

Procedural Rules for the Ethics and Professional Responsibility Committee

of

ACA International

*The Association of Credit and Collection Professionals
as amended May 4, 2006*



ACA

INTERNATIONAL

The Association of Credit
and Collection Professionals

TABLE OF CONTENTS

Rule 1. PURPOSE	1
Rule 2. BINDING EFFECT	1
Rule 3. ASSOCIATION ETHICS AND PROFESSIONAL RESPONSIBILITY COMMITTEE	1
3.01 Composition of Committee	1
3.02 Committee Responsibilities	1
Rule 4. OFFICE OF LEGAL COUNSEL	2
Rule 5. CONFIDENTIALITY, PRIVILEGE AND IMMUNITY	2
5.01 Confidentiality and Privilege	2
5.02 Immunity	2
Rule 6. APPLICABILITY OF PROCEDURAL RULES	2
6.01 Binding Effect	2
6.02 Disciplinary Action	3
Rule 7. ACCEPTANCE OF COMPLAINTS FOR INVESTIGATION	3
7.01 Formal complaints	3
7.02 Initiation of Formal Complaint by Ethics Committee on Behalf of the Association	3
7.03 Discretion of Committee to Reject Complaint After Acceptance	3
7.04 Mandatory Rejection of Complaints	4
7.05 Lack of Jurisdiction or Failure to State a Claim	4
7.06 Notification of Dismissal	4
Rule 8. FORMAL COMPLAINT PROCESS	4
8.01 Investigation	4
8.02 Initiating the Complaint Process	4
8.03 Notification of Complaint to Complainee-Member	5
8.04 Complaints Against Multi-Office Members	5
8.05 Extension of Time to File Answer	5
8.06 Presumption of Admission	5
8.07 Right to Withdraw	5
Rule 9. OPPORTUNITY TO REPLY	6
9.01 By Complainant	6
9.02 Return of Reply from Complainant	6
9.03 Non-Response of Complainant to Complainee's Answer	6
9.04 Notice to Parties	6

Rule 10. INVESTIGATION	6
Rule 11. REQUIRED COOPERATION OF MEMBER; GROUNDS FOR DISCIPLINE	7
11.01 Duty To Cooperate	7
11.02 Grounds for Discipline	7
Rule 12. DISPOSITION OF THE COMPLAINT OR ADMISSION	7
12.01 Process of Disposition	7
12.02 Disposition Notice and Sanctions	7
12.03 Notice of Disposition	7
Rule 13. SANCTIONS DEFINED	8
13.01 Sanctions Defined	8
13.02 Admonition	8
13.03 Suspension	9
13.04 Expulsion	9
Rule 14. RE-APPLICATION AFTER TERMINATION	10
Rule 15. TEMPORARY SUSPENSION PENDING DISCIPLINARY PROCEEDINGS	10
Rule 16. OTHER REMEDIES	10
Rule 17. RESIGNATION	10
Rule 18. INDEPENDENT COUNSEL REVIEW	11
Rule 19. APPEAL PROCESS	11
19.01 Petition to the Ethics Committee for Reconsideration	11
19.02 Appeal from Reconsideration by the Ethics Committee	11
19.03 Petition for Review to Executive Committee	11
19.04 Standards of Review	11
19.05 Procedure for Review by the Executive Committee	12
19.06 Process of Review by Executive Committee	12
19.07 Disposition or Remand by Executive Committee	12
19.08 Finality of Executive Committee Decision	12
RULE 20. OPPORTUNITY FOR APPEAL ON MATTER REMANDED	12
RULE 21. RECORD RETENTION	13
21.01 Retention	13
21.02 Exception	13
RULE 22. AMENDMENTS	13

Rule 1. PURPOSE

It is of primary importance to the public and to the Members of ACA International (herein after referred to as “the Association”) that cases of Members’ alleged unprofessional conduct be promptly investigated and dealt with fairly and justly. Having in mind the interest of the public, the Association Member complained of, the complaining entity or person (hereinafter “Complainant”) and the collection industry profession as a whole, disciplinary investigations and proceedings shall be conducted in accordance with these Rules and shall be promulgated as a mechanism to enforce the Association Code of Ethics and Professional Responsibility and the Association Code of Operations.

Rule 2. BINDING EFFECT

The following Rules shall be binding upon all Members of the Association in the conduct of their business and in professional relationships during the course of membership.

