

WASHINGTON NEWS COUNCIL
COMPLAINT AND HEARING PROCEDURES

The Washington News Council is a 501(c)(3) nonprofit organization whose mission is to help maintain public trust and confidence in the news media by promoting fairness, accuracy and balance. The Council provides a forum for journalists and citizens to engage each other in discussing standards of media fairness.

Our primary services include assisting on complaints and conducting Complaint Hearings, though we also accomplish our mission through other activities, including: Public Forums; Student Mock Hearings for college and high-school journalism classes; Public Speeches to civic and educational groups; our website; the Dick Larsen Scholarship Fund; and an annual Gridiron West fund-raising dinner.

This booklet provides detailed information about the Council’s complaint-handling process and how a News Council hearing is conducted. You need not read this entire publication in order to file a complaint (although it would help). This is provided for your information to clarify our process.

If you have any questions about these procedures, please call the Washington News Council office at 206-262-9793 or e-mail us at info@wanewscouncil.org.

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INITIAL CONTACT

When potential complainants first approach the News Council, staff will ask if the complainant has had any contact with the news outlet about the complaint. If not, Council staff will encourage him or her to write or call the news outlet directly in a good-faith effort to resolve the dispute.

If a complainant has already contacted the news organization, and has experienced problems in reaching a solution, Council staff will send our forms and ask the complainant to return them with copies of all previous correspondence, copies or tapes of the story in question, and a letter explaining the complaint and attempts at resolution. Staff will send the complainant a Complaint form, a Waiver of Claims form, and a copy of these Procedures. If the two forms are completed and returned to the Council office, the complaint is considered formal. It receives an official case name and staff begins to track its progress. Upon receipt of forms, the Complaints Committee and the staff will review the complaint to determine if it meets the News Council's criteria (see p. 3).

Council policy is that no member of the staff or member of the Council will ever say, prior to a hearing, whether the complaint appears to have merit. We will say whether the complaint raises an addressable issue – that is, it raises serious questions of journalistic performance or ethics.

WAIVER OF CLAIMS

The News Council is an alternative to litigation. We require the complainant to agree in writing not to sue the news outlet over the story in question, regardless of the outcome of a News Council hearing. This waiver applies only to the story in question. The waiver is effective upon the Council's acceptance of a formal complaint. If the complainant is considering a lawsuit, we advise him or her to consult an attorney before deciding to use the News Council.

PRIVACY POLICY

Complaints in Phase One (informal) are noted on a log sheet as inquiries. The information is semi-private. If asked, staff will say that an inquiry has been made but a formal complaint has not been filed. Staff will not discuss the specifics of the inquiry outside the Council. The complainant's name, address and phone number will not be given out. Written documents relating to the complaint and complainant will be available only to Council staff and members of the Complaints and Executive Committees. That information may be shared with the news outlet involved in the dispute, with the complainant's consent.

Complaints in Phase Two (formal) are semi-private. If asked, staff will confirm that a complaint has been received, will provide a very brief description of the nature of the complaint, and will say the two parties are trying to resolve it. The written documents relating to the complaint and complainant will be available to Council staff and Complaints and Executive Committee members and to the news outlet involved in the dispute. The complainant's name will be made public unless the complainant has specifically requested privacy and justified that request to the Committees' satisfaction.

General information about complaints in Phase Two may be reported on the Council's website, through e-mails, in a newsletter, or in public speeches. The purpose is to inform citizens and news people of the behaviors and issues that lead to complaints.

Complaints in Phases Three and Four (pre-hearing and hearing) are increasingly public. The complaint packet, as submitted to the Council, is public information. Only in very special circumstances will the complainant's identity be kept private (for example, if the complainant is a minor, specifically requests privacy and/or shows good cause).

