

**Professional Ethics Committee
Policies and Procedures**

Complaint Filing Procedure	2
Complaint Filing Process for Complainant and Respondent	4
Ethics PEC Review	5
Hearings	6
Definitions of Disciplinary Action	7
Appeals	8
Notification of Adverse Action	10

Date of Adoption: October 2008
Date of Last Review: October 2008
Date of Last Revision: June 2008

Professional Ethics Committee Policies and Procedures

Complaint Filing Procedure

Preamble

The enforcement procedures are intended to permit a fair resolution of disputes on ethical practices in a manner that protects the rights of individuals while promoting understanding and ethical practice. The PEC has the authority and flexibility to determine the best way to resolve a dispute, including educational means where appropriate.

Complaint

Any member, health information management professional, employer, consumer or regulatory agency representative can file a written formal complaint with AHIMA that an AHIMA member or credentialed nonmember has allegedly violated the AHIMA Code of Ethics for the Health Information Management profession. The complaint must be submitted in writing on the Complaint of Alleged Violation of the AHIMA Code of Ethics form (hereafter known as the Complaint Form) to the PEC in care of the staff liaison.

The complaint must be made within 1 year of the date that the complainant (person making complaint) first became aware of the alleged violation or within 1 year from the issuance of a final decision in an administrative, licensure board, or judicial action involving the facts asserted in the complaint.

The complaint must contain details on the activities complained of; the basis for complainant's knowledge of these activities; names, addresses, and telephone numbers of all persons involved or who might have knowledge of the activities. The complaint must also cite the principle(s) of the AHIMA Code of Ethics. The complaint must be signed and sworn to by the complainant(s).

Complaints initiated by the PEC

The PEC itself may initial a complaint (a "sua sponte complaint) when it receives information from a governmental body, certification or similar body, public media or other source indicating that a person subject to its jurisdiction may have committed acts which violate the Code. The AHIMA will ordinarily act promptly after learning of the basis of a sua sponte complaint, but there is no specified time limit.

If the PEC passes a motion to initiate a sua sponte complaint, the members of the PEC will complete the Complaint Form and will describe the nature of the factual allegations that led to the complaint and the manner in which the PEC learned of the matter. The Complaint Form will be signed by the Chair of the PEC

on behalf of the PEC. The form will be given to the PEC staff liaison. Sua Sponte complaints fall into two broad categories:

De jure (by law) complaints are those arising from the findings of a governmental or a credentialing body recognized by the AHIMA (e.g., state or federal courts, state licensure boards); and

De facto (by facts) complaints are those arising from information coming to the attention of the PEC in any other fashion that suggests a possible violation of the Code (e.g., information gathered during the investigation of another complaint, newspaper articles, or evidence arising in civil suits).

De Jure Complaints – de jure sua sponte complaints will proceed as follows:

The PEC staff liaison will present to the PEC any findings from external sources (as described above) pertaining to members of the AHIMA or credentialed nonmember that come to his or her attention and that may warrant sua sponte complaints.

Since de jure complaints are based upon the findings of fact or conclusions of another official body, the PEC will decide whether or not to act based on such findings or conclusions, and will not initiate another investigation, absent clear and convincing evidence that such findings and conclusions were erroneous. Based upon the information presented by the PEC staff liaison, the PEC will determine whether the findings of the public body also are sufficient to demonstrate a violation of the Code and therefore warrant an ethics charge.

If the PEC decides that a formal charge is warranted, the Chair of the PEC will notify the Respondent in writing of the formal charge and the proposed disciplinary action. In response to the de jure sua sponte charge by the PEC, the Respondent may either

- 1) Accept the charge of the PEC (as to both the ethics violation and the sanction) based solely upon the findings of fact and conclusions of the PEC or the public body; or,
- 2) Accept the charge that the Respondent committed unethical conduct, but within 30 days submit to the PEC a statement setting forth the reasons why any sanction should not be imposed, or reasons why the sanction should be mitigated or reduced; or,
- 3) Within 30 days, present information showing the findings of fact of the official body relied upon by the PEC to initiate the charge is clearly erroneous and request reconsideration by the PEC. The PEC may have the option of opening an investigation or modifying the sanction in the event they find clear and convincing evidence that the findings and the conclusions of the other body are erroneous.

In cases of de jure complaints, a hearing can later be requested only if the Respondent has first exercised option 2 or 3.

De Facto Complaints – A de facto sua sponte complaint may be filed if the AHIMA learns through a public source (such as a newspaper article) that there may be a substantial basis for finding an ethics violation. The AHIMA does not, however, undertake systematically to canvass all public media; it may or may not learn of events that warrant a de facto sua sponte complaint. De facto sua sponte cases will proceed as follows:

The PEC staff liaison will present the material to the PEC.

