

Handling an Ethics Complaint (Excerpt from the NAWT Policies & Procedures Manual)

Submitting & Processing a Complaint

- Code of Ethics violation complaints will be in writing and submitted within 90 days of the alleged violation. The written complaint will specify:
 - the identity of the person responsible for the violation (Accused Designee), the date, the location, and the nature of the alleged violation
 - all evidence supporting the allegation(s), this may include supporting statements by other persons or specific information as to persons who may be contacted to provide such confirmation
 - contact information for the Accused and all corroborating persons
 - the Complainant's name, address, telephone number, and dated signature
- Mail the submission to the NAWT office, addressed with ATTN: Ethics Chair.
- A copy of the submitted complaint will be provided to the Ethics Committee Chair by the Secretary or Executive Director.
- The Secretary will send a letter to acknowledge receipt of the complaint to the Complainant.

Determining Jurisdiction

- The Ethics Committee, upon receipt of the complaint, will decide if the matter is properly within its jurisdiction. Proper jurisdiction determinants include:
 - Is the complaint directed against a Member Association, Company Member, Individual Member, or affiliated non-member of NAWT
 - Is the accused act a violation of the NAWT Bylaws, Code of Ethics, Code of Practice, or Articles of Incorporation
 - Have any other complaints for the same violation already been submitted or reviewed
- The following designations will be applied and actions taken:
 - **Complaint Declined** - is not within NAWT's jurisdiction and/or does not constitute sufficient grounds for consideration; no further investigation will be conducted and no sanctions will be considered. Decision based on:
 - the individual is not a member or affiliated non-member of NAWT
 - the Complaint contains unreliable or insufficient information or is clearly frivolous
 - a complaint has already been dismissed for the same incident or the accused has already been warned or sanctioned for the same incident
- Chairperson will notify the Complainant in writing within 30 days after the decision that NAWT will not take jurisdiction of the complaint and provide the reason why it will not accept jurisdiction
- The Complainant will also receive notice of the right to appeal within 30 days of the decision to dismiss.
 - **Complaint Accepted** – the complaint is within NAWT's jurisdiction and does constitute sufficient grounds for consideration
- Chairperson will notify the Complainant in writing within 30 days after the decision that NAWT will take jurisdiction of the complaint and further investigate the situation. The Complainant will be advised that they:
 - are not entitled to any reimbursement for damages by virtue of this investigation process
 - will receive written notice of any actions or sanctions taken
- The Ethics Committee will take the steps necessary to investigate and adjudicate or mediate the issue in dispute.
- If the Complaint is accepted, the Chairperson will provide prompt written notice to the Accused individual stating:
 - that the Complaint has been filed
 - the nature of the violation(s) as put forth in the complaint
 - that the Complaint has been referred to the Ethics Committee for Investigation

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- The accused is asked to submit a written response to the allegations, which must be received at the NAWT office within 30 days of the date on the notification letter.
 - The response should include a detailed narrative addressing each of the violations alleged in the complaint.
 - The accused may admit or deny the allegations, and the response should include any justification or rationale for their actions.
 - The written response letter must be signed and dated by the accused
 - Failure of the accused to submit a written response will not prevent the case from moving forward
- If the Accused is an employee of a Company Member, the firm may be implicated along with the responsible employee and subject to sanctions. If so implicated, the company member and any immediate supervisors will be deemed an Accused Designee and receive written notice.

