

ACA Policies and Procedures for Processing Complaints of Ethical Violations

ACA Governing Council Approved 2005

Section A: General

A.1. The American Counseling Association, hereafter referred to as the "Association" or "ACA," is dedicated to enhancing human development throughout the life span and promoting the counseling profession.

A.2. The Association, in furthering its objectives, administers the Code of Ethics and Ethical Standards for Internet On-Line Counseling, hereafter referred to as the "ACA Codes", and Standards of Practice that have been developed and approved by the ACA Governing Council.

A.3. The purpose of this document is to facilitate the work of the ACA Ethics Committee ("Committee") by specifying the procedures for processing cases of alleged violations of the ACA Codes, codifying options for sanctioning members, and stating appeals procedures. This document is meant to be used as a supplement to the ACA Codes and not as a substitute. The intent of the Association is to monitor the professional conduct of its members to promote sound ethical practices. ACA does not, however, warrant the performance of any individual.

Section B: Ethics Committee Members

B.1. The Ethics Committee is a standing committee of the Association. The Committee consists of nine (9) appointed members including two (2) Co-Chairs whose terms overlap. Three members are appointed annually for three (3) year terms by the President-Elect; appointments are subject to confirmation by the ACA Governing Council. Any vacancy occurring on the Committee will be filled by the President in the same manner, and the person appointed shall serve the unexpired term of the member whose place he or she took. Committee members may be reappointed to not more than one (1) additional consecutive term.

B.2 One (1) of the Committee Co-Chairs is elected annually from among the Committee members who have two (2) years of service remaining and serves as Co-Chair for two (2) years. The Committee selects the Co-Chair subject to confirmation by the ACA Governing Council.

Section C: Role and Function

C.1. The Ethics Committee is responsible for

C.1.a. Educating the membership as to the ACA Codes;

C.1.b. Periodically reviewing and recommending changes in the ACA Codes of the Association, as well as Policies and Procedures for Processing Complaints of Ethical Violations;

C.1.c. Receiving and processing complaints of alleged violations of the ACA Codes of the Association; and,

C.1.d. Receiving and processing requests for interpretations

C.2. The Committee shall meet in person or by telephone conference a minimum of three (3) times per year for processing complaints.

C.3. In processing complaints about alleged ethical misconduct, the Committee will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The Committee, in taking any action, shall do so only for cause, shall only take the degree of disciplinary action that is reasonable, shall utilize these procedures with objectivity and fairness, and in general shall act only to further the interests and objectives of the Association and its membership.

C.4. Of the nine (9) voting members of the Committee, a vote of five (5) is necessary to conduct business. In the event a Co-Chair or any other member of the Committee has a personal interest in the case, he or she shall withdraw from reviewing the case.

C.5. In the event Committee members recuse themselves from a complaint and insufficient voting members are available to conduct business, the President shall appoint former ACA Committee members to decide the complaint.

Section D: Responsibilities of the Committee Members

D.1. The Committee members have an obligation to act in an unbiased manner, to work expeditiously, to safeguard the confidentiality of the Committee's activities, and to follow procedures established to protect the rights of all individuals involved.

Section E: Responsibilities of the Co-Chairs Administering the Complaint

E.1. In the event that one of the Co-Chairs administering the complaint has a conflict of interest in a particular case, the other Co-Chair shall administer the complaint. The Co-Chair administering the complaint shall not have a vote in the decision.

E.2. In addition to the above guidelines for members of the Committee, the Co-Chairs, with the assistance of the Headquarters staff liaison (and legal counsel where necessary), have the responsibilities of

E.2.a. Receiving, via ACA Headquarters, complaints that have been certified for membership status of the charged member;

E.2.b. Determining whether the alleged behavior(s), if true, would violate the ACA Codes and whether the Committee should review the complaint under these rules;

E.2.c. Notifying the complainant and the charged member of receipt of the case by certified mail return receipt requested;

E.2.d. Notifying the members of the Committee of the case;

E.2.e. Requesting that evidence, testimony and other case information be forwarded to ACA headquarters by complainants, charged members or others as a single submission.

