



# Ethics Case Procedures

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# CONTENTS

<b>GENERAL</b>	3
<hr/>	
<b>ETHICS CASE PROCEDURES</b>	6
<hr/>	
B. Mediation	9
C. Ethics Inquiries/Ethics Charge Statements	9
D. Acceptance/Rejection Of Ethics Charges	10
E. Ethics Complaints And Investigation	11
F. Ethics Complaint Response	11
G. Complaint Reply	12
H. Preliminary Actions And Orders	12
I. Ethics Complaint Hearings	14
J. Hearing Officer Ethics Decision And Order	16
K. Disciplinary Actions	17
<b>APPEALS PROCESS</b>	19
<hr/>	
L. Disciplinary Review Committee Appeals/First Appeal	19
M. Governing Board Appeals/Final Appeal	21

## GENERAL

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1. Certified NAFC Professionals engage in continuous efforts to improve professional practices, services, and research. Certified NAFC Professionals are guided in their work by evidence of the best professional practices.
2. Certified NAFC Professionals have a responsibility to the clients they serve and to the institutions within which the services are performed. Certified NAFC Professionals also strive to assist the respective agency organization or institution in providing competent and ethical professional services. The acceptance of employment in an institution implies that the Certified NAFC Professional is in agreement with the general policies and principles of the institution. Therefore, the professional activities of the Certified NAFC Professional are in accord with the objectives of the institution. If the Certified NAFC Professional and the employer do not agree and cannot reach agreement on policies that are consistent with appropriate NAFC Professional ethical practice that is conducive to client growth and development, the employment should be terminated. If the situation warrants further action, the Certified NAFC Professional should work through professional organizations to have the unethical practice changed.
3. Ethical behavior among professional associates (i.e., both certified and non-certified NAFC Professional) must be expected at all times. When a Certified NAFC Professional has doubts as to the ethical behavior of professional colleagues, the Certified NAFC Professional must take action to attempt to reconcile this condition. Such action uses the respective institution's channels first and then uses procedures established by the NAFC or the perceived violator's profession.
4. Certified NAFC Professionals must refuse remuneration for consultation or training with persons who are entitled to these services through the Certified NAFC Professional's employing institution or agency

Certified NAFC Professional must not divert to their private practices, without the mutual consent of the institution and the client, legitimate clients in their primary agencies/clubs or the institutions with which they are affiliated.

5. In establishing fees for NAFC services, Certified NAFC Professionals must consider the financial status of clients. In the event that the established fee status is inappropriate for a client, assistance must be provided in finding comparable services at acceptable cost.
6. Certified NAFC Professionals offer only professional services for which they are trained or have supervised experience. No assessment or treatment should be performed without prior training or supervision. Certified NAFC Professionals are responsible for correcting any misrepresentations of their qualifications by others.
7. Certified NAFC Professionals recognize their limitations and provide services or use techniques for which they are qualified by training and/or supervision. Certified NAFC Professionals recognize the need for and seek continuing education to assure competent services.
8. Certified NAFC Professionals are aware of the intimacy in the NAFC Professional relationship and maintain respect for the client. NAFC Professionals must not engage in activities that seek to meet their personal or professional needs at the expense of the client.
9. Certified NAFC Professionals must insure that they do not engage in personal, social, organizational, financial, or political activities which might lead to a misuse of their influence.
10. Sexual intimacy with clients is unethical. Certified NAFC Professionals will not be sexually, physically, or romantically intimate with clients, and they will not engage in sexual, physical, or romantic intimacy with clients within a minimum of one (1) year after terminating the NAFC Professional relationship.
11. Certified NAFC Professional do not condone or engage in sexual harassment, which is defined as unwelcome comments, gestures, or physical contact of a sexual nature.

12. Through awareness of the impact of stereotyping and unwarranted discrimination (e.g., biases based on age, disabilities, ethnicity gender, race, religion, or sexual orientation) Certified NAFC Professionals guard the individual rights and personal dignity of the client in the Training relationship.
13. Certified NAFC Professionals are accountable at all times for their behavior. They must be aware that all actions and behaviors of the NAFC Professional reflect on professional integrity and, when inappropriate, can damage the public trust in the Training profession. To protect public confidence in the NAFC Professional Certified NAFC Professionals avoid behavior that is clearly in violation of accepted moral and legal standards.
14. Products or services provided by Certified NAFC Professionals by means of classroom instruction, public lectures, demonstrations, written articles, radio or television programs or other types of media must meet the criteria cited in this code.