At this point, the PEC has two ways it can proceed:

- If the PEC chooses to do an investigation, the regular procedures for investigation will be followed; or,
- If the PEC determines that there is sufficient information to support a violation of the Code and no further investigation is warranted, the respondent will be notified. The complaint form and supporting documentation, charge, and proposed sanction will be submitted to the Respondent, who will be afforded the opportunity to respond in any of the following 3 ways:

1) accept the charge of the PEC (as to both the ethics violation and the sanction) based solely upon the findings of fact and conclusions of the PEC and the information submitted; or,

2) accept the charge that the Respondent committed unethical conduct, but within 30 days submit to the PEC any new information relating to the charge that the Respondent would like the PEC to consider in connection with deciding upon a different sanction; or, the Respondent may submit a statement setting forth the reasons why any sanction should not be imposed or reasons why the sanction should be mitigated or reduced; or,

3) within 30 days advise the PEC that he or she contests the charge and requests the PEC do a formal investigation to allow new or additional information to be presented that may alter the decision to find an ethical violation.

Continuation of Complaint Process – If a member relinquishes membership, fails to renew membership, or fails to cooperate with the ethics investigation, the PEC shall nevertheless continue to process the complaint, noting in its report the circumstances of the Respondent's action. Such actions shall not deprive the PEC of jurisdiction.

Complaint Filing Process for Complainant and Respondent

All complaints must be written on the Complaint Form, with all necessary supporting documentation attached to this complaint form.

The PEC staff liaison will review the complaint to determine if all the required information has been submitted by the complainant, whether the respondent(s) is/are members of AHIMA or credentialed nonmembers and

whether an ethics principle(s) is involved. The PEC staff liaison will acknowledge receipt of complaint via form letter to complainant.

If the above has been addressed, the staff liaison will contact the PEC Chair to assign two additional members of the PEC to a Complaint Review Subcommittee. The Complaint Review Subcommittee consists of the PEC Chair and two additional members of the PEC.

The staff liaison will contact the Complaint Review Subcommittee identified to be sure that they have no conflicts of interest with any of the parties involved in the potential violation and obtain availability to review complaint. The complaint form, back up documentation, the Code of Ethics, the PEC Policies and Procedures and the voting form will be sent to the Complaint Review Subcommittee members. They will have 15 days to review the complaint and decide if it has merit.

Response

If the Complaint Review Subcommittee determines that the process should proceed, the Chair of the PEC will notify the respondent (person against whom the complaint is made) that a complaint has been made through the staff liaison. The notice will be sent from the staff via certified mail, return-receipt requested or other similar method of delivery. The respondent will be sent a copy of the complaint, the AHIMA Code of Ethics, the PEC Policies and Procedures, and Response to Complaint form.

The respondent will have thirty (30) days from receipt of the notification in which to submit a response. The response must be signed and sworn to by the respondent(s) and notarized by a Notary.

If the PEC does not receive a response, the Chair of the PEC or staff liaison will contact the respondent by telephone. If contact with the respondent is still not made, a written notice will be sent. Failure to reach the respondent will not prevent the Complaint Review Subcommittee from proceeding with the investigation.

Ethics PEC Review

Upon receipt of the response from the Respondent, the PEC staff liaison will submit the complaint and the response to the Complaint Review Subcommittee for review.

The Complaint Review Subcommittee has broad discretion to determine how to proceed, including, but not limited to, dismissing the complaint, requesting further information from the parties, censorship, probation, holding a hearing as specified hereafter, suspension of membership and/or credentials, revocation of

credentials, expulsion from membership or in any other way deemed advisable. The Complaint Review Subcommittee may use experts to assist it in reviewing the complaint and response and determining further action.

The Complaint Review Subcommittee has thirty (30) days to determine a course of action – dismissal, censorship, probation, holding a hearing, suspension, revocation or expulsion.

The Complaint Review Subcommittee will notify the complainant and the respondent of its decision, which may include the PEC's preliminary opinion with a request that the respondent take certain actions, including, but not limited to, successful completion of continuing education in designated areas to be set forth by the Complaint Review Subcommittee.

The Complaint Review Subcommittee may also recommend appropriate remedial action to the parties, which if undertaken, would resolve the matter.

The Complaint Review Subcommittee may recommend, at its discretion, that a hearing be held subject to the other provisions of these procedures.

Hearings

General

Hearings shall be held as determined by the PEC under the following guidelines. Hearing dates will be established by the Chair of the PEC. All hearings will be held in Chicago.