E.2.f. Presiding over the meetings of the Committee;

E.2.g. Preparing and sending, by certified mail, communications to the complainant and charged member on the recommendations and decisions of the Committee; and

E.2.h. Arranging for legal advice with assistance and financial approval of the ACA Executive Director.

Section F: Jurisdiction

F.1. The Committee will consider whether individuals have violated the ACA Codes if those individuals:

F.1.a. Are current members of the American Counseling Association; or

F.1.b. Were ACA members when the alleged violations occurred.

F.2. Ethics committees of divisions, branches, corporate affiliates, or other ACA entities must refer all ethical complaints involving ACA members to the Committee.

Section G: Eligibility to File Complaints

G.1. The Committee will receive complaints that ACA members have violated one or more sections of the ACA Codes from the following individuals:

G.1.a. Any individuals who have reason to believe that ACA members have violated the ACA Codes.

G.1.b. ACA members, or members of other helping professions, who have reason to believe that other ACA members have violated the ACA Codes

G.1.c. The Co-Chair of the Committee on behalf of the ACA membership when the Co-Chair has reason to believe through information received by the Committee that ACA members have violated the ACA Codes.

G.1.d. Ethics committees of divisions, branches, corporate affiliates, or other ACA entities as provided for in Section F.2. above.

G.2. When appropriate, individuals should attempt to resolve complaints directly with charged members before filing ethical complaints.

Section H: Timelines

H.1. The time lines set forth in these standards are guidelines only and have been established to provide a reasonable time framework for processing complaints.

H.2. The Committee may consider complaints against other members if the complaint is received less than five years after the alleged conduct either occurred or was discovered by the complainant.

H.3. Complainants or charged members may request extensions of deadlines when appropriate. The Committee only when justified by unusual circumstance will grant extensions of deadlines.

H.4. Adjudication of the complaint shall correspond with the ACA Codes revision enforced at the time of the alleged violation.

Section I: Nature of Communication

I.1. Only legibly printed or typed communications regarding ethical complaints against members will be acceptable. If telephone inquiries from individuals are received regarding the filing of complaints, responding to complaints, or providing information regarding complaints, the individuals calling will be informed of the written communication requirement and asked to comply.

I.2. All correspondence related to an ethical complaint must be addressed to the Ethics Committee, ACA Headquarters, 6101 Stevenson Avenue, Suite 600, Alexandria, VA 22304 and must be marked "confidential." This process is necessary to protect the confidentiality of the complainant and the charged member.

Section J: Filing Complaints

J.1. Only written complaints, signed by complainants, will be considered.

J.2. Individuals eligible to file complaints will send a letter outlining the nature of the complaint to the Committee at the ACA Headquarters. The complaint should include, if possible, (a) the name and address of the complainant, (b) the name and address of the charged member, (c) the names and address of any other persons who have knowledge of the facts involved, and (d) a brief description of the reason why the complaint is being filed.

J.3. The ACA staff liaison to the Committee will communicate in writing with complainants. Receipt of complaints and confirmation of membership status of charged members as defined in Section F.1, above, will be acknowledged to the complainant. Formal complaint forms will be sent to complainants after receipt of complaints have been acknowledged.

J.4. If the complaint does not involve a member as defined in Section F.1, above, the staff liaison shall inform the complainant and advise the complainant of alternative avenues to address the complaint.

J.5. The ACA staff liaison shall assign the complaint to a Co-Chair. The Committee Co-Chair administering a complaint will determine whether the complaint, if true, would violate one or more sections of the Codes or if the complaint could be properly decided if accepted. If not, the complaint will be forwarded to the other Co-Chair for review, as if a new complaint. If both Co-Chairs determine that a complaint would not violate one or more sections of the Codes or if the complaint could not be properly decided if accepted, then the complaint will not be accepted and the complainant shall be notified.

