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AICI Ethics Complaint - Rules and Procedures

This guide has been prepared to describe the rules and procedures established to address ethics complaints related to the business conduct of AICI members. Take a moment to review the information provided. Feel free to address any questions you may have to the current President of AICI or with the Ethics Chair.

1. WHO IS SUBJECT TO AN ETHICS COMPLAINT?

First, it must be determined in processing an ethics complaint whether the person involved is an AICI member. When joining AICI, all members agree to abide by the **Code of Professional Ethics** as a continuing condition of membership. It is because of this obligation that a complaint may be filed against a member. The Ethics Committee does not have authority to investigate complaints against non-members.

2. WHO MAY FILE AN ETHICS COMPLAINT?

Any person, whether a member of AICI or not, having reason to believe that a member of AICI has acted in violation of the **Code of Professional Ethics** or the duties of their membership. The Ethics Committee is also authorized to initiate its own complaints and would follow the same rules and procedures as others.

3. HOW DOES AN ETHICS COMPLAINT GET FILED?

Contact AICI Headquarters and the Ethics Chair, for an appropriate form and complaint procedures. The complaint must:

- 1) Be submitted on the form provided.
- 2) Be signed by the complainant.
- 3) Quote precisely the express standard in the AICI Code of Ethics violated.
- 4) Be accompanied by sufficient evidence, either testimonial or documentary to credibly allege an apparent violation of sufficient importance to merit the consideration of the association.
- 5) Be filed within one year after the latest act constituting the basis of the accusation.

4. HOW DOES THE COMMITTEE PROCESS THE COMPLAINT?

- a. **Initial Determination of Actionability.** After the complaint is received by both AICI Headquarters and the Ethics Chair, the Ethics Chair and the AICI President review the complaint and determine whether the complaint meets all the requirements of an actionable complaint. See Item #10 below. If not, the complaint is dismissed and the complainant notified. The decision to dismiss a complaint at this stage is final.
- b. **Invitation of Respondent's Reply.** If the Ethics Chair and the AICI President decide that the complaint is actionable, a copy of the charges including evidence submitted by the complainant is sent to the respondent. The respondent is notified that a written reply is necessary and will be filed. If a reply is not received from the respondent within thirty (30) days, the charges may be taken as true by default. If this occurs, the Ethics Committee may proceed to Step 7.

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- c. **Determination of existence of Prima Facie Case.** When the reply is received, the Ethics Committee sends a copy to the Complainant and investigates the complaint to determine whether **in view of all the evidence gathered** there exists sufficient credible evidence to establish a prima facie case of a violation of an express association standard. If in the affirmative, the matter will proceed to Hearing.
- d. **NOTICE OF HEARING.** The respondent shall be given at least thirty (30) days advance notice of the Hearing. A copy of all evidence gathered by the Ethics Committee shall accompany the notice. The notice shall state these rights of the respondent:
 - 1. The right to a copy of all evidence supporting the accusation.
 - 2. The right to a defense. This includes:
 - 3. The right to be represented by an attorney
 - 4. The right to present evidence and witnesses.
 - 5. The right to cross-examine witnesses and accusers.
 - 6. The right to an impartial hearing panel.
 - 7. The right to written findings of fact and a written opinion.
- e. **Complainant Suspends Action.** At any time, a complainant may suspend further action against the respondent.

- (1) If, after a complaint has been filed, the complainant may suspend further action before the respondent is notified of the complaint either in writing or by default.

The complainant may formally suspend further action in writing to the Ethics Committee. If after ninety (90) days the complainant decides to pursue the complaint, the Ethics Committee shall proceed. If the complainant decides to terminate the complaint, the complaint will be dismissed and the complaint will be destroyed.

The complainant may formally suspend further action by default. If the complainant does not respond to further requests for information by the Ethics Committee during its investigation period to determine if a complaint is actionable for a period of ninety (90) days, the complainant suspends action by default and the complaint will be destroyed.

- (2) If, after a complaint has been filed and meets the requirements of an actionable complaint, and after the respondent has had the opportunity to reply, the complainant may suspend further action against the respondent. The complainant must request, in writing to the Ethics Committee Chair, a suspension of further action before the Ethics Committee holds a hearing to determine the complaint. The complainant has ninety (90) days to determine if s/he would like to proceed with the complaint. The respondent must be notified in writing that the complaint is suspended, why it is suspended, and the actions that may be taken next. If after ninety (90) days the complainant decides to pursue the complaint, the respondent shall be given at least thirty (30) days advance notice of the Hearing. If the complainant decides to terminate the complaint, the complaint will be dismissed and the respondent notified.