I. PHASE ONE: INQUIRIES

Complaint Criteria

The Council has several criteria for accepting and processing complaints:

1. The party bringing the complaint must have been named or clearly alluded to in the story. If a corporation or group is the named party, a responsible person or persons — officer, board member, family member — can act as the complainant.
2. Complaints must be against news outlets — television and radio stations, newspapers, magazines, wire services and on-line news organizations. Complaints are not considered against publications or broadcasts that do not purport to be news.
3. Complaints must question journalistic practices relating to fairness, accuracy, balance or ethics of a published, broadcast or on-line news story, column or editorial. In commentary, the Council will consider only complaints dealing with factual accuracy – not expressions of opinion. The Council does not normally accept complaints about non-coverage, business decisions, or advertising.
4. The story must have appeared no more than six months before the news organization receives notice of the complaint from either the complainant or the News Council. A complaint received after that may be accepted on a case-by-case basis. The complaint will be allowed to proceed after the six-month deadline if the complainant has been actively trying to resolve his or her differences with the news outlet during that period.
5. Third-party complaints — those brought by individuals or groups not named or clearly alluded to — will be accepted only under unusual circumstances, at the discretion of the Complaints and the Executive Committees. Third-party complaints will not be accepted if there is a relevant first party who has chosen not to file.
6. The News Council does not accept complaints of current or past employees of news outlets about the employee–employer relationship, unless that relationship becomes the subject of news coverage and the complaint meets the News Council’s standard acceptance criteria.
7. If at any point during the processing of a complaint, information is received that the complaint does not meet the Council’s criteria, the complaint will be dismissed.
8. The News Council may assist, subject to available resources, in resolving complaints between parties outside Washington if both parties consent.

If the complaint does not meet the News Council’s criteria, staff will send the complainant a letter explaining the reasons for rejection.

Possible alternatives

In some instances, the Complaints Committee and the staff may determine that a complaint is not appropriate for a News Council hearing but, because it raises broad and significant questions, it presents an opportunity for fruitful dialogue in a public or private forum.

A **Public Forum** will be considered if the concerns being raised are of interest to the general public, involve a large group of people and a large number of media organizations, and raise questions about common journalistic practices. An example:

- A group of citizens complained about racial issues relating to coverage of the 2001 Mardi Gras disturbances, so a public forum was convened.

A **Private Forum** is a meeting between one (or more) complainants and one or more news outlets about a specific complaint that may not be of interest to the general public. Examples:

- The Council might facilitate a private forum between news executives and police officials to discuss ways to improve cooperation between the two groups.
- The Council might facilitate a forum between news executives and school administrators to discuss the behavior of journalists on school property, or guidelines for interviewing minors.

II. PHASE TWO: FORMAL COMPLAINT

If the complaint meets the News Council's guidelines and all materials are in order, the complaint moves into Phase Two. Formal complaints are subject to the following timelines (in calendar days):

Day One

Within 48 hours of the Council staff's receiving the completed complaint forms, both parties are informed that: a) a formal complaint has been filed, and b) unless they report it as resolved within 30 days, a Complaint Hearing will be scheduled.

Copies of the complaint and signed waiver, and a copy of the Council's procedures, are sent to the news organization.

The news organization is asked to respond to the complainant within 10 days, with a copy to the News Council.

Day 10

Staff asks both parties if they have made any progress in resolving the complaint, reminds them of the 30-day deadline, and expresses hope they can come to a resolution.

Day 20

Staff asks both parties if they have made any further progress in resolving the complaint, reminds them of the 30-day deadline, expresses hope that they can come to a resolution, and reminds them that if a resolution is not reached, the Council will ask for any final written statements at the end of the 30-day period.

Day 30 (or earlier, if complainant gives notice of no possible resolution and therefore requests a hearing) Staff asks if complainant is satisfied with the news outlet's proposed resolution to the complaint.

A) If yes, staff closes the case and records it as resolved.

B) If no, staff:

a) confirms the next feasible hearing date, and

b) asks both parties to submit final written statements that include any new information obtained or agreements reached during the process of trying to resolve the complaint, and

c) makes arrangements for the hearing (securing a location, sending press releases, arranging for videotaping, etc.).

Parties may continue to try to resolve the complaint prior to a hearing, but if they do not reach a resolution before the day of the hearing, the hearing will proceed.

III. PHASE THREE: PRE-HEARING PREPARATION

At Day 30, if the complaint has not been resolved, Council staff will remind both parties of the scheduled date of the hearing and ask for any additional materials they wish to submit. The Complaints Committee will review submitted materials (see p. 10) and, if it has not yet done so, will phrase the question(s) for the Council to vote on. The Committee may:

- ask for additional documentation
- eliminate irrelevant documentation
- condense and clarify the positions of the two parties
- decide whether any expert witnesses should be present.