J.6. If the Committee Co-Chair administering the complaint determines that there is insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Committee, the Co-Chair may request further information from the complainant or others. The complainant or others from whom information is requested shall be given thirty (30) working days from receipt of the request to respond.

J.7. a. When complaints are accepted, complainants will be informed that copies of the formal complaints, evidence and documents submitted in support of the complaint will be provided to the charged member. The complainant will also be informed that he/she must authorize release of such information to the charged member before the complaint process may proceed.

J.7.b. Upon receipt of the initial complaint at ACA headquarters, a copy, including any submitted evidence should be provided to the charged member within 10 working days.

J.8. The ACA staff liaison, after receiving approval of the Committee Co-Chair administering a complaint, will formulate a formal complaint, which will be presented to the complainant for his or her signature.

J.8.a. The correspondence from complainants will be received, and the staff liaison and Committee Co-Chair administering the complaint will identify all ACA Codes sub-sections that might have been violated if the accusations are true.

J.8.b. The formal complaint will be sent to complainants with a copy of these Policies and Procedures, a copy of the ACA Codes, a verification affidavit form and an authorization and release of information form. Complainants will be asked to sign and return the completed complaint, verification affidavit and authorization and release of information

forms. It will be explained to complainants that sections of the codes that might have been violated may be added or deleted by the complainant before signing the formal statement.

J.8.c. If complainants elect to add or delete sections of the ACA Codes in the formal complaint, the unsigned formal complaint shall be returned to ACA Headquarters with changes noted, and a revised formal complaint will be sent to the complainants for their signature.

J.9. When the completed formal complaint, verification affidavit form and authorization and release of information form are presented to the complainant for signature, he or she will be asked to submit all evidence and documents he or she wishes to be considered by the Committee in reviewing the complaint. The complainant shall submit all evidence and documentation in support of the claim within thirty (30) working days of filing the formal complaint. The Committee may accept, at its discretion, evidence or documentation submitted late if good cause is shown.

Section K: Notice to Charged Members

K.1. Once signed formal complaints have been received, charged members will be sent a copy of the formal complaint by U.S. mail, certified, with return-receipt requested, a copy of these Policies and Procedures, a copy of the Codes, notification of their right to request a hearing, (including the time limit within which to request the hearing, and that the failure to request a hearing within the time limit constitutes a waiver of the hearing), ACA's policy of disclosing adverse actions to its members and/or informing state and national licensure boards of a member's suspension or expulsion, and copies of all evidence and documents submitted in support of the complaint.

K.2. Charged members will be asked to respond to the complaint against them. They will be asked to address each section of the ACA Codes they have been accused of having violated. They will be informed that if they wish to respond they must do so in writing within thirty (30) working days.

K.3. Charged members will be informed that they must submit all evidence and documents they wish to be considered by the Committee in reviewing the complaint within thirty (30) working days.

K.4. After charged members have received notification that a complaint has been brought against them, they will be given thirty (30) working days to notify the Committee Co-Chair (via ACA Headquarters) in writing, by certified mail, if they wish to request a formal face-to-face or telephone conference hearing before the Committee. Charged members may waive their right to a formal hearing before the Committee and shall sign a waiver of the right to a hearing. (See Section O: Hearings).

K.5. If the Committee Co-Chair determines that there is insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Committee, the ACA staff liaison to the Committee may request further information from the charged member or others. The charged member or others from whom information is requested shall be given thirty (30) working days from receipt of the request to respond.

K.6. All requests for additional information from others will be accompanied by a verification affidavit form, which the information provider will be asked to complete and return. It shall be the responsibility of the complainant to obtain such affidavits.

K.7. The Committee may, in its discretion, delay or postpone its review of the case with good cause including if the Committee wishes to obtain additional information.

K.8. The charged member may request that the Committee delay or postpone its review of the case for good cause if done so in writing.

