

## ISACA Ethics Complaint Process

ISACA's Code of Professional Ethics ("the Code") is enforced by the Complaint Process and Procedures ("Process"). This Process assists ISACA in instilling the importance of ethical and professional behavior in its membership and in individuals holding ISACA certifications. Further, this Process enhances the value of membership and certifications by illustrating to the public those ISACA members and certified individuals are to abide by the Code in order to maintain their status with ISACA. Please contact [ethics@isaca.org](mailto:ethics@isaca.org) for questions about this Process.

### 1. Filing a Complaint

#### (a) *How to file a Complaint*

- (i) Any individual may file a Complaint (hereafter referred to as the "Complainant") concerning a purported Code violation by an ISACA Member/ISACA certification holder ("Constituent").
- (ii) The Ethics Committee may allow a Complaint to be filed based on information received from ISACA staff (e.g., falsification of information necessary to obtain a certification). In this case, the Chair of the Ethics Committee or his/her designee would complete the required Complaint Form on ISACA's behalf.
- (iii) In order to file a valid Complaint, the Complaint Form must be fully completed, signed by the Complainant, and submitted to the Ethics Committee c/o Ethics Committee Staff Liaison ("SL") by postal delivery to the mailing address of ISACA headquarters in Illinois (3701 Algonquin Rd, Ste. 1010, Rolling Meadows, IL 60008) or e-mailed to [ethics@isaca.org](mailto:ethics@isaca.org).
- (iv) Complaints relating to violations that occurred more than two (2) years prior to the date the Complaint is delivered to ISACA will not be considered by ISACA.
- (v) ISACA shall notify, pursuant to Section 12, the Complainant that a Complaint has been filed.
- (vi) Notwithstanding the foregoing, Complaints alleging illegal activity, plagiarism, or false or misleading representations in connection with an application for, or maintenance of, membership in ISACA or an ISACA credential may be brought at any time.

#### (b) *Complainant's obligations*

- (i) Cooperation in the Process and investigation including providing personal testimony in the presence of the Constituent against whom the Complaint (hereafter referred to as the "Respondent") is directed. Where Complainant is unable to provide such testimony, the Ethics Committee may, at its sole discretion, dismiss the Complaint.
- (ii) To be truthful and responsive to the Ethics Committee. Knowingly providing false information or knowingly filing a false Complaint may be grounds for disciplinary action.

- #### (c) *Legal actions as the basis of a Complaint.* In the event the subject matter of the Complaint is already (or becomes) the basis of a pending legal proceeding, ISACA may, in its discretion, defer action regarding such Complaint until a final resolution of the legal proceeding. ISACA may also, in its discretion, refer a Complaint to the appropriate authorities.

- (d) *Confidential Information as the basis of a Complaint.* Where a Complaint is deemed to be based on Confidential Information, ISACA will alert the owner of such information and seek the owner's permission to use the information during the Process.
- (e) *What happens to a Complaint that is filed and then withdrawn?* If a filed Complaint is withdrawn before a hearing is held or other action is taken by the Ethics Committee, the Ethics Committee may, in its sole discretion, proceed with a hearing or take any other steps it deems necessary. In such case, ISACA can be the Complainant. All materials related to the Complaint (including material previously submitted by the parties) may be used in the Proceedings.

## 2. **Complaint Process**

- (a) *Complaint Received.* When a Complaint is received, the Ethics Committee SL ("SL") will coordinate with appropriate ISACA staff to conduct a preliminary investigation into the merit of the Complaint. The SL shall review and make a recommendation based on initial findings as to whether the Complaint has merit to the Ethics Committee in forty-five (45) calendar days.
- (b) *Complaints without Merit and Notification.* The Ethics Committee shall have forty-five (45) calendar days from receiving the SL's recommendation to concur that a Complaint should be dismissed, or if it has merit. If the recommendation is accepted, the matter will be closed, filed at ISACA HQ and notice of this decision will be given pursuant to Section 12 to:
  - (i) The Constituent/Respondent, only where such was contacted or has knowledge of the Complaint.
  - (ii) The Complainant.
- (c) *Complaints with Merit.* The Ethics Committee shall have forty-five (45) calendar days from receiving the SL's recommendation to concur that a Complaint has merit and determine whether it warrants a summary finding of violation or a full investigation.
- (d) *Notice of Investigation to Respondent.* Where the Ethics Committee determines that a Complaint warrants a full investigation, the SL shall promptly notify, pursuant to Section 12, the Respondent of the investigation and provide the following:
  - (i) a summary of the issues raised in the Complaint, including references to the applicable section(s) of the Code allegedly violated;
  - (ii) a copy of the Code;
  - (iii) a copy of this Process; and
  - (iv) Information regarding how the Respondent may submit a response using the ISACA Ethics Complaint Response Form ("Response Form"). Such Response Form must be submitted within ninety (90) calendar days of receiving this notification in order to be considered as part of the investigation.
- (e) *Notice of Investigation to Complainant.* Complainant shall be notified, pursuant to Section 12 that the Respondent has been informed of the Complaint and investigation has commenced.