The PEC Chair through the staff liaison will notify the respondent, the complainant and the Executive Vice President/CEO of the decision to proceed with the hearing and schedules a formal hearing, via certified letter, within ten (10) days from decision date. Additionally, a copy of these Policies and Procedures should accompany the notice to schedule a formal hearing. The Complainant and Respondent will be notified by certified mail, return-receipt requested, of the date, time and place of the hearing within a forty-five (45) day period. If the Respondent fails to accept delivery, the Executive Vice President/CEO or staff liaison shall attempt to contact the Respondent by telephone to ascertain the reason for failure for delivery.

The respondent will be allowed at least one postponement, provided the request for postponement is received by the AHIMA at least fourteen (14) days before the hearing date.

Respondents are permitted to review the charges and evidence filed against them by requesting that copies of all materials be forwarded to them by mail or by appointment in the AHIMA offices during regular business hours, with a 48-hour advance written or verbal request.

Conduct of Hearings

The Chair of the PEC will conduct a hearing with appropriate staff and legal counsel present. Three members from the PEC including the Chair without conflict of interest who did not serve on the Complaint Review Subcommittee will be appointed to the Hearing Panel.

In the event that any PEC member cannot serve on the hearing panel for any reason, a replacement will be appointed by the President of AHIMA. The parties shall have the right to appear; to present witnesses and evidence; to cross-examine the opposing party and adverse witnesses; and to have legal counsel present. Legal counsel for the parties may advise their clients, but may only participate in the hearings with the permission of the Chair. The hearing is the sole opportunity for the participants to present their positions. Three members of the PEC shall constitute a quorum. Affirmative vote of two-thirds (2/3) of the members voting will be required to reach a decision. A transcript will be prepared and will be available to the parties at cost.

Costs

AHIMA will bear the costs for the PEC, legal counsel, staff, and any other parties called by AHIMA. The respondent and the complainant will be responsible for all costs and fees incurred in their preparation for and attendance at the hearing, including travel and legal fees.

Decision

The PEC will render a written decision specifying the reasons and citing the provision(s) of the AHIMA Code of Ethics that have been violated. The Hearing Panel will decide that:

- The complaint be dismissed;
- The respondent will be censured;
- The respondent will be given probation;
- The respondent's membership or credential may be suspended;
- The credential of the respondent be revoked by the AHIMA
- The respondent is expelled from membership.

The decision of the PEC will be sent to the respondent and the complainant as soon as practicable after the hearing.

Definitions of Disciplinary Action

Dismissal: The complaint was not an ethics violation or there was insufficient information to move forward on the complaint.

Censure: A written reprimand expressing disapproval of conduct. It carries no loss of membership or registration status, but may result in removal from office at

the national, state, and district levels and from committee membership. Time frame--not applicable.

Probation: A directive to allow for correction of behavior specified in Principle 5 of the Code of Ethics for the Health Information Management Profession. It may include mandatory participation in remedial programs (e.g., education, professional counseling, and peer assistance). Failure to successfully complete these programs may result in other disciplinary action being taken. It carries no loss of membership or registration status, but may result in removal from office at the national, state, and district levels and from committee membership. Time frame--specified time to be decided on a case-by-case basis.

Suspension: Temporary loss of membership and all membership benefits and privileges for a specified time with the exception of retention of coverage under health and disability insurance. Time frame--specified time to be decided on a case-by-case basis.

Suspension of Credential: Temporary loss of credential and all benefits and privileges for a specified period of time. It may include mandatory participation in remedial programs (e.g., education, professional counseling, and peer assistance).

At the end of the specified suspension period, membership and registration benefits and privileges are automatically restored. Time frame--specified time to be decided on a case-by-case basis.

Expulsion: Removal from membership and a loss of all benefits and privileges. Time frame--may apply for reinstatement after a 5-year period has elapsed or sooner if the basis for the expulsion has been removed, with payment of a reinstatement fee. Must meet membership requirements in effect at the time of application for reinstatement.

Revocation of Credential: Loss of registration status and removal from registry; loss of all benefits and privileges. Upon revocation, the former credentialed practitioner shall return the registration identification card to AHIMA. Time frame--Specified time for reapplication to be decided on a case-by-case basis, but, at minimum, current recertification requirements would need to be met. A credential will not be issued until AHIMA determines that the reasons for revocation have been removed.

Appeals

General

Only the respondent may appeal an adverse decision to AHIMA. During the appeals process, the membership and certification status of the respondent remains unchanged.

The Chair of the PEC with the assistance of the AHIMA President will appoint two AHIMA members to serve to hear the appeal. These individuals shall constitute the Appeals Committee for that particular case. Individuals who have no conflict of interest will be appointed.