The final information packet for the complaint may contain up to 25 pages of information from each party. If either party feels more documentation is necessary, it must seek permission from the Complaints Committee and must provide a summary statement to accompany its information. All materials must be submitted at least two weeks before the hearing.

If the Committee has withdrawn material from the information packet that either party feels would help its case, that party may object in a letter to the staff and the Committee. The Committee wants to give Council members enough information to render a decision, without overwhelming them with paperwork. Staff will provide each party with a complete packet of information. Material may be submitted after the initial packet has been sent only if it was not previously available and is essential to the case. Otherwise, late material will not be accepted.

Wording of the Votable Question(s)

1. Wording

The Complaints Committee, with assistance from the WNC staff and the complainant, decides on the final wording for the question(s) that represent the issues contained in the complaint and that will be voted upon.

The final wording of the votable question(s) may differ somewhat from the original complaint. The Committee will not raise new issues, but may clarify vague terms or break a question in parts in order to facilitate the hearing process.

The question(s) will state the complaint clearly and specifically, identifying which actions by the news outlet allegedly violated standards of accuracy, fairness and/or journalistic ethics.

Final wording of the question(s) will be submitted to the complainant and the news organization at least 10 days prior to the hearing.

2. Complaint Materials

The following materials will be included in the final complaint package:

- a) original complaint form
- b) signed waiver form
- c) narrative letter or summary of complaint
- d) letter or summary of response from the news organization
- e) published story or stories (audio or video, if relevant)
- f) supporting documentation of complaint and response, if any
- g) final statement of complainant
- h) final statement of respondent
- i) prior News Council determinations on similar cases for informational purposes, if appropriate.

Staff will inform both parties about hearing procedures, will answer any questions and will provide videotapes of past hearings on request.

Who may appear at a hearing?

1. Complainant: The complainant is expected to appear in person. He or she may request that the complaint be heard on the basis of submitted written materials, at the Council's discretion.

In some instances, the complainant may need to assign a representative. Reasons might include: the complainant is a minor, or seriously ill, or incarcerated. The representative must be approved by the Complaints Committee. Attorneys are not allowed to represent complainants at a hearing except under extraordinary circumstances.

2. News organization: The news organization is invited to have its representatives appear at the hearing. Only someone designated by the news organization may appear on its behalf. If representatives of a news organization choose not to attend, the hearing will proceed anyway, with no prejudice against the news organization. However, any correspondence received by the News Council from the news organization related to the complaint will be read into the hearing record. Attorneys are not allowed to represent news organizations at a hearing.

3. Expert witnesses: If technical or specialized questions are likely to arise during the hearing, the Complaints Committee may decide that a neutral expert witness should be available to clarify issues. In such cases, the Council will secure the expert. The complainant or news organization may also choose to bring expert witnesses, at the Council's discretion.

4. Other witnesses: The complainant and the news organization may bring witnesses. Witnesses should be identified to the Council staff at least two days prior to appearance at a hearing. Witnesses need not be cleared with the other party prior to the hearing. Parties may ask who will be appearing, and if the staff knows, it will inform them.

Scheduling of a Hearing

The News Council generally holds hearings on Saturday mornings. Hearings may be held at another time depending on the availability of the Council and the parties to the complaint.

Location

Most hearings will take place in the greater Seattle area. Locations are chosen for reasons of space, parking, accessibility, and availability of audio/video services. If needed, a language interpreter can be secured with two week's notice. When both parties live more than one hour's drive outside Seattle, the Council may conduct a hearing in their city or an acceptable alternative city with a subset of Council members (6-12) or by videoconference. The Council will make this determination on a case-by-case basis.

Publicity

News Council hearings are open to the public and the media. A news release announcing the hearing and providing brief background information is sent before the hearing to all major news outlets, wire services, news outlets near the community in which the dispute has arisen, and to the two parties. Time permitting, News Council sponsors, journalism faculties, students and other interested parties will be informed by mail or e-mail. Council staff will provide a complete packet of complaint material on request. Media with special audio-visual needs are asked to call in advance.

IV. PHASE FOUR: COMPLAINT HEARING

Council Participation

There must be a majority present for the Council to conduct a hearing (unless the Council is traveling outside Seattle). Additionally, there must be an approximate balance of public and media members (not more than 60-40% either way). If the Council cannot meet these two criteria, it may call upon former Council members of the type (media or public) needed to fill out the roster. (Supplementary biographies will be available on request.) Historically, neither media nor public identification has been a predictor of someone's vote.