- (f) *Criteria for Summary Finding of Violation.* If the Ethics Committee approves a summary finding of violation of the Code, then Sections 3, 4 and 5 this Process is not applicable; and the Ethics Committee may impose disciplinary actions as set forth in this Process. The foregoing notwithstanding, the Respondent may appeal such determination in writing to the Ethics Appeals Committee as provided Section 7, Appeals. Such criteria include:
  - (i) The Complaint includes reliable evidence that Respondent has been found guilty and has been sentenced, and all appeals have been waived or exhausted, or the statutory time period for filing such an appeal has run out for any criminal matter in which the member was accused of crimes involving his or her professional responsibilities or other activities that violate the Code of Ethics; or
  - (ii) The Complaint includes reliable evidence that the Respondent has had an adverse judgment entered against him or her and all appeals have been waived or exhausted in a civil matter in which Respondent was accused of violations involving his or her professional responsibilities or other activities that violate the Code of Ethics.
  - (iii) If the Respondent admits the allegations set forth in the Complaint.
- (g) *Respondent Does not Respond.* If Respondent fails to submit a response, this will not preclude a determination as to whether the Code has been violated and corresponding disciplinary action.

### 3. **Investigations**

- (a) The individual designated by the Ethics Committee shall examine the Complaint, Respondent's response and all relevant matters. The Ethics Committee and the individuals conducting the investigation with the Ethics Committee's approval shall have the ability to retain legal or other consultants, experts or advisors as deemed necessary to complete the investigation.
  - (i) Investigations shall be completed within forty-five (45) calendar days of receiving the Respondent's response, or if no response received, within thirty (30) calendar days of the deadline for receipt of response.
  - (ii) If the investigation fails to yield sufficient evidence in support of the Complaint, then the Complaint will be dismissed by the Ethics Committee. This does not preclude the Complaint from being resubmitted at a later date.
- (b) The SL and/or designated individuals may work directly with the Respondent (and Complainant, if applicable) to resolve the matter without a formal hearing. The Respondent may be asked to agree to take certain corrective or preventive actions; to cease and desist from certain activities or to otherwise meet certain conditions in order to resolve the Complaint without a formal hearing. The Ethics Committee shall approval all proposed resolutions.
- (c) If efforts to resolve the Complaint are unsuccessful, or if those investigating a Complaint determine that the ethical misconduct on the part of the Respondent warrants a hearing, the matter shall be presented to the Ethics Committee for vote to determine whether a hearing should be held or the if Complaint should be dismissed.

### 4. **Hearing: Purpose, Date, and Notice**

- (a) *Purpose.* The purpose of the hearing is to determine if the Respondent has violated the Code.

- (b) *Date.*
- (i) The SL shall work in a timely manner with the Ethics Committee Chair, Respondent (and Complainant if required to appear) to establish the time and place of the hearing, but allowing sufficient time for Respondent to retain counsel and prepare for the hearing. ISACA shall not be responsible for paying for any party's appearance or participation in the hearing or any related activities.
  - (ii) If a mutually acceptable date is not selected with thirty (30) calendar days of the conclusion of the investigation, then the Ethics Committee shall have discretion to select a hearing date providing no less than ninety (90) calendar days' notice to the Respondent.
  - (iii) The hearing may be conducted in person; via teleconference; via phone or any other electronic means that allows for communication between all parties.

