

FMC Governance Policies: COMPLAINT PROCESS

6.1 PRINCIPLES GOVERNING THE COMPLAINT PROCESS

6.1.1 Family Mediation Canada (FMC) is committed to observing the following principles in all dispute resolution processes dealing with complaints against its members: timeliness, sensitivity, fairness, transparency, positivity and cost for all parties involved.

6.1.2 Membership in FMC is voluntary, and as such, all members who administer the complaint process do so, on a voluntary basis. As a voluntary association FMC does not have the financial means to engage in formal or lengthy dispute resolution processes regarding its members. It is important that the complaint process be kept within FMC and the confines of its membership. FMC does not purport that its decisions affect anything other than matters related to membership and status within FMC.

6.2 RESPONSIBILITY FOR THE COMPLAINT PROCESS

6.2.1 FMC shall appoint a member of the Executive Committee to supervise the complaint resolution process. In most cases this person shall be the President-Elect of the organization. The person appointed to this position shall be designated as the Responsible Director (RD).

6.3 SUBJECT MATTER OF COMPLAINTS

6.3.1 FMC shall respond to all complaints regarding the professional conduct of its members that appear to involve breaches of the FMC Code of Conduct, By-Laws, policies, rules or generally accepted standards of conduct expected of an FMC member.

6.4 INITIATING THE COMPLAINT PROCESS

6.4.1 All complaints about a member shall be in writing, and shall identify the FMC member involved, and be signed by the complainant before being further dealt with.

6.4.2 Upon receipt of a complaint FMC shall determine whether the person against whom the complaint has been lodged is a current member.

6.4.3 If the person against whom the complaint has been lodged is not a current member of FMC, that fact shall be communicated in writing to the Complainant and no further action on the complaint shall be taken.

6.4.4 If the person against whom the complaint has been lodged is a current member of FMC, and if the complaint, in any way deals with an issue that is in the discretion of the Responsible Director **reflects a matter**

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that FMC should deal with, the matter shall be dealt with as set out below:

6.4.4.1 Upon receipt of a complaint against a current member of FMC that has been deemed appropriate to be dealt with by the Responsible Director, FMC shall forward to the complainant a copy of a Waiver and advise the complainant in writing that the Waiver must be signed and returned to FMC within 15 days. If the signed Waiver is not returned to FMC within 15 days of its being sent to the complainant, no further steps shall be taken re the complaint.

6.4.4.2 Upon receipt of the signed Waiver within the above time frame, FMC shall forward the complaint to the member involved within 5 business days of receipt of the Waiver, along with a request that the member involved respond in writing to the complaint within 10 business days of receipt of the same.

6.4.4.3 Upon receipt of a written response to the complaint from the member, FMC shall forward a complete copy of the same to the complainant within 5 business days of its receipt.

6.4.4.4 The complainant shall be allowed 10 business days from date on which the member's response was sent, to reply in writing to the member's comments. FMC shall forward a full copy of any reply to the member within 5 business days of receipt of the same.

6.4.4.5 During the information exchange period of the complaint process the FMC shall forward to the complainant and the member any documentation that may be relevant or helpful in resolving the dispute.

6.4.9 If the above process has not affected a resolution, the complainant and member will then be given a further 10 business days to resolve matters between themselves. However, either may inform FMC in writing that s/he does not wish to make such an attempt, and wishes to proceed to the next stage, in which case the matter shall so proceed.

6.5 THE SECOND STAGE

6.5.1 The Responsible Director shall review all of the correspondence between the parties, along with any other relevant documentation provided and, on the basis of the review, take one or more of the following actions:

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6.5.1.1 Dismiss the complaint as being frivolous or not warranting further investigation, and so advise the complainant and the member in writing;

6.5.1.2 Suggest to the parties that the dispute be resolved through an appropriate dispute resolution process, such as mediation, and suspend any further action until advised that such efforts have not proven successful in resolving the dispute;

6.5.1.3 Prepare a written report of his or her findings and provide a copy of the same to the complainant and the member within 20 business days.

6.5.1.4 Appoint a panel of two members of the FMC Board of Directors and one FMC member from the province within which the complaint originated to review the complaint and report in writing to the Responsible Director within 20 business days on the merits of the complaint.

6.5.2 Where a report is prepared the complainant and the member shall be provided with a copy of the same within 5 business days of its receipt by the RD. Both the complainant and the member shall have 10 business days from the date of sending the report to them to reply to it. Any replies to the report shall be provided by FMC to the other party within 5 business days of receipt of the same.

6.5.3 In circumstances where the Responsible Director believes that the report, or a response to it, raises issues that need to be addressed by FMC, the Responsible Director shall respond to the Executive Committee in writing with regards to those circumstances.