Section L: Disposition of Complaints

L.1. After receiving the responses from charged members, Committee members will be provided copies of (a) the complaint, (b) supporting evidence and documents sent to charged members, (c) the response, and (d) supporting evidence and documents provided by charged members and others.

L.2. Decisions will be rendered based on the evidence and documents provided by the complainant and charged member or others.

L.3. The Committee Co-Chair administering a complaint will not participate in deliberations or decisions regarding that particular complaint beyond responsibilities as the presiding officer.

L.4. At the next meeting of the Committee, held no sooner than fifteen (15) working days after members received copies of documents related to a complaint, the Committee will discuss the complaint, response, and supporting documentation, if any, and determine the outcome of the complaint.

L.5. The Committee will determine whether each sub-code the member has been accused of having violated was violated based on the information provided.

L.6. After deliberations, the Committee may decide to dismiss the complaint or to dismiss charges within the complaint.

L.7. In the event it is determined that any of the ACA Codes have been violated, the Committee will impose for the entire complaint one or a combination of possible sanctions allowed.

L.8. In a case of a finding of no ethical violations, the ACA Ethics Committee may choose to offer educational advice and counsel its members to advance the ethical practice of counseling. Educational advice and counsel rendered by the committee should in no way be construed as a finding of unethical conduct or sanction.

Section M: Withdrawal of Complaints

M.1. If the complainant and charged member both agree to discontinue the complaint process, the Committee may, at its discretion, complete the adjudication process if available evidence, as determined by the Co-Chair administering the complaint indicates that this is warranted. This Co-Chair shall act as complainant on behalf of the ACA membership.

M.2. In cases where a Co-Chair shall act as complainant, the remaining Co-Chair shall assume the administration of the complaint.

Section N: Sanctions

N.1. Remedial requirements may be stipulated by the Committee.

N.2. Probation for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

N.3. Suspension from ACA membership for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

N.4. Permanent expulsion from ACA membership. This sanction requires a unanimous vote of those voting.

N.5.a. The penalty for failing to fulfill in a satisfactory manner a remedial requirement imposed by the Committee will be automatic suspension until the requirement is met, unless the Committee determines that the remedial requirement should be modified based on good cause shown prior to the end of the remedial requirement deadline.

N.5.b. The penalty for failing to fulfill in a satisfactory manner a remedial requirement imposed by the Committee as a result of a suspension sanction will be automatic permanent expulsion unless the Committee determines that the remedial requirement should be modified based on good cause shown prior to the end of the suspension period.

N.6. Other corrective action may be prescribed by the Committee such as: successful completion of a specific education or training, supervision, and evaluation or treatment.

N.7. The ACA Ethics Committee will receive and review evidence that an ethics committee sanction has been completed and fulfills the terms and conditions imposed by the committee. A quorum is needed to take a vote and a majority of votes cast will determine whether that obligation has been satisfied or not. A letter of notification will be sent by the Co-Chair of the Committee to the member stating the Committee's decision within thirty (30) business days from receipt of proof of completion.

Section O: Hearings

O.1. At the discretion of the Committee, a hearing may be conducted when the results of the Committee's preliminary determination indicate that additional information is needed.

O.2. When charged members, within thirty (30) working days of notification of the complaint, request a formal face-to-face or telephone conference hearing before the Committee, such a hearing shall be conducted. (See Section K.6.)

O.3. The charged member shall bear all their expenses associated with attendance at hearings requested by the charged member.

O.4. The Committee Co-Chair shall schedule a formal hearing on the case at the next scheduled Committee meeting and notify both the complainant and the charged member of their right to attend the hearing in person or by telephone conference call.

O.5. The hearing will be held before a panel made up of the Committee and if the charged member chooses, a representative of the charged member's primary Division. This representative will be identified by the Division President, and will have voting privileges upon completion of a Committee approved orientation.

Section P: Hearing Procedures

P.1. Purpose.