(c) Notice

- (i) The SL, on behalf of the Chair of the Ethics Committee, shall provide notice pursuant to Section 12 to Respondent and Complainant as follows:
  1. State the alleged violation and the applicable Code Section.
  2. State that the Ethics Committee has conducted an investigation of an alleged Code violation and has determined that a hearing will be held.
  3. State that the hearing will be conducted by the Ethics Committee and it is empowered to ascertain all material facts; decide the merits of the Complaint; impose disciplinary measures if the Complaint is sustained; and render a determination in the absence of the Respondent, should the Respondent fail to reply or participate in the hearing.
  4. Inform the Respondent that, if he or she has not already submitted a response, the Response Form must be submitted within ninety (90) calendar days of the date of receipt of the notice. Otherwise, the Ethics Committee will proceed under this Process without the Respondent's participation to resolve the issue.
  5. Advise the Respondent that he or she has the discretion to appear at the hearing and be represented by a third party (e.g., legal counsel) if desired; prepare a presentation in defense; submit supporting documentation; examine witnesses or submit a written response and supporting documentation in lieu of attendance in person at the hearing.
  6. Provide the names and current ISACA positions held by the members of the Ethics Committee as well as the Hearing Officer.
  7. Include a copy of the original Complaint and any relevant information discovered during the investigation.

**5. Hearing Rules of Order**

- (a) The Ethics Committee shall conduct hearings and may adopt specific procedures, including appointment of a Hearing Officer, for conducting the hearing to preserve proper decorum and provide for a fair and adequate hearing. See Appendix A for supporting guidance on conducting the hearing.

## 6. Disciplinary Actions

- (a) In imposing disciplinary actions the Ethics Committee, following a summary finding or hearing, or the Ethics Appeals Committee (“Appeals Committee”), following an appeal decision, will consider the severity of the violation; the intent of the Respondent; the extent of injury to other persons, ISACA or the profession; and whether the violation was willful or negligent.
- (b) The following disciplinary actions may be imposed upon ISACA members with respect to membership where a Respondent is found to have violated the Code:
  - (i) *Reprimand*. A reprimand is a formal rebuke in writing addressed to the Respondent.
  - (ii) *Censure*. Censure is a more serious rebuke in writing; however, it does not affect the membership status of the Respondent. It may carry a prohibition on holding any international or chapter office and may also preclude participation in ISACA activities at any level, including but not limited to testing or applying for ISACA credentials; contributions to ISACA publications and media; and other ISACA activities in the discretion of the Ethics Committee and/or Appeals Committee for a stated period. Effective on the date of the final decision to censure, a Respondent shall be precluded from participation as set forth herein for a period to be determined by the Ethics or Appeals Committee, but not to exceed three (3) years.
  - (iii) *Suspension of Membership*. Suspension may also include the prohibitions in Censure (above) and is a temporary revocation of ISACA membership and the ability to participate in all activities that require an individual to be a current ISACA member for a stated period of time and/or under stated conditions. Effective on the date of the final decision to suspend, a Respondent shall be precluded from participation as set forth herein for a period to be determined by the Ethics or Appeals Committee, but not to exceed three (3) years. Upon expiration of the suspension period, the Respondent shall be eligible to reapply for membership.
  - (iv) *Revocation of Membership*. Revocation precludes the Respondent from membership in ISACA and includes a permanent prohibition on participating in any ISACA activity at any level; this includes testing or applying for ISACA credentials. In the case of revocation of membership, such shall revocation conform with ISACA’s Bylaws.
- (c) The Ethics Committee or Appeals Committee may also take the following disciplinary actions against Credential holders, whether or not such are ISACA Members:
  - (i) *Recommendation for Revocation of Credential*. Recommendations to revoke credentials may be made with respect to one or all credentials (including exam passer status) and are made by the Ethics Committee or Appeals Committee, as applicable. Such recommendations are transmitted to the Credentialing and Career Management Board and may specify the permanent revocation of one or more ISACA credentials held by a Respondent and/ or a period of time that must elapse before the Respondent will be allowed to re-test and/or re-apply for a credential. The Credentialing and Career Management Board shall take actions pursuant to Section 9.