## ETHICS CASE PROCEDURES

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- 1. Nature of the Process:** These procedures are the only ways to resolve all NAFC ethics charges and complaints. NAFC has the only authority to end any ethics inquiry or case, regardless of circumstances. By applying for certification or recertification, Trainers agree that they will not challenge the authority of NAFC to apply the Code of Ethics, the Ethics Case Procedures, or other policies and will not challenge the results of any NAFC action taken under these policies in a legal or government forum. These ethics procedures are not formal legal proceedings; so many legal rules and practices are not observed. NAFC will review the information presented when considering ethics investigations, cases and decisions. NAFC Ethics Case Procedures are designed to operate without the assistance of attorneys. Any party, of course, may be represented by an attorney with respect to ethics proceedings and procedures. If a party has retained an attorney, that attorney may be directed to communicate with NAFC through NAFC Legal Counsel. The parties are encouraged to communicate directly with NAFC. NAFC may use the services of legal counsel without limitation.
- 2. Participants:** Ethics cases may be decided by the NAFC Ethics Officer, the NAFC Disciplinary Review Committee, The NAFC Governing Board and/or any representative designated by the Executive Director. An NAFC Certified Trainer or The NAFC Candidate who is the subject of an ethics charge or investigation will be the respondent in these rules. The person(s) initiating an ethics complaint against a NAFC trainer or NAFC candidate will be the complainant(s).
- 3. Complainant's Ethics Charge Statement:** Any person, group, private organization, public organization or, in appropriate cases, NAFC, may initiate an ethics case and act as a complainant. Each complainant must submit to the NAFC Ethics Officer an Ethics Charge Statement or a detailed written description of the factual allegations supporting the ethics charges.

4. **Time Requirements:** NAFC will make every effort to follow the time requirements noted in this document. However, The NAFC's failure to meet a time requirement will not prohibit the final resolution of any ethics matter. Complainants and respondents are required to comply with all time requirements specified in this document. Time extensions or postponements may be granted by the NAFC Executive Director or Ethics Officer if a timely written request explains a reasonable cause.
5. **Litigation/Other Proceedings:** NAFC may accept and resolve ethics complaints when civil, criminal litigation or other proceedings related to the complaint are also before a court, regulatory agency or professional body. NAFC may also continue or delay ethics complaints in such cases.
6. **Complaints Concerning Non-NAFC Trainers:** In the event that NAFC receives an ethics inquiry or Ethics Charge Statement concerning an individual who does not hold any NAFC credential or who is not an NAFC candidate, a representative of NAFC will inform the complainant and may refer the complainant to an appropriate authority.
7. **Improper Disclosure/False or Misleading Responses:** Any failure to disclose pertinent information or misleading disclosure made by a or NAFC applicant with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter concerning him/her may constitute a violation.
8. **Time Limitations Concerning Complaints:** NAFC may consider any ethics complaint, regardless of: (a) Whether the respondent held an NAFC credential at the time of the alleged violation; (b) When the alleged violation occurred; or (c) Whether the respondent continues to hold or seek an NAFC credential during the course of any ethics case.
9. **Confidentiality:** In order to protect the privacy of the parties to an ethics case, all material prepared by or submitted to NAFC will be confidential. An exception will be made if a release of information or documents is authorized by these rules. The identities of all members of the NAFC Disciplinary Review Committee shall remain confidential

and will not be released without the specific authorization of each committee member.

- 10. Failure to Cooperate:** If any party refuses to fully cooperate or participate with NAFC or its representatives, and it is determined that the lack of cooperation was without good cause, NAFC may take the following actions: (a) The Executive Director, Ethics Officer and/or the Disciplinary Review Committee may terminate the ethics complaint of an uncooperative complainant; (b) if a respondent is uncooperative, the Ethics Officer and/or the Disciplinary Review Committee may impose any sanction included within these rules.
- 11. Resignation from the NAFC:** Should a respondent attempt to relinquish NAFC certification or withdraw an application during the course of any ethics inquiry or case, NAFC reserves the right to continue the matter to a final and binding resolution according to these rules.