Rule 3. ASSOCIATION ETHICS AND PROFESSIONAL RESPONSIBILITY COMMITTEE

3.01 Composition of Committee.

The Ethics and Professional Responsibility Committee (hereinafter called the “Ethics Committee”) shall consist of seven (7) individuals, who shall be natural persons:

- (A) A Chairperson (hereinafter called “Chair”) nominated by the President of the Association and elected by the Association Executive Committee for a two (2) year term. To qualify as a candidate for the Chair position, such person must served at least one year on the Ethics Committee. The Chair shall not concurrently serve as an officer of the Association or as a member of the Executive Committee while serving as Chair of the Ethics Committee.
- (B) Four Association Members; one of whom has served as president of the Association, and three of whom are Association members, shall be nominated annually by the Chair and elected by the Executive Committee. These individuals shall not concurrently serve as officers of the Association or as members of the Executive Committee while serving as members of the Ethics Committee. The Chair shall make a reasonable effort to nominate individuals to these positions who are familiar with the credit and collections business practices and industry concerns.
- (C) Two non-Association persons who are members of the general public and who have no direct business, pecuniary or personal connection with the Association, its subsidiaries, or its affiliates. Such individuals shall be nominated by the Chair and elected by the Executive Committee. The Chair shall make a reasonable effort to nominate individuals to these positions who are familiar with credit and collections business practices and industry concerns.
- (D) Individuals nominated and elected to the Ethics Committee shall each serve for two-year terms for a period not to exceed four (4) years.

3.02 Committee Responsibilities.

The Committee shall be responsible for:

- (A) carrying out the duties set forth in these Procedural Rules for the Ethics Committee;

- (B) enforcing the Association Code of Ethics and Professional Responsibility, and the Association Code of Operations,
- (C) implementing those policies and procedures deemed necessary by the Ethics Committee and the Executive Committee to function fairly and effectively as a self-governing body of the Association; and
- (D) disclosing any actual or potential conflicts of interests during the investigation or discussion of a Complaint or other matters affecting the Ethics and Professional Responsibility Committee and to withdraw from taking part in the discussion, approval or disapproval of that specific matter.

Rule 4. OFFICE OF LEGAL COUNSEL

It shall be the function and responsibility of the Office of Legal Counsel, or its designee, to serve as a non-voting member of the Ethics Committee, carry out such duties and responsibilities as set forth herein, to advise the Committee regarding the number of Informal Complaints against a member and serve as liaison between the Committee and the Association staff. The Legal Counsel shall provide legal advice to the Ethics Committee. A retainer agreement between the Legal Counsel and the Association shall be entered into and kept on file.

Rule 5. CONFIDENTIALITY, PRIVILEGE AND IMMUNITY

5.01 Confidentiality and Privilege.

A complaint, charge, statement, writing or allegation which arises out of proceedings involving these Rules concerning the alleged unprofessional conduct of a Member or which is made in connection with the investigation of alleged unprofessional conduct, is privileged and confidential. It is further understood that in the course of conducting an investigation pursuant to these Rules against a Member, confidential or proprietary information may necessarily be divulged or revealed to individuals. It is therefore agreed by each Committee Member, that such divulged or revealed information or any complaint, charge, statement, writing or allegation made in connection with a complaint or investigation herein, may not serve as a basis for liability in any civil lawsuit brought against the person who divulged the information or who made the complaint, charge, statement, writing or accusation.

5.02 Immunity.

Ethics Committee members, the Executive Committee members, Association employees and retained legal counsel shall be deemed to be immune from suit for any conduct performed in the course of their official duties and shall be indemnified and held harmless by the Association for any such conduct performed in the course of their official duties.

Rule 6. APPLICABILITY OF PROCEDURAL RULES

6.01 Binding Effect.

These Procedural Rules shall apply to Association Members in all matters involving complaints against Association Members arising out of:

- (A) A Member's business activities;
- (B) A Member's conduct involving affairs and activities of the Association, its subsidiaries and affiliates;

- (C) Any disputes arising from a forwarding arrangement, a relationship either between Members, or between a Member and a non-member, who have agreed to be bound by the Association Code of Operations as it relates to forwarding.

6.02 Disciplinary Action.

No disciplinary action may be enforced against a Complainee-Member, except as provided in these Rules and applicable Association Bylaws, Standard Operating Procedures, or Policies and Procedures.

