



HOUSE BILL 869: State Bar Grievance Process/Ethics Records.

2021-2022 General Assembly

Committee:		Date:	July 28, 2022
Introduced by:		Prepared by:	Kristen L. Harris Staff Attorney
Analysis of:	S.L. 2022-61		

OVERVIEW: *S.L. 2022-61 creates a grievance review panel to allow respondents to appeal privately a public discipline decision by the Grievance Committee before appealing to the Disciplinary Hearing Commission (DHC) and provides that documents in the possession of the State Bar or its staff, employees, legal counsel, councilors, or Ethics Committee advisory members concerning any request for ethics advice are not public records, unless the material, with the consent of the inquiring party, appears in a public agenda of the Ethics Committee.*

This act became effective July 8, 2022, and the section of the act pertaining to the grievance review panel applies to grievances and proceedings existing on or commenced on or after that date.

CURRENT LAW:

Lawyers in North Carolina must observe and follow a code of ethics called the North Carolina Rules of Professional Conduct. The North Carolina State Bar, specifically the Council of State Bar, controls the disciplinary proceedings of attorneys practicing in North Carolina. G.S. 84-28.

The Grievance Review Process

Any person may file a grievance against a member of the State Bar. When the Bar receives a grievance, upon the direction of the Council or the Grievance Committee (the Committee), the counsel will investigate the conduct and submit a report to the Chair of the Committee. 27 NCAC 01B.0111

If a grievance is referred to the Committee, the Committee will determine whether there is probable cause to believe that a respondent is guilty of misconduct justifying disciplinary action. If probable cause is found and the Committee determines that a hearing is necessary, the chairperson will direct counsel to prepare and file a complaint against the respondent. If the Committee finds probable cause, but determines that no hearing is necessary, it will impose an admonition, reprimand, or censure on the respondent. If no probable cause is found, the grievance is dismissed or dismissed with a letter of warning or caution. 27 NCAC 01B.0113

Within 15 days after service, a respondent may refuse an admonition, reprimand, or censure and request a hearing before the Disciplinary Hearing Commission (DHC). A hearing before the DHC is open to the public. 27 NCAC 01B.0113 and 27 NCAC 01B.0116

Typically, any investigation and review of a grievance remains private and confidential until either a public discipline is imposed, or there is a hearing before the DHC.

BILL ANALYSIS:

Section 1 creates a grievance review panel of the Grievance Committee (the Committee) that will review, at the request of the grievance respondent, a public discipline imposed by the Committee. The respondent may be represented by counsel and appear before and present oral argument to the panel. The panel may

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Legislative Analysis
Division
919-733-2578

House Bill 869

Page 2

concur in the Committee's decision or remand the file with its recommendation for a different disposition. Upon remand, the Committee may affirm its decision or impose a different disposition. The proceedings and the materials in the possession of the panel are confidential and not public record.

This section became effective July 8, 2022, and applies to grievances and proceedings existing on or commencing on or after that date.

Section 2 makes conforming changes and provides that documents in the possession of the State Bar or its staff, employees, legal counsel, councilors, or Ethics Committee advisory members concerning any requests for ethics advice are not public record unless the material, with the consent of the inquiring party, appears in a public agenda of the Ethics Committee of the State Bar.

Section 3 requires the State Bar to adopt temporary rules to implement this act.

EFFECTIVE DATE: Except as otherwise provided, this act became effective July 8, 2022.