## 7. Appeals

- (a) The Appeals Committee shall decide appeals regarding decisions of the Ethics Committee, following a summary finding or hearing, or it may consider a Change in Material Facts Appeal as provided below. In the case of a *Summary Finding of Violation*, an appeal may be submitted in writing pursuant to (a)(i) and such Appeal will be subject to disposition pursuant to Section 7(b-f).
  - (i) Appeals must be submitted in writing to the Chair of the Appeals Committee c/o Ethics Committee Staff Liaison (“SL”) by postal delivery to the mailing address of ISACA headquarters in Illinois (3701 Algonquin Rd, Ste. 1010, Rolling Meadows, IL 60008 or ethics@isaca.org. The Appeals Committee will meet using the same methods as the Ethics Committee; Respondent shall not be present during Appeals Committee deliberations. The Appeal should outline the basis for the appeal which is limited to:
    - (1) Failure of the Ethics Committee to follow this Process; or
    - (2) Severity of disciplinary action imposed; or
    - (3) Material errors of fact.
    - (4) For items 1 and 2 above, appeals must be submitted in writing by the Respondent within forty-five (45) calendar days of receipt of the decision from the Ethics Committee.
  - (ii) Where there is a change in materials facts operative in the initial determination, the Appeals Committee may consider one, additional appeal from the Respondent (“Change in Material Facts Appeal”).
- (b) If the Appeals Committee determines that the request for appeal has an appropriate basis, the Appeals Committee shall serve notice, pursuant to Section 12, that the Appeal has been accepted. Such notice shall contain the following:
  - (i) The Appeal shall be limited to a review of the written record, and shall not include a hearing or any similar trial-type proceeding, except in the case of a Change in Material Facts Appeal.
  - (ii) Only facts and conditions up to and including the time of the Ethics Committee’s determination as represented by facts known at the time of the hearing are considered during an Appeal, except in the case of a Change in Material Facts Appeal.
- (c) The Appeals Committee will take one of the following actions:
  - (i) Affirm the Ethics Committee’s decision, or its own decision;
  - (ii) Modify the Ethics Committee’s, or its own decision, including the recommended disciplinary action(s); or
  - (iii) Reverse the Ethics Committee’s, or its own decision, in which case any disciplinary action(s) imposed shall be rescinded.
- (d) The Appeals Committee shall reach a decision within forty-five (45) calendar days from receipt of Appeal and notify the Respondent, ISACA CEO, Complainant(s), Ethics Committee Chair, the International President, the relevant Chapter President and the SL pursuant to Section 12.
- (e) A copy of the record, all materials considered by the Appeals Committee, and a copy of the notification of decision shall be maintained by ISACA headquarters.

- (f) Decisions of the Appeals Committee are final.

**8. Publication**

- (a) After an Appeal has been decided, or after the time within which a Respondent has to Appeal for a failure of the Ethics Committee to follow this Process or material errors of fact, has expired, information regarding disciplinary action may be disseminated as follows:
  - (i) From time to time there may be ISACA-wide publication of final actions taken by the Ethics Committee via newsletters, web sites and/or other means. This is done for educational purposes only and will not identify any Respondent by name who has been reprimanded, censured or suspended.
  - (ii) In the case of censure or suspension of membership or credential, notification may also be disseminated to the President of the Respondent's Chapter pursuant to terms provided by ISACA. Such terms shall indicate that dissemination of disciplinary actions shall be provided only to those who need to know of the action to enforce the disciplinary action (e.g., suspend Chapter membership).

**9. Credentialing and Career Management Board and Enforcement of Disciplinary Actions of the Ethics Committee**

- (a) The Credentialing and Career Management Board is responsible for the provision or revocation of all credentials. However, all matters concerning accusations of Code violations by Respondents will be determined by the Ethics Committee and the Appeals Committee, where applicable, under this Process. The recommendations of the Ethics Committee and the Appeals Committee to the Credentialing and Career Management Board, or any other ISACA body, shall be binding.

**10. Operating Procedures for the Ethics Committee and Appeals Committee**

- (a) The Ethics Committee and Appeals Committee (and/or its designee(s)) may conduct their activities at in-person meetings, via telephone conference call or through other secure and confidential (including web-based modes of communication) means designed to ensure participation and deliberation by appropriate or designated members of the respective Committees.

**11. Conflicts of Interest for Ethics Committee Members and Voting**

- (a) All actions must be adopted by a simple majority vote of the disinterested members, that is, by those who have no conflict of interest.
- (b) If any member of the Ethics Committee has a conflict of interest with respect to the issue or parties involved in a Complaint due to a current or prior business, financial, personal or familial relationship with any party to the matter, such Ethics Committee member shall disclose the conflict to the Ethics Committee and shall recuse himself or herself from the proceedings. If an Ethics Committee member does not voluntarily recuse himself or herself, recusal may be mandated by a vote of Ethics Committee Members.
- (c) Casting a vote or participating in a determination at any point in the ISACA Ethics Complaint Process shall not be considered a conflict of interest or disqualify a member of the Ethics Committee from rendering an opinion during the Hearing.
- (d) If any Appeals Committee member participated on the Ethics Committee proceedings for the Complaint, or has a conflict of interest due to a current or prior business, financial, personal or familial relationship with any party to the matter such Appeals Committee member shall disclose the conflict to the Appeals Committee and shall recuse himself or herself from the consideration of the appeal. If an Appeals

Committee member does not voluntarily recuse himself or herself, recusal may be mandated by a vote of Appeals Committee Members.

