

DISCIPLINARY POLICY AND
PROCEDURE



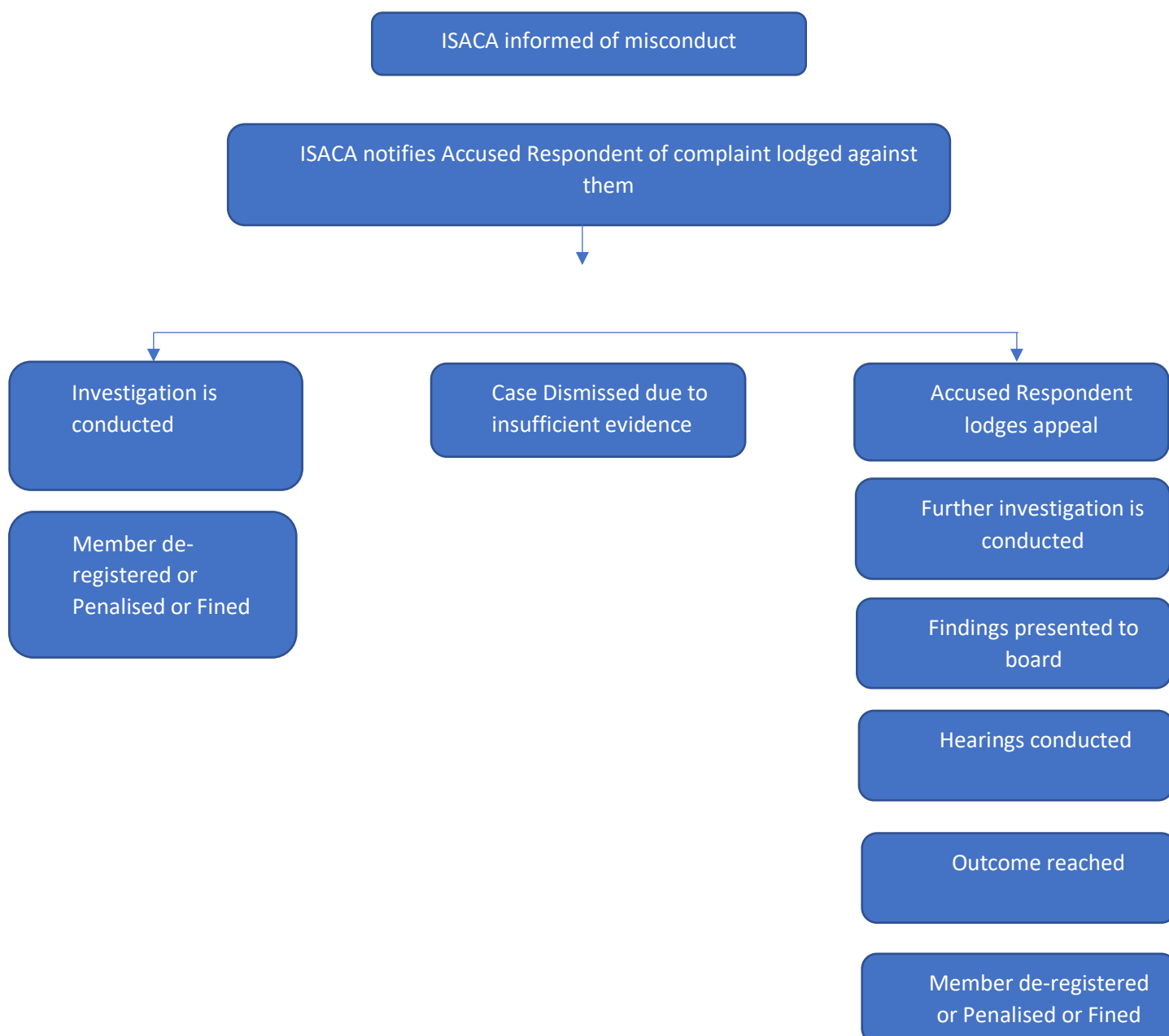
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1. Introduction

Where an ISACA member or credential holder violates the Code of Professional Ethics (“Ethics Code”), an individual may use the Complaint Process (“Process”) summarized below to seek consideration of his/her Complaint. The Process ensures that those accused of Ethics Code violations (“Respondent”) will be provided the opportunity to respond to allegations made in a Complaint.

The following is a diagrammatical presentation of the process to be followed when a complaint is lodged.

Figure: Complaint lodging process



2. Procedure

2.1. 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 Ethics 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.
- 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 4 of ISACA’s *Appeals Policy and Procedure*, the Complainant, that a Complaint has been filed. 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.

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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.

2.2. 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 4 of ISACA’s *Appeals Policy and Procedure* 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 4 of ISACA’s *Appeals Policy and Procedure*, 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 Ethics Code;
- III. a copy of this Ethics 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.

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e) Notice of Investigation to Complainant.

Complainant shall be notified, pursuant to Section 4 of ISACA's *Appeals Policy and Procedure* 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 2.3, 2.4 and 2.5 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 in the Appeals Procedure in ISACA's *Appeals Policy and Procedure*. 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 Ethics Code; 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 Ethics Code.
- 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 Ethics Code has been violated and corresponding disciplinary action.

2.3. 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

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otherwise meet certain conditions in order to resolve the Complaint without a formal hearing. The Ethics Committee shall approve 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.

2.4. Hearing: Purpose, Date, and Notice

- a) Purpose. The purpose of the hearing is to determine if the Respondent has violated the Ethics 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 4 of ISACA's *Appeals Policy and Procedure* to Respondent and Complainant as follows:
 - 1) State the alleged violation and the applicable Ethics Code Section.
 - 2) State that the Ethics Committee has conducted an investigation of an alleged Ethics 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;

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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.

2.5. 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.

2.6. 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 wilful 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 Ethics 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;

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this includes testing or applying for ISACA credentials. In the case of revocation of membership, such shall revocation shall 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.

3. Review

This Procedure shall be reviewed annually or as necessary.

4. Amendment History

Revision Number	Date	Author Name & Designation	Amendment comment
0.1	4 October 2019	Tania Rhode (Consultant)	Document Created
0.2	7 October 2019	Esther van der Walt (Finance Manager)	Peer Reviewed
0.3	13 November 2019	Board of Directors	Approved

5. Approval

This policy document was approved by the ISACA SA Board of Directors on 13 November 2019.