer the complaint to the executive committee.

(e) Notwithstanding that a complaint is regarded as being withdrawn under paragraph (c), or is withdrawn at any earlier stage in this complaint process, the Roster Coordinator may refer the complaint to the executive committee if the Roster Coordinator determines that it is in the public interest to do so.

3.5 DISMISSAL OF COMPLAINTS BY EXECUTIVE COMMITTEE

Where a complaint is referred to the executive committee under paragraph 3.2(c), and the executive committee decides that the complaint does not concern alleged misconduct or breach of the Society's Standards of Conduct by a member or is otherwise without merit, or the complainant is without standing, the president must so advise the complainant and the member in writing within 14 days. There is no right of appeal from this decision.

3.6 HANDLING OF COMPLAINTS BY EXECUTIVE COMMITTEE

Where a complaint is not dismissed by the executive committee under paragraph 3.5, the executive committee may, within 30 days, seek to resolve it informally under Part 4.

Part 4 – Informal Resolution of Complaints

4.1 APPOINTMENT OF A MEDIATOR

If the complainant agrees to attempt to resolve the complaint through mediation, the executive committee may appoint a mediator acceptable to both the complainant and the member.

4.2 APPOINTMENT OF A MEDIATOR WHERE THE PARTIES ARE UNABLE TO AGREE

If the complainant and the member are unable to agree upon the selection of a mediator, the executive committee may appoint a mediator using the process, with necessary changes, contained in section 5 (2) through (5) of the Society's Mediation Rules.

4.3 PAYMENT OF MEDIATION COSTS

Unless the complainant and the member otherwise agree in the mediation, the mediator's fees and other expenses related to the mediation, including travel and rental of premises, will be paid equally by the complainant and the member.

4.4 REPORT ON OUTCOME OF MEDIATION

If a complaint is to be mediated under paragraph 4.1 the complainant and the member must agree that the mediator will advise the executive committee of the outcome of the mediation.

4.5 OTHER INFORMAL PROCESSES TO ADDRESS COMPLAINTS

The executive committee may address complaints through use of other informal processes, including but not limited to referral to the Practice Advisory Committee, where it concludes that the complaint may be appropriately addressed by a particular informal process, and where the member agrees to participate in that process. The executive committee must advise the complainant of its decision under this paragraph within 14 days. There is no right of appeal from a decision under this paragraph.

Part 5 – Formal Resolution of Complaints

5.1 REFERRAL TO DISCIPLINE COMMITTEE

(a) If the complaint is not dismissed by the executive committee under paragraph 3.5, resolved to the satisfaction of the complainant under paragraph 4.1, or addressed by an informal process under paragraph 4.5, the executive committee must refer the complaint to the discipline committee unless it determines, for whatever reason, that the public interest would not be served by referring the matter to the discipline committee. Where the executive committee determines

that the public interest would not be served by referring the complaint to the discipline committee, it must, within 14 days, so advise the complainant and the member in writing, with reasons.

(b) Notwithstanding that a complaint is resolved to the satisfaction of the complainant under paragraph 4.1, or at any earlier stage in this complaint process, or that a complaint is withdrawn by the complainant, the executive committee may refer the complaint to the discipline committee if the executive committee determines that it is in the public interest to do so.

(c) There is no right of appeal from a decision of the executive committee under subparagraphs (a) or (b).

Part 6 – Conduct of Hearings

6.1 WRITTEN SUBMISSIONS OR ORAL HEARING

The proceedings of the discipline committee may be conducted by receipt of written submissions or by oral hearing, or by a combination of oral and written submissions, as the discipline committee may in its discretion determine consistent with the guiding principles in paragraph 2.1.

6.2 STRUCTURE OF HEARINGS BY WRITTEN SUBMISSIONS

Where the discipline committee determines that a hearing will be conducted by receipt of written submissions, it must give the complainant 14 days written notice of the date by which his or her submission must be received by the committee. Upon receipt of the complainant's submission, the committee must forward a copy of it to the member and give the member 14 days to provide his or her submission to the committee. Upon receipt of the member's submission, the committee must forward a copy of it to the complainant and give the complainant 14 days to respond.

6.3 STRUCTURE OF ORAL HEARINGS

Where the discipline committee determines that an oral hearing will be conducted, the committee must

- (a) set the date, time and place of the hearing; and
- (b) give the complainant and the member 14 days written notice of the hearing and an outline of the process to be followed at the hearing, which process must
 - (i) provide an opportunity for the complainant, and such supporting witnesses as may be reasonable, to be heard,
 - (ii) provide an opportunity for the member, and such supporting witnesses as may be reasonable, to be heard,
 - (iii) provide an opportunity for the complainant and the member to question each other and each of the other's supporting witnesses, and
 - (iv) provide an opportunity for the complainant and the member to summarize their position for the committee.

6.4 DECISIONS OF DISCIPLINE COMMITTEE

Within 30 days after the conclusion of a hearing, the discipline committee must determine whether the alleged misconduct or breach of the Society's Standards of

Conduct has been established. If the committee finds that the alleged misconduct or breach of the Society's Standards of Conduct was not established, it must dismiss the complaint and provide the complainant and the member with written reasons for its decision. If the committee finds that the alleged misconduct or breach of the Society's Standards of Conduct was established, the committee must give the complainant and the member 30 days to make submissions to the committee as to sanction, either by way of written submissions or oral submissions, as the committee may in its absolute discretion determine; and the committee must render a final decision and provide written reasons for decision to the complainant and the member within 30 days after the date for receipt of submissions as to sanction.

Part 7 – Authority of the Discipline Committee where Misconduct or Breach of the Society's Standards of Conduct is Established and Record of Sanctions

7.1 SANCTIONS

In rendering its final decision where misconduct or breach of the Society's Standards of Conduct by the member is established, the discipline committee may impose any one or more of the following sanctions upon the member:

- (a) a reprimand;
- (b) a requirement for remedial work which the member must undertake;
- (c) suspension of membership on the Civil or Family Roster, or both Rosters;
- (d) termination of membership on the Civil or Family Roster, or both Rosters;
- (e) a fine not exceeding \$1,000; or
- (f) costs of the complaint process.

In default of the member completing remedial work, paying a fine or paying costs, as required, the discipline committee may suspend or terminate the member's membership on the Civil or Family Roster, or both Rosters.

7.2 RECORD OF SANCTIONS

Unless otherwise determined by the discipline committee, any sanction imposed under paragraph 7.1 will be placed on the record of the member.

7.3 NO RIGHT OF APPEAL FROM DECISIONS OF THE DISCIPLINE COMMITTEE

There is no right of appeal from decisions of the discipline committee under Part 6 and paragraphs 7.1 and 7.2.

Part 8 – Access to Complaint-related Files

8.1 ACCESS TO FILES

Any file relating to a complaint against a Roster member is available to

- (a) the Roster Committee for the purpose of admission to the Rosters,
- (b) the appeal panel appointed under the Society's Appeal Policy,
- (c) the executive committee for the purpose of disposition of a complaint, and
- (d) a discipline committee for the purpose of determining sanction in a complaint.