

27 NCAC 01B .0111 GRIEVANCES: FORM AND FILING

(a) A grievance may be filed by any person against a member of the North Carolina State Bar. Such grievance may be written or oral, verified or unverified, and may be made initially to the counsel. The counsel may require that a grievance be reduced to writing in affidavit form and may prepare and distribute standard forms for this purpose.

(b) Upon the direction of the council or the Grievance Committee, the counsel will investigate such conduct of any member as may be specified by the council or Grievance Committee.

(c) The counsel may investigate any matter coming to the attention of the counsel involving alleged misconduct of a member upon receiving authorization from the chairperson of the Grievance Committee. If the counsel receives information that a member has used or is using illicit drugs, the counsel will follow the provisions of Rule .0130 of this Subchapter.

(d) The North Carolina State Bar may keep confidential the identity of an attorney or judge who reports alleged misconduct of another attorney pursuant to Rule 8.3 of the Revised Rules of Professional Conduct and who requests to remain anonymous. Notwithstanding the foregoing, the North Carolina State Bar will reveal the identity of a reporting attorney or judge to the respondent attorney where such disclosure is required by law, or by considerations of due process or where identification of the reporting attorney or judge is essential to preparation of the attorney's defense to the grievance and/or a formal disciplinary complaint.

(e) The counsel may decline to investigate the following allegations:

- (1) that a member provided ineffective assistance of counsel in a criminal case, unless a court has granted a motion for appropriate relief based upon the member's conduct;
- (2) that a plea entered in a criminal case was not made voluntarily and knowingly, unless a court granted a motion for appropriate relief based upon the member's conduct;
- (3) that a member's advice or strategy in a civil or criminal matter was inadequate or ineffective.

(f) Limitation of Grievances.

- (1) There is no time limitation for initiation of any grievance based upon a plea of guilty to a felony or upon conviction of a felony.
- (2) There is no time limitation for initiation of any grievance based upon allegations of conduct that constitutes a felony, without regard to whether the lawyer is charged, prosecuted, or convicted of a crime for the conduct.
- (3) There is no time limitation for initiation of any grievance based upon conduct that violates the Rules of Professional Conduct and has been found by a court to be intentional conduct by the lawyer. As used in this Rule, "court" means a state court of general jurisdiction of any state or of the District of Columbia or a federal court.
- (4) All other grievances must be initiated within six years after the last act giving rise to the grievance.

*History Note: Authority G.S. 84-23;
Readopted Eff. December 8, 1994;
Amended Eff. October 8, 2009; October 1, 2003; December 30, 1998; February 20, 1995.*