## **B. MEDIATION**

1. **Cases Appropriate for Mediation:** The Executive Director will send all appropriate Ethics Charge Statements to the Ethics Officer. The Ethics Officer will consider the seriousness of the allegations, the respondent's background, prior conduct, and any other pertinent material, and make a decision concerning the likelihood that the matter can be resolved fairly without formal disciplinary proceedings as described in these rules. Ethics cases concerning charges issued by a regulatory agency or professional body, and those involving criminal litigation, are not appropriate for mediation.
2. **Mediation Determination:** Should the Ethics Officer determine that a particular ethics matter is appropriate for mediation, he or she will forward the recommendation for mediation to the Executive Director. With the approval of the Executive Director, the Ethics Officer will attempt to resolve the dispute to a fair and just conclusion.
3. **Successful Mediation:** The Ethics Officer will prepare a report outlining the terms of the resolution of an ethics case and forward it to the Executive Director. The Executive Director may then accept the report and mediated resolution as final or refer the case to the Disciplinary Review Committee for review.
4. **Unsuccessful Mediation:** The Ethics Officer will notify the Executive Director in the case of mediation failure and process the ethics matter according to these rules.

## **C. ETHICS INQUIRIES/ETHICS CHARGE STATEMENTS**

1. **Ethics Inquiries:** Any individual, group or organization seeking to file a complaint concerning a NAFC trainer or NAFC candidate should contact the NAFC Ethics Officer. The Ethics Officer will forward to the complainant a copy of the NAFC Code of Ethics, Ethics Case Procedures and the form entitled "Ethics Charge Statement." The Ethics Officer will record all ethics inquiries and identify: the person(s) making the inquiry, the NAFC trainer or candidate, the state from

which the inquiry originates, and the nature of the problem. This log will remain confidential, available only to representatives of NAFC involved in the ethics case procedures.

2. **Ethics Charge Statement/Description of Charges:** An Ethics Charge Statement is a written communication from a complainant describing the allegations against an NAFC trainer or NAFC candidate. Public documents such as newspaper stories, court verdicts or agency decisions may be considered as Statements. When an Ethics Charge Statement is received by NAFC, the Ethics Officer will: (a) review the material received and assign a case number to the matter; (b) review the allegations made concerning the charges; (c) determine whether the charges are presented in sufficient detail to permit NAFC to conduct a preliminary investigation; and, if necessary, (d) contact the complainant and request additional factual material. Following consultation with the Executive Director, the Ethics Officer will send a letter to the complainant and respondent stating whether the charges submitted are accepted or rejected for a formal ethics investigation.

#### **D. ACCEPTANCE/REJECTION OF ETHICS CHARGES**

1. **Charge Acceptance:** The Ethics Officer will review each charge of an Ethics Charge Statement submitted by a complainant and then determine if it will become the subject of a formal Ethics Complaint and Investigation. The following criteria will be considered to determine if a charge is accepted or rejected: (a) Whether the respondent is a NAFC trainer or NAFC candidate; (b) Whether a proven charge would constitute a violation of the Code of Ethics (c) Whether the passage of time since the alleged violation requires that the complaint be rejected; (d) Whether relevant, reliable information or proof concerning the charge is available; (e) Whether the complainant is willing to provide testimony or other evidence to NAFC concerning the complaint; and (t) Whether the charge appears to be justified or insupportable, considering the proof available to NAFC. The Ethics Officer will determine whether the charge and available proof support a formal Ethics Complaint, and issue a formal Ethics Complaint and Investigation Notice.