Investigating a Complaint

- Chosen Ethics Committee member(s) will contact and interview all persons involved with the complaint, documenting all responses and acquiring additional documentary evidence.
 - Personal judgment will be used regarding the degree of investigation required, based on the nature and seriousness of each violation and may include:
 - telephone conversations with individuals involved
 - requests for written or published materials
 - visits to the locations(s) involved
 - All inquiries will be conducted with the utmost confidentiality and all correspondence marked as "Personal and Confidential"
- All persons involved in the Inquiry process will do their best not to reveal the identity of the Complainant and to maintain integrity, impartiality, and confidentiality at all times. Only the following people should be informed of an Investigation:
 - Board Chairperson or President
 - investigating Ethics Committee Member(s);
 - Accused Designee(s) and the Complainant
 - others who may be contacted as part of the investigation
 - Executive Director or other officers if so determined by the President to be essential to help carry out the purposes of these Procedures
- Ethics Committee Chair or designated committee member will prepare a written "Case Summary" of the facts, including all relevant documentary evidence.
- Ethics Committee Chair or designated committee member will prepare a "Resolution Recommendations" report. Recommendations may include:
 - Complaint is being dismissed due to lack of probable cause - No hearing is needed
 - If there is no probable cause to believe a violation occurred, the Complainant and the Adverse Party should be informed in writing that the complaint is being dismissed, and be provided with a copy of the "Case Summary" and "Resolution Recommendations"
 - The Complainant would also receive notice of the right to appeal
 - No hearing is needed but a Letter of Warning will be sent to the Accused indicating that:
 - there was or is the potential for impropriety, which does or could border on a violation of the Code
 - a hearing may be convened should additional complaints or further evidence be received that indicates a violation has occurred
 - Mediation should be attempted and the following steps initiated:
 - The director will ask the Complainant and the Accused Designee(s) to participate in mediation

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- If all parties agree, a mediation officer will be assigned to act as a mediator with the parties
- The goal is to reach a written conclusion that is acceptable to all involved
- If mediation is used, the mediator will follow the Mediation Procedures
- A hearing should be conducted and sanctions will be considered with respect to the Complaint
 - A letter is sent indicating that there will be a hearing to be scheduled not less than twenty (20) days and no more than sixty (60) days after the date of such notice, unless a later date is reasonably requested by the Accused Designee and agreed to by the Chairperson
- Both the “Case Summary” and the “Resolution Recommendations” reports are submitted to the Board within 60 days of the complaint’s receipt.
- Attempts should be made to mediate the complaint before sending it to a Hearing Panel.

Mediating a Complaint

- If the investigation finds in favor of the Complainant, mediation will be initiated.
- The Committee Chair or the President will appoint a mediator to resolve the issue(s) between the parties involved. When deemed necessary, a professional mediator may be contracted to settle the complaint, at the expense of the parties involved.
 - If possible, the mediator should have industry experience relating to the issue in dispute, since they will assist with exploring solution options
 - The mediator will work out a time and place for the mediations to occur
- The Association Secretary will send written notice of the mediation session to all parties that will included the following information:
 - agreed upon time and place
 - Exclusion of Liability stating that, “neither NAWT nor any mediator will be liable to any party for any error, act, or omission in connection with any mediation conducted under these procedures”
- The goals of the mediation process are:
 - to solve the business-related problem without placing blame
 - to focus on collaborating to develop acceptable resolutions
 - to re-establish civil, constructive communication between the parties
 - to restore harmony and rebuild trust in the relationship by helping the parties empathize with each other
 - to better understand the other party's motives
- The mediation process and rules are as follows:
 - **Update** – the mediator reviews all information gathered prior to the mediation (e.g. “Case Summary” “Resolution Recommendation”, the accused response letter, etc)
 - **Introduction** - names are exchanged between those attending the mediation
 - **Ground rules and agreement** – an overview of the mediation process and rules is provided to the parties involved and should include the following:
 - Honesty and full disclosure of the facts is crucial
 - Information discussed during the session(s) and the terms of the settlement should be kept confidential
 - The process focuses on solutions and not on placing blame
 - Each party must treat the other with respect at all times
 - Attorneys’ may not attend the mediation session(s)
 - Each party may only bring their attorney or obtain legal advice prior to signing an agreement
 - **Disclosure** - all sides tell what happened to cause the conflict
 - **Issues** – the mediator helps the parties identify the main issues behind the conflict by:

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- Defining the problem(s)
- Verifying beliefs about the facts and priorities surrounding the problem as seen by the parties involved
- Describe opinions on the best solutions
- if the parties cannot agree on the facts surrounding the dispute, discussion will be postponed and fact-finding should be reinitiated
- **Brainstorming solutions** - the mediator helps the parties in creating solutions and in choosing the best course of action. If no progress is being made, the session should be postponed and picked up later to give all parties time to think.
- **Agreement** - a formal agreement describing the acceptable solution and its implementation is decided upon and put into writing. The agreement will be signed by all parties involved.
- **Follow-up** – the mediator follows up to ensure that the agreement has been carried out.
- If mediation is successful, the agreed-upon resolution must be:
 - in writing
 - signed by each of the parties, and
 - submitted to the Board
- If mediation is unsuccessful, the complaint will go before a Hearing Panel.
- The mediator will destroy their notes after the process is completed to maintain confidentiality.