Rule 7. ACCEPTANCE OF COMPLAINTS FOR INVESTIGATION

7.01 Formal complaints.

Formal Complaints that have been answered by the Complainee and replied to by the Complainant shall be accepted or rejected for investigation by the Office of Legal Counsel or the Ethics and Professional Responsibility Committee pursuant to these Rules. Complaints may also be accepted under the procedures described in Procedural Rule 7.02.

7.02 Initiation of Formal Complaint by Ethics Committee on Behalf of the Association.

In addition to all other procedures and responsibilities set forth in the Association Procedural Rules for the Ethics and Professional Responsibility Committee, this Committee shall be responsible for initiating an Official Complaint, on behalf of the Association.

The Committee shall have discretion to initiate such Complaint, based on the number of complaints, the severity of the complaints and other factors necessary to make such determination. The Ethics Committee may initiate an Official Complaint against any Association member who has been the subject of five or more “Informal Complaints” during the preceding two (2) years. The Ethics Committee shall consider the totality of the circumstances in exercising its discretion to initiate a formal complaint based on multiple informal complaints. As used in this context, the term “Informal Complaint” means any written or electronic communication which alleges or indicates that the member has violated either the Association Code of Ethics and Professional Responsibility or the Association Code of Operations.

If such an Official Complaint is initiated, it shall be signed by the Chair of the Ethics Committee on behalf of the Association, unless the Chair or other Ethics Committee member believes that an actual, potential or perceived conflict may exist between Chair and the Complainee. If so, the Chair shall request another Ethics Committee member to sign the Official Complaint on behalf of the Association.

7.03 Discretion of Committee to Reject Complaint After Acceptance.

If a Formal Complaint, submitted to this Association, pursuant to Rule 7 of these Procedural Rules, has been accepted for investigation and alleges a violation of the Code of Ethics and Professional Responsibility or Code of Operations by any member, the following inquiry shall be a part of the investigation:

- (1) Whether the Complaint appears to be one where the Complainant could reasonably bring a civil action, or is believed to have commenced such, for the recovery of damages, or other relief at law, or in equity, based upon a claim of breach of contract, fraud, misrepresentation or the like, the Ethics

Committee shall determine whether the resolution of the Complaint depends upon the finding of disputed material facts.

- (2) Whether, the Complaint arises as a part of a written contractual obligation between the parties and such obligation contains an express agreement to arbitrate any disputes or to utilize Alternative Dispute Resolution as the exclusive or chief method of resolution.

If the investigation indicates that either of the above is true, the Ethics Committee has the discretion to reject the Complaint until such time as factual findings are determined by a court, arbitrator or other neutral party after a hearing or proceeding in which the Complainant and Complainee participate. Such a rejection does not indicate approval or disapproval of the Complaint or the allegations contained therein.

A Complaint rejected under this paragraph may be re-submitted by the Complainant after a final judgment or after factual findings are determined by a court, arbitrator or other neutral party after a hearing or proceeding in which the Complainant and Complainee participate.

7.04 Mandatory Rejection of Complaints. The Office of Legal Counsel shall not accept, and the Ethics and Professional Responsibility Committee shall not take action on any matter of alleged professional misconduct in which a substantial part of any formal complaint indicates that it involves:

- (A) A current or former employment relationship between or among any of the parties,
- (B) Product liability, warranty or a related subject,
- (C) Any advertising by a member, unless such advertising is alleged to have caused injury to a consumer in a complaint initiated by a consumer,
- (D) A matter which is believed to be in litigation, or may be litigated imminently.

7.05 Lack of Jurisdiction or Failure to State a Claim

The Office of Legal Counsel or the Ethics and Professional Responsibility Committee may reject a complaint if the complaint is such that (1) the Committee lacks jurisdiction over the subject matter of the complaint, or (2) the Committee lacks jurisdiction over the person or entity complained of, or (3) the complaint fails to state a claim upon which relief can be granted. The decision to reject a complaint under this Rule may be appealed pursuant to Rule 19.

7.06 Notification of Dismissal

Upon dismissal of a complaint in accordance with Rule 7.05, ACA's Office of Legal Counsel shall notify the Complainee within 30 days of such complaint being dismissed, that such complaint was brought against them.

RULE 8. FORMAL COMPLAINT PROCESS

8.01 Investigation.

All complaints involving a Member's alleged unprofessional conduct shall be investigated pursuant to these Rules.