P.1.a. A hearing will be conducted to determine whether a breach of the ACA Codes has occurred and, if so, to determine appropriate disciplinary action.

P.1.b. The Committee will be guided in its deliberations by principles of basic fairness and professionalism and will keep its deliberations as confidential as possible except as provided herein.

P.2. Notice.

P.2.a. The charged members shall be advised in writing by the ACA staff liaison administering the complaint of the time and place of the hearing, the list of any witnesses expected to testify at the hearing against the charged member (which list may not be complete), and the charges involved at least thirty (30) working days before the hearing. A copy of the notification shall be sent to the complainant. Notice shall include a formal statement of the complaints lodged against the charged member and supporting evidence.

P.2.b. The charged member is under no duty to respond to the notice, but the Committee will not be obligated to delay or postpone its hearing unless the charged member so requests in writing with good cause, reviewed at least fifteen (15) working days in advance. In the absence of such 15-day advance notice and postponement by the Committee, if the charged member fails to appear at the hearing, the Committee shall decide the complaint on record. Failure of the charged member to appear at the hearing shall not be viewed by the Committee as sufficient grounds alone for taking disciplinary action.

P.3. Conduct of the Hearing.

P.3.a. Accommodations. The location of the hearing shall be determined at the discretion of the Committee. The Committee shall provide a private room to conduct the hearing, and prohibit recording devices other than as permitted by the Committee.

P.3.b. Presiding Officer. The Co-Chair in charge of the case shall preside over the hearing and deliberations of the Committee. At the conclusion of the hearing and deliberations of the Committee, the Co-Chair shall notify the charged member and complainant of the Committee's decision in writing as provided in Section Q., Paragraphs 1 and 2, below.

P.3.c. Record. A record of the hearing shall be made and preserved, together with any documents presented in evidence, at ACA Headquarters for a period of three (3) years or until the complaint process is final, whichever is longer. The record shall consist of a summary of testimony received or a verbatim transcript, at the discretion of the Committee.

P.3.d. Right to Counsel. The charged member shall be entitled to have legal counsel present to advise and represent him or her throughout the hearing. Legal counsel for ACA shall also be present at the hearing to advise the Committee and shall have the privilege of the floor.

P.3.e. Witnesses. Either party shall have the right to call witnesses to substantiate his or her version of the case.

P.3.f. The Committee shall have the right to call witnesses it believes may provide further insight into the matter. ACA shall, in its sole discretion, determine the number and identity of witnesses to be heard.

P.3.g. Witnesses shall not be present during the hearing except when they are called upon to testify and shall be excused upon completion of their testimony and any cross-examination.

P.3.h. The Co-Chair administering the complaint shall allow questions to be asked of any witness by the opposition or members of the Committee if such questions and testimony are relevant to the issues in the case.

P.3.i. The Co-Chair administering the complaint will determine what questions and testimony are relevant to the case. Should the hearing be disturbed by irrelevant testimony, or other occurrences, the Co-Chair administering the complaint may call a brief recess until order can be restored.

P.3.j. All expenses associated with counsel on behalf of the parties shall be borne by the respective parties. All expenses associated with witnesses on behalf of the charged member shall be borne by the charged member when the charged member requests a hearing. If the Committee requests the hearing, all expenses associated with witnesses shall be borne by ACA.

P.4. Presentation of Evidence

P.4.a. The Co-Chair administering the complaint shall be called upon first to present the charge(s) made against the charged member, briefly describe the evidence supporting the charge and otherwise present the matter during the hearing. Ethics Committee members will be responsible for questioning the witnesses to fully understand and clarify material presented in the testimony.

P.4.b. Witnesses who can substantiate the case may be called upon to testify and answer questions of the charged member and the Committee.

P.4.c. If the charged member has exercised the right to be present at the hearing, he or she shall be called upon after the complainant or the staff liaison or the Committee Co-Chair administering the complaint has presented the case against the charged member. The charged member may present any evidence which refutes the charges against him or her. This includes witnesses as in Subsection (3) above. The charged member and the complainant may submit a written statement at the time of the hearing.