Complaint Hearings

- The Secretary will mail a notice of the hearing to the Accused Designee, the Complainant, and the members of the Hearing Panel. The notice will include:
 - The date, location and time of the Hearing
 - The names and addresses of the Parties involved (this is the first time that the Accused Designee is advised of the name of the Complainant, unless mediation was attempted)
 - Copies of all written evidence and reports pertaining to the complaint that have been obtained thus far by the Ethics Committee in the course of the inquiry
 - A statement that the Accused Designee is entitled to submit a written statement or any other written materials to the Ethics Committee prior to the Hearing
 - A statement that all participants, including NAWT, are entitled to legal counsel and that they may bring further written evidence or materials to the Hearing
 - A statement that the Accused Designee has been asked to appear and must notify NAWT no later than fourteen (14) days prior to the hearing whether they will participate
 - The Hearing Panel may choose to conduct a telephone hearing instead of a face-to-face hearing
 - Should the Accused Designee not respond or participate, the Hearing Panel will act without his or her involvement
- The Hearing Panel will be composed of the Chairperson or Vice-Chairperson of the Ethics Committee and those Board members who have not been involved in the investigation or mediation.
- The Secretary will record the Hearing, and a transcript of the proceedings will be provided to each Party, upon request and payment to NAWT for costs.
- Six (6) members of the Hearing Panel, two (2) of which are Association Officers, will qualify as a quorum with a majority of those present necessary to reach any decision.
- The Hearing will be conducted under the following procedures:
 - hear the Complainant and/or other witnesses outlining the allegation and receive any written evidence; questions from the Hearing Panel are allowed
 - hear the report(s) of the Ethics Committee; questions from the Hearing Panel allowed
 - hear the Accused Designee(s) and/or witnesses called by him/her and receive any written evidence; questions from the Hearing Panel are allowed

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- hear the Complainant's rebuttal; questions from the Hearing Panel are allowed
- hear any final comments from the Ethics Committee; questions from the Hearing Panel are allowed
- hear the Accused Designee's rebuttal to any charges; questions from the Hearing Panel are allowed
- Immediately following the proceedings, the Hearing Panel will reconvene in a private Executive session to reach a decision. The President and NAWT's legal counsel may attend the Executive session in a non-voting capacity.
- The Ethics Committee members, the Complainant and the Accused Designee will not be present at the Executive session of the Hearing Panel, although these individuals may be called back to answer questions during deliberations.
- The decision will be issued in writing by the President to all parties involved within thirty (30) days after the Hearing
- The Hearing Panel can generally reach one of these two decisions
 - Dismiss the charges, in which event, there is no further recourse within NAWT
 - Determine that the Accused Designee has committed a violation of one or more sections of the Code and is subject to a sanction or discipline

Discipline or Sanctions

- The Board of Directions has the deciding vote on accepting the Hearing Panels decision if ‘Suspension’ or ‘Expulsion’ is recommended.
- Written notice of a vote for ‘Suspension’ or ‘Expulsion’ will be given by the Secretary prior to any meeting called for that purpose.
- If the Hearing Panel determines that an Accused Designee has violated one or more provisions of the Code of Ethics or Practices and discipline is required, these sanctions are available:

Reprimand – Private or Public

- The Hearing Panel can instruct the NAWT President to issue a letter to the Accused Designee criticizing or condemning his or her actions, including any appropriate conditions or directives and warning of the consequences of subsequent violations.
- Copies of the letter will be issued to the Parties and to the President of the state-local or regional associations (if any).

Suspension

- The Hearing Panel can recommend to the Board that the designation or designations (membership, certifications, Board member, etc) of the Accused Designee be suspended for one (1) year. If this recommendation is:
 - Approved by a vote of the majority of the Board, the suspension will become effective as of the date of that meeting
 - If majority vote is not obtained, the Accused Designee will be reprimanded
- The NAWT President will send a written notice of any suspension or reprimand to all parties and to the President of the state-local or regional associations (if any).
- Notice should include any appropriate restrictions or conditions concerning membership and certification rights and any other conditions or directives
- Requirements for reinstatement may be defined as part of this action.