2. **Charge Rejection:** If the Ethics Officer determines that an allegation should not be a formal Ethics Complaint, the officer will reject the charge and notify the Executive Director. With the Executive Director's approval, the Ethics Officer will notify the complainant and respondent of the rejection, as well as the reason(s) for the rejection. This will be completed by letter within twenty-one (21) days of the determination.
3. **Appeal of Charge Rejection Determination:** Within thirty (30) days of the mailing of a charge rejection letter, the complainant may appeal to the Disciplinary Review Committee. In order to have the Disciplinary Review Hearing Committee reconsider the rejection, a complainant must state in writing the following: (a) The procedural errors possibly made by the Ethics Officer with respect to the charge rejection, if any; (b) The specific provisions of the Code of Ethics believed violated; and (c) The specific information believed to support the acceptance of the charge. The Disciplinary Review Committee will consider and decide any charge rejection appeal at the next scheduled committee meeting.

## **E. ETHICS COMPLAINTS AND INVESTIGATION**

1. **Ethics Complaint and Investigation Notices:** After an ethics charge is accepted, the Ethics Officer will issue a formal Ethics Complaint and Investigation Notice identifying each Code of Ethics violation alleged and the supporting factual basis for each complaint. This Notice will be delivered to the trainer respondent, at the last known address (s) by regular mail and other verifiable delivery return receipt required and will be marked, "Confidential."

## **F. ETHICS COMPLAINT RESPONSE**

1. **Submitting an Ethics Complaint Response:** Within thirty (30) days of the mailing date of an Ethics Complaint and Investigation Notice, the respondent must submit an Ethics Complaint Response according to the instructions in the Notice. The Ethics Complaint Response must

include the following: (a) A full response to each complaint; (b) The identification and a copy of each document that the respondent believes to be relevant to the resolution of the Ethics Complaint; and (c) Any other information that the respondent believes will assist NAFC in fairly considering the Ethics Complaint.

2. **Response Deficiencies:** The Ethics Officer may require the respondent to supplement or expand a response.

## **G. COMPLAINT REPLY**

1. **Submitting a Complaint Reply:** The Ethics Officer will forward a copy of the trainer's response to the complainant within approximately ten (10) days following the receipt of the Response by NAFC. Within ten (10) days of receiving the trainer's Response, the complainant may submit a Reply to the Response to the NAFC Ethics Officer.
2. **Contents of Complainant Reply.** A complainant Reply is limited to the issues raised in the Ethics Complaint and Response. NAFC will not consider additional matters.

## **H. PRELIMINARY ACTIONS AND ORDERS**

1. **Voluntary Temporary Suspension of Certification:** At any time following the issuance of an Ethics Complaint, the respondent may be asked to agree to a temporary suspension of NAFC certification pending the final resolution of an Ethics Complaint. If the respondent accepts this request, the trainer will agree to and sign a Voluntary Suspension Agreement. This Agreement will state the temporary suspension and that the respondent voluntarily ceases from representing himself or herself as certified, credentialed or otherwise endorsed by NAFC until further notice. The respondent will also return any certifications to NAFC to be held until the suspension, or other disciplinary action, has ended.
2. **Involuntary Suspension of Certification:** If a respondent fails to agree to and sign a Voluntary Suspension Agreement, as in H.1 above,

the Executive Director or the Ethics Officer may issue an Order suspending the respondent's certification(s). This Suspension Order will stay in effect until the final resolution of the Complaint.

3. **Circumstances of Involuntary Suspension Orders:** Suspension Orders are authorized when: (a) The respondent has been convicted of a criminal or charge or quasi-criminal act; or the respondent has not contested a criminal indictment under any statute, law or rule; (b) The respondent has been indicted or similarly charged with any criminal act or violation of criminal law under statute, law or rule; (c) The respondent has been found in violation of any law, regulation or rule by a professional regulatory body, or has been sanctioned or disciplined by such a regulatory body; (d) The respondent is the subject of a formal complaint or similar charge and/or investigation by a professional regulatory body; (e) The respondent has been found in violation of an ethics code of a professional association or certifying body; (f) The respondent is the subject of a formal complaint or similar charge and investigation by a professional association or certifying body concerning ethics or disciplinary matters, or (g) the respondent is the subject of litigation or a petition relating to their practice.
4. **Other Preliminary Orders:** The NAFC Ethics Officer may require the respondent to do or to refrain from doing certain acts by preliminary and temporary Order, including the disclosure/submission of documents relevant to review of an ethics investigation. Any temporary and preliminary Order requested will be reasonably related to the Complaint under consideration; or to a party's responsibilities under the Code of Ethics.
5. **Failure to Comply with Preliminary Orders:** The Ethics Officer, with the approval of the Executive Director, may discipline a respondent who fails to comply with a temporary or preliminary order. The Ethics Officer will consider the severity of the failure to comply and other relevant factors in determining the discipline. Preliminary and temporary orders cannot be appealed.