Council members must arrive prior to the start of a hearing. If a Council member arrives after opening statements have begun, that member will not participate in the hearing. Members may not vote if they leave before the hearing ends.

A media Council member may recuse himself or herself from any case involving his or her own media outlet. A public Council member may recuse himself or herself from any case involving his or her company or organization. All Council members will recuse themselves, or abstain from voting, if they have a conflict of interest. Council members should discuss possible conflicts of interest with the Complaints Committee before a hearing. A Council member may abstain from voting on any aspect of the case.

Seating

- 1. The complainant, respondent and Council members** will sit at tables in the front of the room. Witnesses will be called forward as needed at the appropriate times.
- 2. Visitors** (including reporters and the public) will sit in the main part of the room. Visitors may not participate nor interrupt a hearing. Seating may be limited. If one or both parties intend to bring guests, they should inform the Council staff in advance.
- 3. Media Accommodations:** Videographers or sound technicians should arrive 30 minutes before a hearing to set up equipment. They must remain unobtrusive. TVW and/or TV Seattle will be invited to cover all hearings.

Order of the Hearing

- 1. Call to order by Chairperson**
- 2. Video or audio presentation**, if relevant.
- 3. Complainant states position** in *10 minutes or less*. This period includes statements by witnesses.
- 4. News organization responds** to complaint in *10 minutes or less*. This period includes statements by witnesses.
- 5. Complainant may rebut** statements of news organization in *5 minutes or less*.
- 6. News organization may rebut** statements of complainant in *5 minutes or less*.
- 7. News Council asks questions of both parties.** The Council Chairperson will maintain order of questions and will close questioning.
- 8. News Council members deliberate publicly among themselves.** There will be no questioning of the parties during this phase unless additional information is needed for clarity. If so, the Chairperson will authorize further questions.

9. Parties may request a brief recess to reconsider their position.

- The media outlet may eliminate question(s) from the voting by acknowledging the merit of one or more of the complaints. If the media outlet agrees with the entire complaint, there will be no vote, but simply a Council affirmation of the news organization's decision.
- The complainant may drop all or a portion of his or her complaint based on what he or she has learned at the hearing.

10. Complainant may make a closing statement of approximately 2 minutes. If the complainant feels significant errors have been introduced into the discussion during the deliberation, this is the time to correct them.

11. News organization may make a closing statement of approximately 2 minutes. If the news organization feels significant errors have been introduced into the discussion during the deliberation, this is the time to correct them.

12. Council votes with individual signed, written ballots. The Chairperson and Council staff will collect ballots, count them and announce the final vote. Council members may vote yes, no or abstain. A simple majority of the votes cast yes and no will prevail. A tie vote means the complaint (or portion of the complaint) has not been upheld. After the ballots have been counted, the Chairperson will ask for a show of hands as to how Council members voted. The vote of each member is public information included in the written Determination.

V. PHASE FIVE: AFTER A HEARING

Publicity

If the complaint is resolved through a public hearing, the WNC staff will prepare a news release immediately following the hearing. The release will be sent to all major news organizations, wire services, and all daily newspapers in Washington, and posted on our website.

The final, formal Determination is prepared by Council staff, usually the following week. It contains relevant background, a summary of the complaint and response, the exact wording of the votable question, and highlights of the hearing, concluding with the vote. It is sent to all Council members and posted on the Council's website. Council members may add dissenting or supporting opinions to the Determination as written.

Complainant and responding news organization will be notified when the Determination is completed and available on our website. Videotapes of the hearings will also be available on request.

If the two parties reach resolution before a hearing, a brief description of the complaint and resolution may be reported in our activities update, website or newsletter.

Evaluation

The Council is interested in improving its procedures and hearings and invites feedback from participants to help us do so. News Council staff may send both parties an evaluation form after the process is complete, or seek their verbal comments.

Mock Hearings

A case may be chosen for inclusion in the News Council's

Student Mock Hearing program, which presents real-life cases to journalism students at high schools and colleges around Washington. This has been a very successful program, well received by educators and students. Real-life cases help students develop critical reading, viewing and analytic skills.

Council Archives

Completed cases will go into the public archives at the News Council's office and are open to anyone for review on request.