P.4.d. The charged member will not be found guilty simply for refusing to testify. Once the charged member chooses to testify, however, he or she may be questioned by the complainant and members of the Committee.

P.4.e. The Committee will endeavor to conclude the hearing within a period of approximately three (3) hours. The parties will be requested to be considerate of this time frame in planning their testimony. If it appears that additional time is needed to develop the issues adequately, an extension of time may be granted.

P.4.f. Testimony that is merely cumulative or repetitious may, at the discretion of the Co-Chair administering the complaint, be excluded.

P.4.g. At any time during the presentation of evidence, the presiding members of the Committee are free to ask pertinent questions.

P.5. Relevancy of Evidence

P.5.a. The Hearing Committee is not a court of law and is not required to observe formal rules of evidence. Evidence that would be inadmissible in a court of law may be admissible in the hearing before the Committee if it is relevant to the case. That is, if the evidence offered tends to explain, clarify, or refute any of the important facts of the case, it should generally be considered.

P.5.b. The Committee will not consider evidence or testimony for the purpose of supporting any charge that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.

P.6. Burden of Proof

P.6.a. The burden of proving a violation of the ACA Codes is on the complainant. It is not up to the charged member to prove his or her innocence of any wrongdoing.

P.6.b. Although the charge(s) need not be proved "beyond a reasonable doubt," the Committee will not find the charged member guilty in the absence of substantial, objective, and believable evidence to sustain the charge(s).

P.7. Deliberation of the Committee.

P.7.a. After the hearing is completed, the Committee shall meet in a closed session to review the evidence presented and reach a conclusion. ACA legal counsel may attend the closed session to advise the Committee if the Committee so desires.

P.7.b. The Committee shall be the sole trier of the facts and shall weigh the evidence presented and assess the credibility of the witnesses. The act of a majority of the members of the Committee present shall be the decision of the Committee. A unanimous vote, including abstentions, is required for permanent expulsion from ACA membership.

P.7.c. Deliberation of the Committee. Only members of the Committee who were present throughout the entire hearing shall be eligible to vote, for findings of violation or no violations, as well as decisions related to sanctions.

P.8. Decision of the Committee.

P.8.a. The Committee will first resolve the issue of the guilt or innocence of the charged member on each charge. Applying the burden of proof in subsection (5), above, the Committee will vote by secret ballot unless the members of the Committee consent to an oral vote.

P.8.b. In the event a majority of the members of the Committee do not find the charged member guilty, the charges shall be dismissed. If the Committee finds the charged member has violated the Code of Ethics, it must then determine what sanctions, in accordance with Section N: Possible Sanctions, shall be imposed.

P.8.c. As provided in Section Q below, the Co-Chair administering the complaint shall notify the charged member and complainant of the Committee's decision and rights to appeal in writing.

Section Q: Notification of Results

Q.1. The complainant and charged member shall be notified of Committee decisions regarding complaints within thirty (30) working days after the hearing. The Committee decision shall be sent by U.S. mail, with the charged member receiving notification by certified mail, return-receipt requested. The charged member shall also be notified of their right to appeal.

Q.2 After the deadline for filing an appeal, or in the event an appeal is filed, after a decision of violation on appeals has been rendered, resulting in the charged member being suspended or expelled, the following entities will be notified of the results: the complainant, counselor and/or other mental health licensure, certification or registry boards, voluntary national certification boards, and appropriate professional associations.

Q.2.a In addition, ACA divisions, state branches, the ACA Insurance Trust, and other ACA-related entities will also be notified.

Q.2.b. A notice of the Committee / Appeals panel action, including the sections of the ACA Code of Ethics that were found to have been violated and the sanctions imposed will be published in the ACA newsletter.

