

ETHICS AND COMPLIANCE COMMITTEE: COMPLAINT PROCESS

GUIDING PRINCIPLE:

All complaints received by LEVA will be processed in accordance with the principles of fundamental justice.

BACKGROUND:

1. A complaint for unethical or improper conduct is very serious. It can have significant ramifications to a member's employment, standing in the forensic community, and career.
2. All complaints must be made in writing and must be written by the complainant with the clear understanding that it will be disclosed to the impugned member. LEVA will not accept anonymous complaints.
3. The 6th Amendment to the US Constitution provides that a defendant is entitled to confront his/her accuser. The very essence of that provision is to ensure that evidence is made public and is tested. Therefore, any member who is the subject of a complaint is entitled to see the content of the complaint in full, including the name of the complainant.
4. Occasionally, a complainant may have animus towards the member and the complaint itself may be improper and without merit. Knowing that it will be disclosed in full will help to ensure that only meritorious complaints are submitted.
5. An impugned member must be permitted to provide an informed response to the complaint to the Ethics and Compliance Committee.
6. Complainants, complaints and impugned members must be afforded due process.

COMPLAINT MANAGEMENT PROCESS:

- a. Complaints from any source must be submitted in writing and signed.
- b. The complaint is to be sent to the Committee Chair via email.
 - a. Upon receipt, the Committee Chair will assure that within five business days:
 - i. Confirm receipt of the complaint to the complainant.
 - ii. Contact the committee members informing them of the complaint.
 - iii. Advise the President a complaint has been received.
- c. The President will inform the Board that the Committee has received a complaint.
- d. The Committee will determine within ten business days if the complaint has potential merit.
 - a. If the complaint has no potential merit, the Committee Chair will inform the complainant in writing and the LEVA President that no action is being taken.
 - b. If the complaint has potential merit, the Committee Chair will inform the complainant, the LEVA President and the impugned member in writing.

- i. The impugned member will receive a copy of the complaint and be advised that they are invited to respond in writing to the Committee Chair within fourteen business days.
 - ii. Once the Committee Chair receives a response from the impugned member, the Committee may proceed as follows.
 1. If the complaint has no merit, the Committee Chair will inform the complainant, the impugned member and the LEVA President that no action is being taken and the complaint is dismissed.
 2. If the Committee determines that there is potential merit to the complaint, the Committee Chair will inform the complainant, the impugned member and the LEVA President, in writing, that the complaint has potential merit and will undergo further examination.
 3. The Committee will exercise due diligence in a timely manner to ensure a fair and thorough review and decision.
- e. The Committee Chair must update the LEVA President in writing every thirty days on the status of the examination, or sooner if needed.
 - a. The status need not reveal specifics but should advise whether or not the examination is continuing unimpeded.
- f. The Committee will schedule a hearing in person or via teleconference.
 - a. The complainant, the impugned member and any witnesses may be heard and questioned.
 - b. Documents can be submitted by either side.
 - c. Both sides must be able to make closing submissions after the hearing, in writing.
 - d. The impugned member is entitled to be represented by counsel at his/her own expense.
- g. Should the impugned member not respond to the complaint, either in writing or in person, the Committee may proceed in his/her absence.
- h. Following the hearing, the Committee will review and consider all of the testimony and document submissions, vote whereby majority rules and produce a written decision.
- i. Upon reaching a decision on the merits, the Committee will determine what action is to be taken.
 - a. Actions include dismissing the complaint, reprimand, suspension of membership and/or certification, membership and/or certification revocation.
- j. The Committee Chair will inform the LEVA President who will then advise the Board of Directors of the Committee's findings and recommendations.
- k. Upon completion of the written decision and advising the LEVA President of the Committee's findings and recommendations, the Committee Chair will inform the complainant and impugned member of the findings and the matter will be considered closed pending an appeal, if filed.
- l. Decisions of the Committee will be made available in summary form to the membership.
 - a. Findings that have resulted in an adverse action (to the member) shall be communicated in writing to the current membership.

- b. Absent some compelling reasons, the summary of the Committee's decision is all that would be disclosed to current members.
 - c. As LEVA is not a public entity, releasing the Committee's decision to non-members is not required nor to be expected.
- m. Either party may file an appeal within 30 calendar days of being notified of the Committee's decision.
 - a. The appeal process starts on the date the decision is rendered which will be communicated to the parties as soon as the decision is released.
 - b. An appeal must be submitted in writing, signed and sent via email to the LEVA President and received by LEVA within 30 days of the Committee's decision.
 - c. Upon receipt, the President will, within five business days:
 - i. Confirm receipt of the appeal to the appellant and the respondent.
 - ii. Contact the Committee Chair informing him/her of the appeal.
 - iii. The President will inform the Board an appeal was received.
- n. The LEVA Board will have up to thirty business days to assess the appeal.
 - a. The Board will determine if the appeal has merit.
 - i. If the appeal has no merit, the President will inform the complainant, the impugned member and the Committee Chair that the appeal is denied.
 - 1. If the appeal has merit, the LEVA President will inform the complainant, the impugned member and the Committee Chair in writing.
 - ii. The respondent will receive a copy of the appeal and be advised that they are invited to respond in writing to the LEVA President within fourteen business days.
 - iii. Once the President receives a response from the respondent, the Board may proceed as follows.
 - 1. If the appeal has no merit, the President will inform the complainant, the impugned member and the Committee Chair that the appeal is denied.
 - 2. If the Board determines the appeal has merit, the President will inform the complainant, the impugned member and the Committee Chair in writing, that the appeal will undergo further examination.
- o. Appeals to the Board will be conducted in writing. Oral submissions may be permitted if requested, at the discretion of the Board.
- p. If the appeal is granted, the Board will determine what action is to be taken.
 - a. Actions include allowing the appeal and overturning the decision of the Committee, reprimand, membership and/or certification revocation, suspension of membership and/or certification or the cancellation of any reprimand, revocation or suspension imposed by the Committee.
 - b. Upon completion of the review and advising the Committee Chair of findings and recommendations, the President will inform the complainant and impugned member of the Board's findings and the decision is final.