5. WHO PRESIDES AT THE HEARING?

The hearing shall be conducted by a Hearing Panel of three AICI Members selected by the President. They shall decide on the place, date, and time of the hearing. These three Hearing Officers shall be as objective as possible. They shall have no financial interest in the outcome. They shall have been uninvolved with the complaint to date. They shall if possible be unacquainted with either the complainant or the respondent.

6. WHAT HAPPENS AT THE HEARING?

The hearing shall be conducted before the Hearing Panel. The Ethics Committee through its attorney or other representative shall present the evidence of actionable misconduct against the respondent as discovered during its investigation. The complainant shall be required to testify. The respondent or his or her attorney or other representative shall be entitled to a full and fair defense. The respondent shall be accorded all the procedural rights listed above. The hearing shall not proceed according to formal rules of procedure, but shall proceed pursuant to informal procedure consistent with fundamental notions of fairness and a full opportunity to be heard.

Upon completion of presentation of all the evidence and arguments, the Hearing Panel shall in executive session make its Findings and render its Opinion. The Findings shall be Findings of Fact. The Opinion shall be whether the respondent has been shown by a preponderance of the evidence to be guilty of an actionable violation of the Association's Code of Ethics. Two votes are required for an Opinion. If the Hearing Panel opines that no violation has occurred, it shall issue to the respondent a Letter of Exoneration. If the Hearing Panel opines that a violation has occurred, the Hearing Panel shall impose such discipline as it determines from among the following alternatives:

7. WHAT DISCIPLINARY ACTION CAN THE ETHICS COMMITTEE IMPOSE?

Disciplinary action may consist of one or more of the following:

1. Verbal reprimand.
2. Letter of reprimand.
3. Letter of severe reprimand.
4. Suspension of membership or other designation or privileges for a specified period of time.
5. Expulsion from membership or loss of other designation or privileges.
6. Any combination of the above actions.

8. HOW IS THE COMPLAINANT NOTIFIED OF THE ETHICS COMMITTEE'S DECISION?

The Complainant will be informed whether or not the Ethics Committee will impose a disciplinary action against the Respondant. If the Ethics Committee does impose disciplinary action, the details of the disciplinary action imposed will be shared with the Complainant using the same report format that will be used in **IMAGE UPDATE** News Magazine (See #9)

9. IS THE DISCIPLINARY DECISION OF THE ETHICS COMMITTEE PUBLISHED?

Yes. A decision to impose disciplinary action by the Ethics Committee will be published in the AICI **IMAGE UPDATE** News Magazine and may also appear on AICI's Web site. Only the complaint and decision will be published – all names will be kept confidential. If a hearing is requested, only the nature of the hearing will be published. Complaints, which are dismissed or deemed unworthy of consideration, are not published.

We strive to maintain the high integrity of our industry through this **Code of Ethics**.

10. WHO IS INFORMED?

The Board of Directors has an interest in the proper implementation of our Ethics Procedure; however there are two good reasons for keeping the facts of an Ethics proceeding close-hold to the Ethics Committee and Hearing Panel during its pendency: 1) The Association wants to limit the opportunity for any defamation of any kind; and 2) The Association wants to prevent any ex parte communication with any adjudicator (Ethics Committee; Hearing Panel) during the proceeding. For those reasons, the Board of Directors will be informed during the pendency of any Ethics Committee Disciplinary Proceeding only that:

- a) A proceeding has been commenced.
- b) The procedural status of the proceeding.
- c) The general nature of the issue at hand.

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In no event shall the Board be told the name of any party during the pendency of the matter. After the proceeding is completed, the Board may be given party names on a confidential basis if necessary to enforce the remedy imposed or protect the interests of the Association.

11. WHAT CONSTITUTES A COMPLAINT UNWORTHY OF CONSIDERATION?

A complaint will be deemed unworthy of consideration for one or more of the following reasons:

- a) Failure to specify provision of code violated;
- b) Fails to allege a violation, which even if proved, is sufficiently important to merit the action of the association.
- c) More than one year has elapsed since facts were known or could have been known in the exercise of reasonable diligence;
- d) Complainant is third party to the circumstances, except with respect to complaints initiated by the Ethics Committee;
- e) The respondent is not currently a member of AICI;
- f) The matter presented is a legal dispute, which is best handled through the court system.

12. TIME FRAME

To move forward with each step of the ethics procedures in an expeditious manner, the following time frames will be implemented:

<u>Association Action</u>	<u>Deadline</u>
Ethics Chair determination of adequacy	21 days after Complaint filed
Ethics Committee investigation determination	90 days after Complaint filed of prima facie case of violation
Hearing conducted; decision rendered	150 days after Complaint filed.