8.02 Initiating the Complaint Process.

Complaints against any Member of the Association pertaining to allegations of

unprofessional conduct or violations of the Code of Ethics and Professional Responsibility or Code of Operations shall be set forth on an Official Complaint Form provided by the Office of Legal Counsel and as approved by the Ethics Committee for this particular purpose or by the provisions of Rule 7.02. To initiate the Complaint process, the Complainant must mail or deliver the Official Complaint Form and all supporting documents in an envelope marked “confidential” to the Ethics Committee of ACA International, c/o Office of Legal Counsel, P.O. Box 39106, Minneapolis, MN 55439-0106. Upon receipt thereof, the Office of Legal Counsel shall initiate the Complaint resolution process as detailed herein. The Complaint process may also be initiated in accordance with Rule 7.02.

8.03 Notification of Complaint to Complainee-Member.

The Office of Legal Counsel shall mail one copy of the Official Complaint by certified mail, return receipt requested, to the Association Member against whom the Complaint has been made (herein after “Complainee-Member”). The Complainee-Member shall be allowed ten (10) calendar days from its date of receipt of the letter in which to file an Answer to the Complaint. Answers to any Complaints may be set forth on Official **Answer to a Complaint** forms prepared and provided by the Office of Legal Counsel and as approved by the Committee for this purpose. However, a timely communication from the Complainee which is clearly in response to the request for an **Answer to the Complaint** and which substantially complies with the Committee’s request for an Answer, may be deemed to fulfill the formal requirements of the Complainee’s Answer to a Complaint.

8.04 Complaints Against Multi-Office Members.

In the case of Complaints which are accepted for investigation, and filed against a specific member office where that member has multiple offices with a centralized ownership, notice of the Acceptance of a Complaint shall be sent to the member’s central designated Compliance Officer and to the owner or president of that member.

8.05 Extension of Time to File Answer.

Upon written request furnished to the Chair or to ACA’s Office of Legal Counsel prior to the expiration of the filing deadline, a Complainant or Complainee shall be granted an additional ten calendar days to file an **Answer to a Complaint** or a **Reply to an Answer**. Further extensions may be granted upon written request for good cause, the adequacy of which shall be determined at the discretion of the Chair or ACA’s Office of Legal Counsel.

8.06 Presumption of Admission.

If within ten (10) calendar days after proper delivery of the Complaint, and any supporting documents to the Complainee-Member, neither the Chair nor the Office of Legal Counsel receives an **Answer to the Complaint** from the Complainee-Member as required by these Rules, the allegations in the Complaint will be deemed to be admitted for purposes of these proceedings only, and forwarded to the Committee for Disposition of the matter and proper notification of the parties.

8.07 Right to Withdraw.

At any time before a Complaint is reduced to final disposition by the Committee, it may be withdrawn by the Complainant by written request to the Chair of the Ethics Committee or the Office of Legal Counsel.

Rule 9. OPPORTUNITY TO REPLY

9.01 By Complainant.

Upon receipt of the Complainee's ***Answer to a Complaint***, timely filed with the Office of Legal Counsel, the Office of Legal Counsel shall provide the Complainant with an opportunity to respond to the Complainee-Member's Answer to the Complaint within ten (10) calendar days of the receipt thereof. The Office of Legal Counsel shall mail by certified mail, return receipt requested, written notice to the Complainant that the Complainant has ten (10) calendar days to file a written ***Reply to the Answer*** to the Complaint. Replies to Answers to Complaints may be set forth on official ***Reply to Answer*** forms prepared by the Office of Legal Counsel and as approved by the Committee for this particular purpose. However, a timely communication from the Complainant which is clearly in response to the request for a ***Reply to an Answer*** and which substantially complies with the Committee's request for a Reply, may be deemed to fulfill the formal requirements of the Complainant's ***Reply to an Answer***.

9.02 Return of Reply from Complainant.

If the Complainant's ***Reply to the Answer*** is received with the ten (10) calendar day period and the Reply reflects complete or partial satisfaction with the Answer, the Office of Legal Counsel may provide written notice to the parties that this matter appears to be resolved and that no further action will be taken. If the Complainant's ***Reply to the Answer*** does not reflect complete or partial satisfaction, the Complaint may be accepted for investigation by the Ethics Committee.