## **I. ETHICS COMPLAINT HEARINGS**

- 1. Hearing Officer:** The Ethics Officer will preside over and conduct each Ethics Complaint Hearing as the Hearing Officer, unless the Executive Director or Disciplinary Review Committee Chair direct otherwise. The Hearing Officer will conduct an informal Ethics Complaint Hearing designed to collect and weigh all of the available information and proof. The Hearing Officer will be the only determiner of all violations of the Code of Ethics in the first instance. The Hearing Officer will have full authority and responsibility to convene, preside over, continue and conclude an ethics hearing.
- 2. Hearing Schedule and Location:** The hearing date for each ethics case will be scheduled by the Ethics Officer in consultation with the Executive Director and the parties. Each hearing will be held at a site determined by the Ethics Officer and, if practical, held no less than sixty (60) days and no more than one hundred twenty (120) days from the receipt of an Ethics Charge Statement by NAFC. Hearings will not be held prior to the date permitted in these rules for each party to submit a Response or a Reply.
- 3. Hearing Notice and Attendance:** The Ethics Officer will schedule the hearing and notify the parties in writing. Each party will be given the option to attend the hearing in person and will be required to indicate the following at least seven (7) days before the hearing: (a) Whether the party intends to appear at and participate in the hearing in person; (b) Whether the party intends to participate in the hearing via telephone; if so, the telephone number where the party is to be reached during the hearing; (c) Whether the party intends to appear at the hearing with an attorney or other representative; if so, the name, address and telephone number of such attorney or representative; (d) Whether the party intends to present witnesses at the hearing; if so, the name, address and telephone number of each witness and a brief summary of the content of the witness's proposed testimony; and (e) Whether the party intends to present or offer any documentary information or other written proof during the course of the hearing that has not

been previously considered by NAFC. If such information is offered, the party must provide a copy of each document and a brief description of the document's relevance. Any ethics hearing may proceed to a conclusion and decision whether or not the parties are present. The Ethics Officer may reach final decision based upon investigation and documentation with other parties present.

4. **Postponement of Hearing:** A respondent or complainant may request a hearing postponement. This request must be in writing and received by NAFC at least ten (10) days prior to the hearing date. The Executive Director or the Ethics Officer may grant a postponement. Postponement decisions are not subject to appeal.
5. **Participation of NAFC Legal Counsel:** Should NAFC Legal Counsel be present at an ethics case hearing, Legal Counsel shall have the privilege of the floor and may conduct the hearing with the Ethics Officer. Legal or other representatives of the parties do not have such privilege and are bound by the determinations and rulings of the Ethics Officer.
6. **Responsibilities and Rights of the Parties:** In addition to other responsibilities and rights, the respondent and the complainant may do or be required to do the following: (a) Attend the hearing and be present during the testimony of all witnesses; (b) Present witnesses, written information and argument on their behalf; (c) Review or inspect all oral or written information presented in the case; and (d) Comply with all orders or directives issued by the NAFC.
7. **Witnesses:** All witnesses will be excluded from the hearing room except during the presentation of their testimony. However, a party may request that a witness remain in the hearing room during all or part of the hearing. The Hearing Officer will rule on any request and the ruling will not be subject to appeal.
8. **Confidentiality/Inclusion of Other Persons:** All hearings are confidential and private. No observers are permitted without special permission. A party may request the presence of an observer in the hearing room during all or part of a hearing. The Hearing Officer will rule on these requests and the ruling is not subject to appeal.