Expulsion

- The Hearing Panel can recommend to the Board that the designation or designations (membership, certifications, Board member, etc) of the Accused Designee be revoked.
- If such recommendation is approved by a vote of eighty percent (80%) of the Board, such revocation will become effective as of the date of that meeting
- If that eighty percent (80%) vote is not obtained, a second vote will be taken with respect to a one (1) year suspension. If the required majority vote is not obtained, the Accused Designee will be reprimanded

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- The President will send a written notice of any revocation to all Parties and to the President of the state-local or regional associations (if any). Requirements for reinstatement may be defined as part of this action.
- The voting Board Members may reserve the right to review the decision of the Hearing Panel regarding any ‘Suspension’ or ‘Expulsion’ prior to voting on the sanction by requesting that the President initiate a review.
 - The President will appoint three Board members (all independent of the Investigation or Hearing Panel if possible) whose sole focus is to determine if the Hearing Panel recommendation was inappropriate, either because:
 - of material errors of fact, or
 - the Panel failed to substantially conform to NAWT published criteria, policies, or procedures
 - The results will be conveyed to the President in writing and then presented to the Board at the next monthly meeting after which a deciding vote will be taken
- A written summary of the determination and the sanction, along with the Accused Designee's name, may be published, at the sole discretion of the Board in a printed or electronic medium that is distributed to all NAWT members.

Resignations or Other Settlement

- In lieu of sanctions, the Board may by a majority vote:
 - determine to accept the resignation of the Accused Designee, or
 - accept other arrangements in the nature of settlement that are proposed by the Accused Designee
- The terms of any such resignation or other settlement arrangements will be as determined by the Board.
- If the Accused Designee submits a resignation in lieu of accepting sanctions as determined by the Hearing Panel, the Accused Designee will not be permitted to request reinstatement.

Automatic Suspension or Expulsion Situations

- **State or Regulatory Body Revocation** – upon the suspension or revocation of any state, local or regulatory body required certification, any NAWT certified member or non-member would:
 - lose his/her NAWT certification, and
 - have his/her name removed from the NAWT registry immediately upon notification
- **Conviction of a Felony** – upon the conviction of a felony or a plea of "no contest" or "guilty" regarding any felony, the involved NAWT certified member or non-member would:
 - lose his NAWT certification, and
 - have his name removed from the NAWT registry immediately upon notification.
- Notification of any membership or certification change will be given to the involved individual in writing by the President. Requirements for reinstatement may be defined as part of this action.

Use of Designation(s) after Suspension or Expulsion

- No individual or company that has had a designation suspended or revoked or has resigned, regardless of cause, may use the designation (membership, certification, NAWT logo, etc) in any fashion during the term of the suspension or revocation.

Reinstatement

- The Board will have the power to reinstate a member who has previously resigned, provided:
 - member was in good standing at the time of resignation

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- resignation was not due to an Ethics Code violation decision
- The Board will have the power of reinstating a member who has been suspended or expelled upon such terms and conditions it deems just and proper.
- A request for reinstatement of membership or certification must be received in writing no later than six (6) months after the termination date of the suspension or three (3) year after an expulsion. The written request must include:
 - the applicants home and business contact information (past & present information)
 - past membership number and membership designation
 - original cause(s), facts, and circumstances surrounding the decision to suspend or revoke the designation
 - what actions were taken to rectify the violation
 - assurance that the applicant will abide by the Code of Ethics and Practices
 - documentation of all current state or local certification(s) and continuing educational credit hours
- Mail submissions to the NAWT office, addressed with ATTN: Ethics Chair
- A copy of the submitted “Reinstatement Request” will be provided to the Ethics Committee Chair by the Secretary or Executive Director at least 30 days prior to the next scheduled Board meeting.
- The Ethics Committee will review any request for reinstatement and present their recommendations to the Board for a final vote of acceptance or rejection.
 - The final decision should be based on the premise that reinstatement is in the best interests of the Association and persons served professionally.
 - Reinstatement requires a two-third (2/3) vote of those Board members present and voting.
 - The President will remit a letter of decision to the applicant and any concerned state-local or regional associations.
- The Secretary will maintain records for all “Reinstatement Requests” in paper and/or electronic form per the Retention & Destruction Schedule.