9.03 Non-Response of Complainant to Complainee's Answer.

At the expiration of the ten (10) calendar day period, within which Complainant may Reply, if Complainant has not responded or otherwise communicated with the Office of Legal Counsel, or the Chair of the Ethics Committee, the Complaint will be deemed dismissed as incomplete by the Office of Legal Counsel, with no action required by the Ethics Committee.

9.04 Notice to Parties.

Written notice shall be provided to all parties of record to a Complaint, that such Complaint has been accepted for investigation to the Ethics Committee. Such notice shall state when the matter is scheduled to be heard and shall be sent by certified mail, return receipt requested. The Ethics Committee member who is investigating a matter shall receive a copy of any sanction letter sent regarding that matter.

RULE 10. INVESTIGATION

Upon receipt of a Complaint accepted for Investigation, the Chair shall, within ninety (90) calendar days, conduct or direct any such investigation as the Chair deems appropriate to determine the truth or falsity of the allegations contained in the Complaint. The Chair shall direct Committee members, the Office of Legal Counsel, or retained counsel, to conduct any such investigation. Those individuals so directed to investigate shall solicit relevant information from any person including, but not limited to, the Complainant, the Complainee-Member, their agents or assigns, or any other person reasonably believed to possess any information concerning the alleged unprofessional conduct of the Complainee-Member and the circumstances surrounding such conduct which relates to the allegations in the Complaint.

The individual so directed by the Chair to investigate and solicit all relevant

information regarding the complaint, shall submit all information received regarding the investigation to ACA's Office of Legal Counsel.

RULE 11. REQUIRED COOPERATION OF MEMBER; GROUNDS FOR DISCIPLINE

11.01 Duty To Cooperate.

It shall be the duty of any Member who is the subject of an investigation or proceeding under these Rules, to cooperate with the Complainant, the Committee, the Executive Committee, Complaint Investigators and the Office of Legal Counsel, by complying with reasonable requests for documentation, information and material which the Ethics Committee believes is relevant and helpful to its investigation of the matter during the term of a Complaint proceedings. Such requests shall not be disproportionate to the gravity and complexity of the alleged Code violation(s). Accurate copies of documents shall be permitted in lieu of the originals in all proceedings under the Rules. These requests may include, but need not be limited to, requests to:

- (A) Promptly furnish designated papers and documents, electronic transcriptions or tangible objects;
- (B) Promptly furnish in writing a full and complete explanation covering the matter under consideration;
- (C) Appear, attend, or participate at conferences at times and places reasonably designated; and,
- (D) Adhere to the methods of communication set forth herein which include the use of Official Answer to a Complaint forms, and returning items as specified by certified mail.

11.02 Grounds for Discipline.

Violation of Rule 11.01 of these Procedural Rules shall be deemed unprofessional conduct per se and shall constitute a ground for discipline; provided, however, that a Member's challenge to requests made in connection with proceedings under the Rules shall not constitute lack of cooperation if the challenge is promptly made in good faith, and is asserted for a substantial purpose other than delay.

RULE 12. DISPOSITION OF THE COMPLAINT OR ADMISSION

12.01 Process of Disposition.

The Ethics Committee shall enter a Disposition of any Complaint accepted for Investigation under these Rules or which has been admitted in whole or in part by a Complainee/ Member.

12.02 Disposition Notice and Sanctions.

Within forty-five (45) calendar days after the close of the ninety (90) calendar day investigation period detailed in Rule 10, the Committee shall meet for the purpose of rendering a disposition of the Complaint. This meeting may be conducted in person, by teleconference, or by audio-visual conference. It is within the sole discretion of the Chair to invite testimony from any party to the Complaint or their legal representative(s) during this meeting.

12.03 Notice of Disposition.

Within thirty (30) calendar days of the date of the meeting described in Rule 12.02 above, the Chair, via the Office of Legal Counsel, shall provide written notice of the Committee's decision to the Complainee, the Complainant and their legal representative if any. This notice shall include a:

- (A) Brief summary of the Committee's conclusions and findings as to the truth or falsity of each allegation in the Complaint accepted for investigation;
- (B) Statement that substantially communicates the following: The Complainee-Member has twenty (20) calendar days to File a *Petition for Reconsideration* of this matter by the Ethics and Professional Responsibility Committee or to appeal the decision of the Ethics Committee by Petition for Review to the Executive Committee for its review of the Ethics Committee's decision; or
- (C) Description of any sanction imposed upon the Complainee by the Committee or a statement that the "Committee has determined that no further discipline of the Complainee-Member is warranted."