9. **Information and Proof Accepted:** The Hearing Officer will receive and consider all information appearing to be relevant to an ethics complaint, including any information which may be helpful to a complete understanding of the case. The Hearing Officer may consider information concerning relevant prior conduct. Objections relating to relevance of information and other evidence issues will be decided by the Hearing Officer and these decisions are not subject to appeal.
10. **Record of the Hearing:** A taped, written or summary record of the hearing will be made by the Hearing Officer, another NAFC representative, or a stenographer/recorder. Off-the-record conversation may be requested by parties and will not be part of the hearing record.
11. **Hearing Expenses:** Parties will be responsible for their expenses associated with the case. Should a party request a written transcript or recording copy of the hearing; a reasonable fee will be assessed for preparation. NAFC bears the cost of the hearings and investigations which are performed by NAFC representatives.
12. **Closing of the Hearing Record:** The hearing record will be closed following the conclusion of the hearing, unless otherwise directed by NAFC. Any party, including the Hearing Officer, may request that the record remain open for thirty (30) days for the purpose of receiving additional documentary information and proof. The Hearing Officer may deny requests to keep records open without appeal.

## **J. HEARING OFFICER ETHICS DECISION AND ORDER**

1. **Hearing Officer Decision and Order:** A Decision and Order will be prepared by the Hearing Officer within thirty (30) days, or as soon as is practical, after the closing of the record.
2. **Contents of the Hearing Officer Decision. The following information will be included in the Hearing Officers Decision:** (a) A summary of the case, including the positions of the parties; (b) A summary of all relevant factual findings based on the record of the hearing; (c) A final ruling on each Code of Ethics violation charged; (d) A statement of any disciplinary action(s) and sanctions issued by the

Hearing Officer; and (e) Any other material the Hearing Officer determines to be appropriate.

3. **Contents of the Hearing Officer Disciplinary Order.** The Hearing Officer Order may include any of the following items: (a) An order (or “directive ordering”) directing the respondent to cease and desist from any behavior or acts found to be in violation of the Code of Ethics (b) A statement of the disciplinary action(s) imposed and mandate directing the respondent to comply immediately with these disciplinary action(s); and (c) Any other appropriate directive consistent with the Decision.

## **K. DISCIPLINARY ACTIONS**

1. **Disciplinary Actions Available.** When a respondent trainer has been found to have violated one or more provisions of the Code of Ethics, NAFC may issue and order one or more of the following disciplinary actions: (a) A recommendation to the Governing Board and the Executive Director that any reapplication of the respondent for NAFC certification be denied; (b) A requirement that the respondent receive specific training; (c) A requirement that the respondent receive supervision and/or supervised instruction concerning his or her training activities; (d) A private reprimand and censure of the respondent concerning Code of Ethics violations; (e) A public reprimand and censure of the respondent concerning the Code of Ethics violations; (1) The imposition of a term of certification probation for any period up to three (3) years. The probation may include conditions on the respondent’s conduct during that period, including the condition that the respondent be monitored with respect to training activities; (g) The suspension of any NAFC certification held by the respondent for a period of no less than six (6) months and no more than two (2) years. The respondent may be directed to return to NAFC all original or copied credential materials for the suspension period. The respondent also may be directed to immediately stop professional identification with NAFC during the suspension period; and (h) the revocation of any NAFC certification held by the respondent. The respondent may be directed

to return to NAFC all original or copied credential materials, and to immediately stop professional identification with NAFC.

2. **Referral and Notification Action:** NAFC may notify appropriate government or professional bodies of any disciplinary action taken against a respondent by sending a copy of the ethics case Decision and Order issued by a Hearing Officer, the Disciplinary Review Committee, or the Governing Board. This may be done at any point after the time period for the respondent to appeal an adverse decision has lapsed. However, upon receipt of a timely Notice of Appeal to the Disciplinary Review Committee, NAFC will not notify governmental and professional bodies until after a final ruling on the case has been made, if necessary. During the appeal period, NAFC may respond to inquiries about the existence of ethics cases and indicate the existence of such proceedings.
3. **Publication of Disciplinary Action:** NAFC may publish a notification, or the content, of a final ethics Decision and Order following the issuance of an adverse Hearing Officer, Disciplinary Review Committee or Governing Board decision or ruling. Any party may request publication of any decision.

