



**American Society of Cytopathology
Member Complaint Procedure**

(Approved by the ASC Executive Board February 6, 2007.)

1. Only members of the American Society of Cytopathology (“ASC”) may make complaints. Complaints shall be filed with the Secretary-Treasurer of ASC.
2. All complaints shall be in writing and set forth the factual basis upon which the complaint is based. Complaints will be immediately referred by the ASC Executive Board (“EB”) to the Chair of the Ethics and Conduct Committee (“ECC”).
3. The ECC will review the complaint and determine, within the ECC’s absolute discretion, if the complaint falls within the purview of the ECC. Only complaints that directly involve disclosure and conduct issues related to ASC will be considered.
4. All complaints are confidential. The ECC Chair, however, may discuss the nature of the complaint with either or both members (the complainant and the subject of the complaint) and selected ASC Officers and Staff orally to determine if the ECC will review the complaint. The ECC Chair and the ASC Officers and staff with whom the Chair discusses the complaint shall not discuss the complaint with anyone else. The ECC Chair will have the authority to gather fact finding information for Committee deliberations.
5. In the event that it is determined by the ECC in their absolute discretion that the complaint is deemed to be outside of the purview of the ECC, it will be returned to the complaining member. There shall be no right of review or appeal to the decision of the ECC Chair that a complaint is outside the purview of the ECC.
6. In those cases where the ECC will review the complaint, the complaint shall be forwarded to the member who is the subject of the complaint (“Member”) within 30 days of the receipt of the complaint by the Secretary.
7. The Member may submit a written response to the complaint to the ECC Chair within 30 days of the date that the ECC Chair sent the complaint to the Member. The Member is not required to respond to the complaint, and failure to respond shall not be held against the Member by the ECC in reviewing the merits of the complaint.
8. Within 60 days of the expiration of the time in which the Member may respond to the complaint, the entire ECC shall review the complaint and the Member’s response, if any, to determine whether there exists good cause for proceeding with further consideration

of the complaint. If the ECC determines in its sole and absolute discretion that the complaint lacks good cause, it may dismiss the complaint and so notify the Member and the complainant. No appeals are permitted if a complaint is dismissed.

9. The filing of a frivolous complaint by a Member shall constitute unethical conduct. A frivolous complaint is one in which the complaint has no underlying justification in fact or merit.
10. As a result of the complaint and at the sole and absolute discretion of the ECC, the ECC may issue a Letter of Instruction to the Member. A Letter of Instruction is for the education of the Member and is not considered a disciplinary action. No hearing is required or permitted if a Letter of Instruction is issued. The Letter of Instruction shall remain confidential.
11. If a complaint is not dismissed and/or a Letter of Instruction has not been issued, the ECC shall conduct a hearing concerning the allegations in the complaint. Hearings may be conducted via telephone conferences for “lower level” complaints or in person at the ASC Annual Meeting. The ECC shall notify the Member in writing at least thirty days before the date of the hearing on the complaint. Such hearing should be held no later than the next annual meeting of the ASC. The EB will be notified of the scheduling of a hearing on a complaint.
12. The ECC Chair or a member designated by the ECC Chair shall preside over the hearing. The ECC may, but is not required to, have counsel present to assist and advise the ECC. Both written records and oral testimony may be taken at this hearing, subject to the discretion of the presiding ECC member. No stenographic transcript will be required, but may be utilized at the discretion of the convening ECC member. The legal rules of evidence are not applicable to this hearing. Rather, all evidence shall be accepted and/or heard in the discretion of the convening ECC member.
13. The complainant must appear at the hearing to present his/her complaint. The failure of the complainant to appear will result in either the dismissal of the complaint or the issuance of a Letter of Instruction. The complainant shall present his or her claim first. The burden of proving the allegations of the complaint shall lie with the complaining member.
14. The Member has the right to participate in person and/or by counsel, if the Member so chooses. The Member may cross-examine the complainant. After the Member has presented his or her case, the members of the ECC shall be permitted to ask questions of the complainant or the Member. In the event the evidence supporting the complaint is not conclusive, the complaint shall be dismissed.

15. The outcome of the hearing shall be determined by a vote of a two-thirds of the members of the ECC who attended the hearing. Within 30 (previously 60) days of the hearing, the ECC shall vote upon the complaint and shall issue its decision to the Member, including the factual basis upon which the decision is made as well as any proposed disciplinary action, as specified in Article III, Section 12 of the ASC Bylaws. Only members of the ECC who attended the hearing will participate in the deliberations of the ECC on the complaint and to vote on the complaint.
16. If the ECC determines the complaint lacks merit, it shall dismiss the complaint forthwith. No appeals are permitted if the complaint is dismissed by consensus. Action on the complaint will be based on two-thirds vote of those ECC Members present. The complaint will be forwarded to the EB for final disposition. The EB shall make a decision on a complaint when the ECC fails to reach consensus. Upon the expiration of the 30 day period for appealing decisions of the ECC, the EB shall review any ECC recommendations for disciplinary action.
17. If a complaint is considered by the EB because the ECC was unable to reach a decision on the complaint or if disciplinary action is recommended by the ECC, the Member has 30 days from the date of the decision and findings of the ECC or the EB to appeal the recommendation of disciplinary action. The appeal must be in writing and submitted to the Secretary of ASC. The EB is not required to hold another hearing on the appeal unless the presiding officer recommends a hearing. Upon review of the complaint or appeal, the EB may either dismiss the complaint, issue an Letter of Instruction, or impose disciplinary action. The EB shall render its decision within 60 days of the later of the date of the Member's letter of appeal, the appeal hearing or the day that the matter is referred to the EB by the ECC.
18. All proceedings of the ECC with respect to any complaint shall be confidential. An intentional breach of confidentiality constitutes unethical conduct. Provided, however, that the ECC will publish any decision and findings resulting in disciplinary action once such disciplinary action has been decided by the EB. The EB will review a final report and decision on all complaints from the ECC.