RULE 13.

13.01 Sanctions Defined

SANCTIONS DEFINED

Upon a majority vote of the Ethics Committee, the Chair shall order the imposition of sanctions upon the Complainee-Member which may include any or all of the following:

- (A) Suspension of some of the Complainee 's membership rights with particular focus to those membership rights which may relate either directly or indirectly to the infraction(s).
- (B) Removal of the Complainee, as well as all the persons employed by the Complainee, from the ranks of all Association committees, boards and councils, including officers, directors, certified instructors, program panelists, etc. for a specific period of time.
- (C) Loss of any right to vote in any ballot or election conducted by the Association.
- (D) Mandatory attendance by the Member and/or some or all of its employees at Association education programs relating to the unprofessional or unethical conduct within a particular time frame; or
- (E) Such other sanctions or remedies which the Committee may deem appropriate, which may include, but are not limited to:

13.02 Admonition.

In a matter involving a Complaint, if the Ethics Committee concludes, upon a majority vote that a Member's conduct was unprofessional or not in character with the professional expectations of the Association, but of an isolated or non-serious nature, the Chair shall issue an admonition which shall, in addition to the notice requirements of Rule 12.03, notify the member in writing:

- (A) Of the admonition;
- (B) That the admonition is based on an investigation by the Ethics Committee of an accepted Complaint;
- (C) State the findings of the investigation,
- (D) That this sanction shall have no impact upon the Complainee-Member's membership or insurability for business purposes through for-profit arm of the Association, or a similar entity.
- (E) The issuing of this sanction is deemed confidential information, except that

the Complainant shall be notified in writing, by certified mail outlining the nature of the sanction.

13.03 Suspension.

- (A) At the direction of the Chair, and upon the determination by the majority vote of the Committee, that suspension of the Complainee-Member's Association privileges of membership is in order, the Committee may suspend the Member from membership privileges in the Association either in whole or in part for a stated period of time. Such period of time shall be set by a majority vote of the Ethics Committee.
- (B) The imposition of this sanction shall have no effect upon the Complainee-Member's insurability for business purposes through the Association.
- (C) Following the expiration of the Member's right to appeal, imposition of this sanction against the Complainee-Member by the Committee shall be published, at the next available opportunity, in the Association's Official Publication and on the Association's Web site, for a period of thirty (30) calendar days.
- (D) This sanction may be made effective retroactively to a date after investigation of the Complaint has begun, but before Final Disposition, by a majority vote of the Ethics Committee.

13.04 Expulsion.

- (A) Upon the determination by the majority vote of the Committee that expulsion of the Complainee-Member from the Association is in order, the Committee may expel the Member from membership in the Association for any period of time that the Ethics Committee finds proper and appropriate based on its investigation and the severity of the findings;
- (B) Upon expiration of any relevant appeal period or upon final termination of membership from the Association due to expulsion, the Office of Legal Counsel shall notify the Executive Committee, the Communications Department, the Membership Department, the Insurance Department, the President of the Complainee-member's Unit, if any, and the Complainant of the effective date for such Member's termination.
- (C) Within ten (10) business days of notice thereafter, the departments listed above shall take any action required under the Procedural Rules for the Ethics Committee and discontinue any benefits and entitlements associated with membership in the Association.
- (D) Upon expulsion from the Association, the Association's for-profit arm, or similar entity, shall terminate Complainee-Member's insurance for business purposes in accordance with the terms of the policy.
- (E) Imposition of this sanction against the Complainee/ Member by the Committee shall be published, at the next available opportunity, in the Association's Official Publication and on the Association's Web site, for a period of thirty (30) calendar days.
- (F) This sanction may be made effective retroactively to a date after investigation of the Complaint has begun, but before Disposition, by a majority vote of the Ethics Committee.

Rule 14. RE-APPLICATION AFTER TERMINATION

Absent any other directives from the Ethics Committee or the Executive Committee, if a member is expelled, re-application for membership in the Association may be made no earlier than twelve (12) months after the date of the final decision of the Ethics Committee.