12. **Notifications.**

- (a) All notifications under this Process shall be disseminated in writing, by verifiable means, without undue delay, but in no case later than thirty (30) calendar days to the parties named in the applicable section.

13. **Miscellaneous**

- (a) All parties are encouraged to contact ISACA headquarters if they have any questions regarding the Code or this Process.
- (b) All reports, findings, and materials created, collected or submitted in connection with the Complaint process, including but not limited to information submitted by a Complainant or a Respondent are ISACA's confidential property. Materials submitted to ISACA in connection with a Complaint or investigation will not be returned unless agreed to prior by the Complainant or Respondent and ISACA.
- (c) ISACA will take reasonable measures to ensure that any proceedings, hearings, deliberations, Appeals and/or files resulting from implementation of this Process shall be and remain confidential except as required by law, or as necessary to fully investigate a complaint or as otherwise provided in this Process.



## **Appendix A – Supporting Guidance for Conduct of ISACA Ethics Hearings**

The following information is provided as supporting guidance to facilitate the conduct of a hearing in conjunction with the ISACA Ethics Complaint Processes and Procedures.

### 1. Hearing Process Rules of Order

- (a) The Ethics Committee is responsible for determining whether, based on the facts presented, the Respondent violated the Code as alleged. Members of the Ethics Committee may ask questions of anyone testifying at the hearing. The Ethics Committee shall base its decision solely upon matters introduced in the course of the hearing.
- (b) Specific allegations against the member, including Code sections alleged to have been violated, are to be stated at the hearing and included in the record of the hearing.
- (c) Testifying parties are to be sworn or affirmed.
- (d) The case against the Respondent is to be presented first, with the Respondent given the opportunity to examine witnesses.
- (e) The Respondent is to be given ample opportunity to present a defense after the case is presented.
- (f) All relevant reliable information may be presented and considered.
- (g) The hearing will be confidential and will be closed to all individuals who are not participating in the proceedings pursuant to this Process.
- (h) A record of the hearing shall be made.

### 2. Role of the Hearing Officer

- (a) *The Hearing Officer.* The Hearing Officer shall be appointed by the Ethics Committee and will preside over the Hearing. If the Hearing Officer is a member of the Ethics Committee, the Hearing Officer shall not vote in the disposition of the matter.

### 3. Role of the Movant

The Chair of the Ethics Committee shall appoint the individual responsible for presenting and moving the case against the Respondent ("Movant"). Such individual may be a third party, but such individual shall not participate in the Ethics Committee's decision as to whether a violation of the Code has occurred. The individual selected shall:

- (a) State the specific violation(s) Respondent is alleged to have violated.
- (b) Summarize the Committee's investigation and present the results of the investigation.
- (c) Introduce into the record any nonverbal (i.e., written, taped, visual, etc.) testimony/evidence against the Respondent.
- (d) Present and examine any witness(es) against the Respondent.
- (e) Examine any witness(es) testifying on behalf of the Respondent.

4. Role of Respondent

- (a) Defend the case. The Respondent may be represented by counsel or a third party.
- (b) The Respondent will not be required to testify against his/her own self-interest.
- (c) Introduce into the record any nonverbal (i.e., written, taped, visual, etc.) testimony/evidence on behalf of the Respondent.
- (d) Present and examine any witness(es).
- (e) Confront and examine any complainant(s) or witness(es) testifying against the Respondent.

5. Decision

- (a) Only the Ethics Committee, relevant ISACA staff, and/or the Hearing officer may be present during deliberations.
- (b) After deliberations, the Ethics Committee shall render a decision in accordance with Section 11. If the decision is that the Respondent did violate the Code the Ethics Committee must, at the same time and place, render a decision as to any disciplinary action.
- (c) Prompt notification of the decision and disciplinary action, if any, in accordance with Section 12 shall be sent to Respondent, Complainant, ISACA's CEO, ISACA's International President and the SL, as well as to any other person requested by the Respondent. This decision is final, unless an Appeal is filed by Respondent and considered by the Ethics Appeals Committee.
- (d) A copy of the record, along with all material considered by the Ethics Committee and a copy of the notification of decision to the Respondent, shall be maintained by ISACA headquarters.
- (e) No information about the proceedings shall be otherwise disseminated or published until after an Appeal has been decided, or after the time within which a Respondent has to Appeal for a failure of the Ethics Committee to follow this Process or material errors of fact, has expired.