6.5.4 In deliberating on any matter the Responsible Director, or a panel may consult with any person deemed appropriate in determining the professional practices and standards that are applicable in the location where the complaint arose. In the event that the Responsible Director, or a panel, does consult on matters of professional standards or practice, they shall first inquire and determine that the person consulted has no personal, professional or pecuniary conflicts of interest with either the complainant or member.

6.5.5 Where a report is prepared, it shall be completed within 3 months of the start of the second stage. The report shall briefly set out, the findings as based on the facts.

6.6 RESOLUTION OF COMPLAINTS

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6.6.1 If a report finds that the member has breached any provision of the Code of Ethics, By-Laws, rules or regulations of FMC, or has violated generally accepted standards of professional conduct expected of an FMC member, the report shall provide for one or more of the following sanctions:

6.6.1.1 Require the member to provide a written apology to the complainant;

6.6.1.2 Require that the member enroll in, and successfully complete, an appropriate training course or supervised practice dealing with the issues raised in the complaint;

6.6.1.3 Suspend the member until s/he has complied with the requirements of the Responsible Director;

6.6.1.4 Suspend the member for a specified period of time;

6.6.1.5 Revoke the membership of the member, and provide conditions for reinstatement;

6.6.1.6 Revoke the membership of the member permanently;

6.6.1.7 Require that the results of the investigation of the complaint be published in RESOLVE, with or without identification of the parties;

6.6.1.8 Take such other action as the Responsible Director deems to be appropriate in the circumstances.

6.6.2 The purpose of any sanction imposed on a member should be to encourage the member to change his or her practices to bring them in line with FMC's standards. Suspension or revocations of membership are intended to be sanctions of last resort.

6.6.3 In determining an appropriate sanction for a member the Responsible Director may consult with the panel.

6.6.4 Any decision made by the Responsible Director pursuant to these provisions shall be implemented by FMC, unless an appeal is taken as set out below.

6.7 APPEALS

6.7.1 Within 10 business days of receiving a report from the Responsible Director, the complainant, or the member, shall be entitled to request an appeal panel be constituted to review the findings of the report. A

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request for a review shall be made in writing and addressed to the President of FMC. A request for review must specify the portions of the report the party seeking the review disagrees with, along with a brief statement of the reasons supporting that position. FMC shall notify the other party that a request for review has been received within 5 business days of receipt by FMC.

6.7.2 The President shall bring all requests for review before the Executive Committee promptly.

6.7.3 The Executive Committee shall review the request and may:

6.7.3.1 Refuse to act on the request. A statement of the reasons for not acting on the request shall be provided to both parties within 5 business days after the next regularly scheduled Executive Committee meeting;

6.7.3.2 Appoint an Appeal Panel consisting of 3 members of the Board of FMC. In appointing the panel efforts shall be made to ensure that one member shall be from the province where the complaint originated. Panel members shall not have any personal, professional or pecuniary conflict of interest with either the complainant or the member.

6.7.4 The Appeal Panel shall review all documentation and correspondence in the file upon which the report was based.

6.7.5 The Appeal Panel, after review of the documentation,

- a. may consult with any person it deems appropriate in determining the professional practices and standards that are applicable in the location where the complaint arose,
- and
- b. shall inquire and determine that any person consulted under this section does not have a personal, professional or pecuniary conflict of interest with either the complainant or the member.

6.7.6 The Appeal Panel shall, after reviewing the documentation and after taking any actions it deems appropriate, issue a report setting out its decision and the reasons for that decision. The report shall be issued within 20 business days of the Panel having been constituted.

6.7.7 Decisions of the Appeal Panel under this section are final and binding on the member.

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SCHEDULE A

WAIVER

I have made a complaint against (name) _____, a member of FMC, in the province of _____. I have asked FMC to investigate my complaint, and if my complaint is found to have merit, to take appropriate steps to encourage and support the member in adhering to appropriate professional ethics, practices and procedures and to work to avoid such problems in the future. In return for FMC undertaking to engage in this process, I unconditionally waive any right to use any document produced by FMC in any legal or other claim that I may choose to make against the member, and I will not under any circumstances summons any person appointed by FMC, or consulted by FMC during the course of this process, in any proceeding I may take against the member. I unconditionally waive any rights that I may have to make a claim against FMC relating to the conduct of the member involved, or anyone appointed or consulted by FMC on the matter relating to FMC's investigation of the complaint; relating to FMC's recommendations; or relating to anything that FMC does or does not do arising out of the investigation of my complaint. I understand that FMC is a voluntary organization and that it has no power to discipline a member for misconduct or inappropriate procedures apart for dealing with an ultimately revoking the person's membership in FMC. I acknowledge having received a copy of the FMC complaint process and that I have read it and understand it and agree to abide by its terms.

Dated at: _____, on _____

Complainant

Witness