# **APPEALS PROCESS**

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## **L. DISCIPLINARY REVIEW COMMITTEE APPEALS/FIRST APPEAL**

- 1. Time Period for Appeals to the Disciplinary Review Committee:** Within thirty (30) days of the mailing date of an adverse Hearing Officer Decision, the respondent or the complainant may appeal all or a portion of the Decision to the Disciplinary Review Committee pursuant to the Section. Any appeals received beyond this time period will not be reviewed or considered by the Disciplinary Review Committee.
- 2. Grounds for Appeal to the Disciplinary Review Committee:** An adverse Hearing Officer Decision may be reversed, or otherwise modified by the Disciplinary Review Committee on appeal. However, the grounds for appeal of an adverse decision are strictly limited to the following: (a) Procedural Error. The Hearing Officer misapplied a procedure contained in these rules and prejudiced the appealing party; (b) New or Previously Undiscovered Information. Following the closing of the hearing record, the appealing party has located relevant proof that: was not previously in his/her possession; was not reasonably available prior to closure of the record; and, could have affected the Hearing Officer decision; (c) Misapplication of the Ethics Code. The Hearing Officer decision contains the misapplication of the provisions contained in the Code of Ethics and the misapplication prejudiced the appealing party; (d) Contrary to the Information Presented. The Hearing Officer decision is contrary to the most substantial information provided in the record; and (e) With respect to Sub-sections 2(a) and (c), above, the Disciplinary Review Committee will consider only arguments that were presented to the Hearing Officer prior to the closing of the hearing record.

3. **Contents of Appeal/Letter of Appeal.** In order to complete an appeal to the Disciplinary Review Committee under this Section, the appealing party must submit a letter or other document to the Committee and the other party, within the prescribed time period, which contains the following information and material: (a) A statement of the ethics case name, docket number, Hearing Officer's name and the date that the Hearing Officer decision was issued; (b) A statement of the reasons for the appeal under Subsection L.2, above, and a complete explanation of the reasons that the appealing party believes that the Hearing Officer decision should be reversed or otherwise modified; (c) A statement of the change of decision requested from the Disciplinary Review Committee, including any reduction in discipline issued by the Hearing Officer; and (d) Copies of any material which supports the appealing party's appeal.
4. **Optional Response to Appeal Letter.** Within ten (10) days of an appeal, a complainant or respondent in the case may submit to the Committee a Response to the Appeal by letter or similar document. If submitted, this Response will fully explain any objections that the person wishes to present to the Committee concerning the appeal.
5. **Request to Appear before the Disciplinary Review Committee:** Complainant or Respondent may request the opportunity to appear before the Disciplinary Review Committee concerning an appeal under this Section. The Executive Director or the Chair of the Disciplinary Review Committee, will determine whether a request to appear before the Committee is accepted. In the event that a request to appear before the Disciplinary Review Committee is approved, the Executive Director or the Chair of the Disciplinary Review Committee, may limit the appearance in any manner. Denials of requests to appear before the Disciplinary Review Committee are not appealable.
6. **Disciplinary Review Committee Hearings:** Within ninety (90) days after the submission of a complete appeal, or as soon after as practical, the Disciplinary Review Committee will conduct a hearing to determine the outcome of the appeal. Each appeal shall be considered by at least three (3) members of the Committee, as designated by the

Committee Chair. During the course of appeal hearings the Committee or designated members will review: the hearing record; any appeal submissions presented by the parties; and/or any other information determined to be relevant. Thereafter, the Committee, or designated members, will determine the outcome of the appeal by majority vote in closed session.

7. **Disciplinary Review Committee Decisions and Orders:** Within thirty (30) days of conclusion of an appeal hearing, or as soon after as practical, the Disciplinary Review Committee, by the Committee Chair or the Executive Director, will issue an Appeal Decision and Order stating and explaining the outcome of the appeal. With respect to each appeal, the Committee Decision and Order shall include the following: (a) A summary of any relevant portions of the Hearing Officer Decision and Order; (b) A summary of any relevant procedural or factual findings made by the Committee; (c) The Committee's ruling(s) and decisions with respect to each matter under appeal; and (d) The Committee's final Order affirming, reversing, amending or otherwise modifying any portion of the Hearing Officer Decision and Order, including any final disciplinary action or sanction issued by the Committee. Copies of the Disciplinary Review Committee Decision and Order shall be sent to the parties return receipt requested.