- (A) Any application received before the expiration of the period set forth in the sanction or before twelve (12) months after the date of the final decision of the Ethics Committee, if a shorter time is not specified in the sanction, shall be returned to the applicant.
- (B) In the case of a Petition to the Ethics Committee for Reconsideration, and the Ethics Committee has reconsidered its decision, such twelve (12) month period, or a shorter period, if so specified in the sanction, shall begin on the date of the final decision of the Ethics Committee.
- (C) In the case of a Petition for Review to the Executive Committee, or if the Ethics Committee has not accepted a Petition for Reconsideration, and such matter was referred to the Executive Committee as a Petition for Review, such twelve (12) month period, or a shorter period, if so specified in the sanction, shall begin on the date of the final decision of the Executive Committee.
- (D) Any such re-application for membership shall be processed through the regular channels and be required to meet all regular qualifications for membership.

RULE 15. TEMPORARY SUSPENSION PENDING DISCIPLINARY PROCEEDINGS

Upon receipt of any Complaint accepted for investigation, whereupon by majority vote, the Ethics Committee determines that a Complainee-Member's continued active membership in the Association poses a threat of serious harm to either the Association, its subsidiaries, affiliates, or the public, the Chair shall provide the Complainee-Member with written notice that its membership privileges in the Association are temporarily suspended pending a final outcome of the proceedings. The temporary Suspension of a Complainee-Member from the Association shall have no impact upon the Member's insurability for business purposes through the Association's for-profit arm, or similar entity, and shall be deemed confidential pending a final disposition of the matter.

RULE 16. OTHER REMEDIES

At its sole discretion, based on its finding, investigation and review of the matter, the Ethics Committee, upon majority vote, may dismiss a Complaint or make such other disposition as the Committee deems appropriate and just under the circumstances.

RULE 17. RESIGNATION

The Committee shall at any time throughout these disciplinary proceedings grant a Complainee-Member's Petition to Resign from the Association. In such case, the Chair of the Ethics Committee shall notify the Membership Department within thirty (30) calendar days thereafter of the Member's voluntary resignation. If the Committee finds that after a Complaint has been accepted for investigation against a Member, that Member resigns before the

Disposition of the Complaint, the Committee shall issue a Disposition, stating a period of time after which that Member may apply for re-application if the Member so desires. The Committee shall consider the timelines for re-application provided in these Rules in making its decision based on the facts of the matter.

RULE 18. INDEPENDENT COUNSEL REVIEW

If believed to be in the best interest of the parties, as judged by the Ethics Committee, through a majority vote, the Chair shall order a review of the matter, by independent counsel. Such counsel shall be designated by the Ethics Committee. The purpose of the independent review shall be to obtain a legal opinion as to how the Complainee might address and /or prevent this type of problem from reoccurring.

RULE 19. APPEAL PROCESS

Any appeal of the decision of the Ethics Committee shall be in accordance with the following Rules.

19.01 Petition to the Ethics Committee for Reconsideration.

If within twenty (20) days of receipt of the Committee's Notice of Final Disposition and Sanctions, or of the dismissal of a matter, either party requests, via certified mail, return receipt requested, a Reconsideration of the matter, such an appeal will be deemed a Petition for Reconsideration to the Ethics Committee if the appealing party so states or if the petition establishes good cause for reconsideration, in writing, by bringing forth additional facts or circumstances, previously unknown to the Ethics Committee, the Committee has discretion to reconsider its decision or reschedule the matter for Reconsideration. If the Ethics Committee does not accept the Petition for Reconsideration, such Petition shall be deemed to be a Petition for Review to the Executive Committee. In such case, the Chair of the Ethics Committee shall inform the Executive Committee of the Petition and provide the President of the Executive Committee with the documents necessary for a Review under these Rules.

19.02 Appeal from Reconsideration by the Ethics Committee. Revised 2-25-03

If after the Ethics Committee has accepted a Petition for Reconsideration and Reconsidered the matter, a party appeals the Reconsidered decision of the Ethics Committee by sending notice of appeal to the Office of Legal Counsel in writing via certified mail, return receipt requested, such appeal will be deemed to be a Petition for Review to the Executive Committee if, the Petition so states or if, the Petition alleges that the Ethics Committee acted arbitrarily, capriciously, with malice, or with reckless disregard of the facts and circumstances surrounding the allegations in the Compliant.

19.03 Petition for Review to Executive Committee.

Within twenty (20) calendar days of receipt of the Committee's Notice of Disposition and Sanctions, either the Complainee-Member or the Complainant may file a Petition for Review to the Executive Committee, with the Office of Legal Counsel.