Recourse to the Appeals Committee

To request a hearing before the Appeals Committee, the respondent/appellant shall notify the AHIMA staff liaison, by certified mail, return-receipt requested, that the respondent wishes to appeal the decision. This notification must be received within thirty (30) calendar days after receipt of the letter advising the respondent of the Ethics PEC's decision.

Contents

The appeal must comply with the following:

- 1) The appeal must be in writing and contain, at a minimum, the following information:
 - a) The decision being appealed
 - b) The date of the decision
 - c) Why the individual feels the decision is wrong or was improperly rendered (See "Scope of Review," below)
 - d) The redress sought by the individual
 - e) The appeal will be signed and sworn to.

If the appeal does not contain the information listed above, it will be returned to the individual who will be given ten (10) calendar days to resubmit. Failure to furnish the required information within ten (10) calendar days will result in the appeal being waived.

Procedures

Upon receipt of this notification, appropriate staff shall promptly notify the Chair of the Appeals Committee that the respondent is appealing a decision made by the hearing committee.

The Appeals Committee Chair shall acknowledge the appeal and request a copy of the relevant written information on the case from appropriate staff.

- 1) Location and participants
 - a) All appeals hearings will be held in Chicago.
 - b) The complainant, the respondent, and the chair of the PEC will have the opportunity to participate in the appeals hearing.
 - c) The parties may have legal counsel present, who may advise their clients, but may only participate in the hearings with the permission of the Chair.
 - d) Attendance at the hearing will be limited to persons determined by the Chair to have a direct connection with the appeal and appropriate staff and legal counsel.

2) Conduct of the hearing

The three parties involved in the appeal will be given the opportunity to state why the decision and/or disciplinary action of the hearing panel should be upheld, modified, or reversed.

Scope of Review

The Appeals Committee will determine whether the hearing panel committed procedural error that affected its decision, whether the hearing panel's decision

was contrary to the weight of the evidence presented to it, or whether there is new and substantial evidence that would likely have affected the hearing panel's decision that was unavailable to the parties at the time of the hearing panel's hearing for reasons beyond their control.

In reviewing the decision of the hearing panel, the Appeals Committee shall consider only the transcript of the hearing and the evidence presented to the hearing panel.

Record of Hearing

A transcript will be prepared and will be maintained in the case file.

Decision of Appeals Committee

The Appeals Committee shall prepare a written decision stating the reasons therefore. The decision shall be to affirm, modify, or reject the decision and/or disciplinary action of the hearing panel or to remand the case to the hearing panel with instructions for further proceedings. The complainant and respondent will be notified of the decision within fourteen (14) days of the decision. Decisions of the Appeals Committee will be final.

Costs

The AHIMA will bear the costs for the Appeals Committee, staff and legal counsel, and any parties called by the AHIMA. The respondent and the complainant will be responsible for all costs and fees incurred in their preparation for and attendance at the hearing.

Notification of Adverse Action

If the respondent is disciplined by the hearing panel and does not appeal the decision, the Chair of the PEC will notify the appropriate departments within thirty (30) days after notification of the final decision.

In the event the respondent appeals a decision to discipline him/her and the PEC decision is affirmed or modified, similar notification will be made by the Chair of the PEC.

In response to an inquiry about certification status, AHIMA will state only whether a person is currently credentialed.

Recordkeeping

Records will be kept for a period of time after the disposition of the case in accordance with AHIMA's record retention policy.

Information will be provided only upon written request and affirmative response from AHIMA's legal counsel.

Confidentiality Procedures

The following procedures have been developed to protect the confidentiality of

both the complainant and the respondent in the investigation of a complaint of an alleged violation of the AHIMA Code of Ethics:

- The need for confidentiality will be stressed in initial communications with all parties.
- PEC members will refrain from discussing the complaint and hearing outside of official PEC business pertaining to the complaint and hearing. If the hearing on a complaint carries over to the next PEC, the complaint will be heard by the original PEC to hear the complaint.
- Communication with AHIMA witnesses will be the responsibility of the PEC Chair or staff liaison. Witnesses who testify on behalf of AHIMA will be informed of the confidentiality requirements and agree to abide by them.
- The PEC Chair will stress the importance of confidentiality at the time of the hearing.
- To ensure confidentiality, the only record of the hearing will be the official transcript and accompanying materials which will be kept at AHIMA offices. All other materials that were mailed or distributed to PEC members should be returned to the AHIMA staff, along with any notes taken by PEC members. The transcript will be available if there is an appeal of the PEC's decision and only to the parties, PEC members, Appeals Committee members, AHIMA legal counsel, and staff directly involved with the appeal.