Section R: Appeals

R.1. Decisions of the ACA Ethics Committee may be appealed by the member found to have been in violation based on one or both of the following grounds:

R.1.a. The Committee violated its policies and procedures for processing complaints of ethical violations; and/or

R.1.b. The decision of the Committee was arbitrary and capricious and was not supported by the materials provided by the complainant and charged member.

R.1.c Sanctions that are inconsistent with or disproportional to the violations found may also be grounds for appeal.

R.2. After members have received notification that they have been found in violation of one or more ACA Codes of Ethics, they will be given thirty (30) working days to notify the Committee in writing by certified mail that they are appealing the decision. If an appeal is not requested, the Committee shall issue its decision as the final decision as soon as the time during which an appeal may be filed expires.

R.3. An appeal may consist only of a letter stating one or more of the grounds of appeal listed in subsection 1 above and the reasons for the appeal. The filing of an appeal automatically stays the execution of a decision by the Committee until the appeal is completed. If the appeal is based upon an alleged procedural error by the Committee, it must cite the error and the reasons for believing that the alleged error influenced, or will influence the results of the initial decision.

R.4. The ACA Ethics Appeal panel consists of six (6) appointed members. Two (2) members are appointed annually for three (3) year terms by the President-Elect; appointments are subject to confirmation by the ACA Governing Council. Of the two annual appointments, one shall serve as a regular member of the panel, and one will serve as an alternate, available in the event one of the regular members is determined to have a personal interest in and withdraws from reviewing the case. The President will fill any vacancy on the panel in the same manner, and the person appointed should serve the unexpired term of the member whose place he or she has assumed. The President-Elect / President will consider the candidate's formal ethics training/experience and Ethics Committee Co-Chair recommendations in making selections. ACA members seeking appointment will submit a curriculum vitae highlighting ethics training and experience prior to any appointment. ACA members appointed to the Ethics Appeal panel will complete a formal Ethics Committee / Appeals panel orientation prior to adjudication of cases.

R.5. The six (6) member appeals panel will be given copies of the materials available to the Committee when it made its decision, a copy of the Committee decision, plus a copy of the letter filed by the appealing member.

R.6. The appeals panel will not consider evidence that was not presented to the Committee.

R.7. The appeals panel generally will render its decision regarding an appeal which must receive a majority vote within thirty 30 working days of their receipt of the above materials.

R.8. The decision of the appeals panel is limited to:

R.8.a. Upholding the decision of the Committee, or

R.8.b. Upholding the decision of the Committee but altering sanctions

R.8.c. Reversing the decision of the Committee

R.9. The decision of the appeals panel need not be unanimous.

R.10. All decisions of the appeals panel are final and binding and not subject to further hearings or appellate review.

Section S: Substantial New Evidence

S.1. In the event substantial new evidence is presented in a case in which an appeal was not filed, or in a case for which a final decision has been rendered, the Committee may reopen the case.

S.2. The Committee will consider substantial new evidence and if it is found to be substantiated and capable of exonerating a member who was expelled or suspended, the Committee will reopen the case and go through the entire complaint process again.

Section T: Records

T.1. The records of the Committee regarding complaints are confidential except as provided herein.

T.2. Original copies of complaint records will be maintained in secure and confidential files at ACA Headquarters or at an off-site location chosen by ACA.

T.3. Members of the Committee will keep copies of complaint records confidential and will destroy copies of records after a case has been closed or when they are no longer a member of the Committee.

Section U: Legal Actions Related to Complaints

U.1. Complainants and charged members are required to notify the Committee if they learn of any type of legal action (civil or criminal) being filed related to the complaint.

U.2. In the event any type of legal action is filed regarding an accepted complaint, all actions related to the complaint will be stayed until the legal action has been concluded. The Committee will consult with legal counsel concerning whether the processing of the complaint will be stayed if the legal action does not involve the same complainant and the same facts within the complaint.

U.3. If actions on a complaint are stayed, the complainant and charged member will be notified.

U.4. When actions on a complaint are continued after a legal action has been concluded, the complainant and charged member will be notified.