19.04 Standards of Review.

Review of the Disposition by the Executive Committee shall be granted only if the Petition shows that the Ethics Committee acted arbitrarily, capriciously, with malice, or with reckless disregard of the facts and circumstances surrounding the

allegations in the Complaint. Review may be granted upon the majority vote of a quorum of the Executive Committee.

19.05 Procedure for Review by the Executive Committee.

When a Petition for Review is received by the Chair of the Executive Committee, the Chair shall, within twenty (20) calendar days, notify the parties, the Office of Legal Counsel, and the Chief Executive Officer of this Association informing them whether it will review the matter. Such notice shall include:

- (A) Whether the Executive Committee shall review the allegations of the Complaint on the record (requiring no appearance by the parties), at a hearing before the Executive Committee or whether in-person attendance is required, or at such other proceedings as the Executive Committee shall deem appropriate (i.e., teleconference, video conference, etc.);
- (B) the date, time, and mode of conducting the hearing, if any;
- (C) The appealing party's right to be represented by counsel at the proceedings; and,
- (D) If the Executive Committee decides not to review the matter, the notice shall additionally state the Executive Committee's reasons for non-review in accordance with these Rules.

19.06 Process of Review by Executive Committee.

If accepted, the Executive Committee may investigate the matter concerning the Petition for Review and, consider the findings of the Ethics Committee, the procedural history and the facts regarding the Complaint and the circumstances of the individual case.

19.07 Disposition or Remand by Executive Committee.

Upon the Executive Committee's decision not to accept a Petition for Review, or if a Petition for Review is accepted and the matter is heard, at the conclusion of such proceedings, the Executive Committee may:

- (A) Affirm the decision of the Ethics Committee, or;
- (B) Remand the matter back to the Ethics Committee for additional investigation or additional proceedings in accordance with specific instructions by the Executive Committee. Such instructions shall state, in writing, the findings of the Executive Committee, any timelines it may impose and other particulars, or;
- (C) impose such other disposition of the matter(s) as it deems appropriate.

19.08 Finality of Executive Committee Decision.

Except in cases where a matter is remanded back to the Ethics Committee for further action, a decision by the Executive Committee shall be final and shall terminate these proceedings. The Executive Committee shall state in writing, its findings regarding any decision it makes. There shall be no further appeal of the matter by any party.

RULE 20. OPPORTUNITY FOR APPEAL ON MATTER REMANDED

In cases, where a matter is appealed to the Executive Committee and that matter is remanded back with instruction to the Ethics Committee, the decision of the Ethics Committee shall be final, unless a party appeals the decision of the Ethics

Committee after remand within twenty (20) days of receipt of the Ethics Committee's Disposition of the matter remanded, via certified mail, return receipt requested. An appeal may be made only to the Executive Committee which shall follow Procedural Rules 19.03-20 herein. This shall be the last appeal in the matter. Any decision by the Executive Committee, whether an appeal is accepted and considered, or rejected, shall be final and shall terminate these proceedings.

RULE 21. RECORD RETENTION

21.01 Retention.

The Office of Legal Counsel shall keep and store the official files of the Ethics Committee. Such files may be composed of items which are hard copy originals, photocopies thereof, items stored magnetically or electronically, including audio and video tapes, e-mails, handwritten notes and any other record of ethics related activity, including but not limited to, ethics investigations, correspondence of all kinds, Sanctions, Complaints, Replies and Answers. All such items shall be retained by the Office of Legal Counsel for a period ***not to exceed three (3) years***. Three (3) years after the creation or the date listed on an item, whichever is earlier, the Office of Legal Counsel shall, in the regular course of its business routine, destroy all such items in whatever form. Therefore, these items will be deemed not to be available for any purpose.

21.02 Exception.

As an exception to the above Rule 21.01, in the event that the Office of Legal Counsel has knowledge that any specific ethics-related item has been, or is likely to be requested, as a part of a legal proceeding, whether formally requested or not, such item will be retained, until such time as it is no longer so required.

RULE 22. AMENDMENTS

The Ethics Committee shall be empowered to adopt practices and procedures which affect the day-to-day operations of that Committee and is specifically empowered to modify and amend these Procedural Rules.

Amended May 4, 2006

This information is not intended as legal advice and may not be used as legal advice. It should not be used to replace the advice of your own legal counsel. Any information contained in this material is based on current research into the issues and on the specific facts involved herein.