## **M. GOVERNING BOARD APPEALS/FINAL APPEAL**

1. **Time Period for Appeals to the NAFC Governing Board:** Within fourteen (14) days of the mailing date of an adverse Disciplinary Review Committee Decision and Order, the respondent or the complainant may appeal all or a portion of the Decision and Order to the Governing Board. Any appeals received beyond this time period will not be reviewed or considered by the Governing Board.
2. **Grounds for Appeal to the Governing Board:** An adverse Disciplinary Review Committee Decision may be affirmed, reversed or otherwise modified by the Board on appeal. However, the grounds for appeal to the Board are limited strictly to the following: (a) Procedural Error. The Disciplinary Review Committee obviously misapplied a procedural

rule contained in these rules; and the rule misapplication significantly prejudiced the appealing party; (b) New or Previously Undiscovered Information. Following the issuance of the Disciplinary Review Committee Decision, the appealing party has located relevant information that: was not previously in his/her possession; was not reasonably available prior to issuance of the Committee Decision; and, could significantly change the Committee Decision; (c) Misapplication of the Ethics Code. The Disciplinary Review Committee Decision contains one or more misapplication of the provisions of the Code of Ethics and the misapplication significantly prejudiced the appealing party; (d) Contrary to the Information Presented. The Disciplinary Review Committee Decision is contrary to the most substantial information provided in the record; and (e) With respect to Sub-sections 2(a), (c), and (d), above, the Governing Board will consider only arguments that were previously presented to the Disciplinary Review Committee.

3. **Contents of Board Appeal/Letter of Appeal:** In order to complete a final appeal to the Governing Board under this Section, the appealing party must submit a letter or other document to the Board within the prescribed time period, which contains the following information and material: (a) A statement of the ethics case name, docket number, and the date that the Disciplinary Review Committee Decision was issued; (b) A statement of the reasons for the appeal under Subsection M.2, above, and a complete explanation of the reasons that the appealing party believes that the Disciplinary Review Committee Decision should be reversed or otherwise modified; (c) A statement of the change of decision requested from the Board, including any reduction in discipline issued by the Disciplinary Review Committee; and (d) Copies of any material which supports the appealing party's appeal.
4. **Optional Response to Appeal Letter/Board Appeal:** Within the (10) days of his/her receipt of an appeal, a complainant or respondent in the case may submit to the Board a Response to the Appeal by letter or similar document. If submitted, this Response will fully explain any objections that the person wishes to present to the Board concerning the appeal.

5. **Request to Appear before the Governing Board:** Complainant or respondent may request the opportunity to appear before the Governing Board concerning an appeal under this Section. The Executive Director or the Board Chair will determine whether a request to appear before the Board is accepted. In the event that a request to appear before the Board is approved, the Executive Director or the Board Chair may limit the appearance in any manner. Denials of requests to appear before the Board are not appealable.
6. **Governing Board Appeal Hearings:** Within ninety (90) days after the submission of a complete appeal, or as soon after as practical, the Governing Board will conduct a hearing to determine the outcome of the appeal. Each appeal will be considered by a quorum of the Board, as determined by the Board Chair. During the course of these appeal hearings, the Board will review: the hearing record; any appeal submissions presented by the parties; and/or any other information determined to be relevant. Thereafter, the Board will determine the outcome of the appeal by majority vote in closed session.
7. **Governing Board Final Decisions and Orders:** Within thirty (30) days of conclusion of an appeal hearing, or as soon after as practical, the Governing Board, the Board Chair or the Executive Director, will issue a Final Decision and Order stating and explaining the outcome of the appeal. With respect to each appeal, the final Board Appeal Decision and Order will include the following: (a) A summary of any relevant portions of the Disciplinary Review Committee Decision and Order; (b) A summary of any relevant procedural or factual findings made by the Board; (c) The Board's ruling(s) and decision(s) with respect to each matter under appeal; and (d) The Board's final Order affirming.