

# AMERICAN HEALTH INFORMATION MANAGEMENT ASSOCIATION

## ***POLICY AND PROCEDURES FOR DISCIPLINARY REVIEW AND APPEAL***

### **I. DISCIPLINARY POLICY**

Members of the American Health Information Management Association (“AHIMA”) may be subject to disciplinary action for unprofessional or otherwise inappropriate conduct or for adverse legal, regulatory, or credentialing actions, as described below.

#### **A. Unprofessional or Otherwise Inappropriate Conduct: Failure to Meet Obligations to AHIMA at Any Time**

Any AHIMA member who is found by AHIMA to have engaged in any of the following conduct may be subject to disciplinary action, including but not limited to permanent denial of, or expulsion from, membership:

- violates a provision of the AHIMA *Code of Ethics*;
- violates the terms and conditions of use of the AHIMA.org web site or any AHIMA social media/networking or similar AHIMA site;
- falsely claims to be a member of AHIMA or assists another individual to do so; obtains, attempts to obtain, or assists another person to attempt to obtain membership in AHIMA by deceptive means, including but not limited to submitting or assisting another person to submit to AHIMA any document which is falsified or fraudulent or which contains a misstatement or omission of a material fact;
- commits any act that infringes AHIMA’s intellectual property rights, including but not limited to trademark and copyright violations;
- fails to replace a check that was returned to AHIMA for nonsufficient funds within ninety (90) days after notification by AHIMA, or reverses a credit card charge, stops payment on a check, or otherwise revokes payment for services provided by AHIMA after such services have been rendered;
- fails to cooperate reasonably with an AHIMA disciplinary investigation;
- is the subject of documented allegations of professional misconduct, including but not limited to unauthorized disclosure of client information; improper professional financial dealings; improper alteration of a client’s records; or gross or repeated professional malpractice or negligence;
- is the subject of documented allegations of unethical conduct or moral turpitude in connection with any AHIMA-related health information activity;
- engages in other unlawful or unethical conduct related to AHIMA or a Component State Association (‘CSA’); or

- otherwise fails to meet an obligation to AHIMA. Any individual who engages in such conduct also may be subject to legal action.

**B. Legal, Regulatory, or Credentialing Action**

An AHIMA member who is found by AHIMA to have engaged in any of the following conduct may be subject to disciplinary action, including but not limited to permanent denial of or expulsion from membership:

- Adjudication by a court or governmental regulatory body that the individual has violated a federal, state or local law, rule, or regulation;
- Conviction of, or pleading no contest to, a felony that is, in the judgment of the AHIMA Professional Ethics Committee, (i) related to health information management (HIM) practice or (ii) otherwise may warrant disciplinary action;
- Loss, suspension, or voluntary surrender of the individual’s professional registration, license, or credentials from a non-AHIMA organization; or
- Involuntary removal or dismissal from a professional organization for reasons other than the non-payment of dues; or

Loss of the individual’s professional credential due to a disciplinary action by the Commission on Certification for Health Informatics and Information Management (CCHIIM).

**C. No Adjudication of Private Disputes**

The AHIMA *Disciplinary Policy* is not designed, and shall not be used, to address private grievances between or among AHIMA Members, or private grievances brought by a nonmember against an AHIMA Member, unless such grievance raises an issue described above.

**II. DISCIPLINARY PROCEDURES**

Disciplinary review of AHIMA Members, including former Members, who are accused of violating a provision of AHIMA’s *Disciplinary Policy* shall be conducted according to the procedures described below.

**CONFIDENTIALITY: All information received or generated pursuant to AHIMA’s *Disciplinary Procedures* shall be treated as confidential and shall not be disclosed unless such disclosure is required herein.**

**A. Initiation of Possible Disciplinary Matter**

1. A possible disciplinary matter may be initiated by the submission of a formal written complaint (the “Complaint”) by any person or entity (the “Complainant”). See Attachment 1 for *Complaint Filing Procedures*. The Complaint shall be forwarded to the staff liaison for the AHIMA Professional Ethics Committee (“PEC”).
2. AHIMA may itself file a formal written complaint based on the receipt of information from a CSA, governmental body, credentialing body, public media or other reputable source (as determined by AHIMA) indicating that an individual has violated the AHIMA *Disciplinary*

*Policy.* In such circumstance, the Complaint shall be filed by the staff liaison for the PEC on behalf of AHIMA, and AHIMA shall be the Complainant.

3. The PEC staff liaison shall advise the Complainant or other source of information (other than public media or similar source) that AHIMA has received the Complaint and will take such action as it deems appropriate. No further information shall be provided to the Complainant or other source unless otherwise provided herein.
4. The names of those (Complainants) reporting suspected ethics violations shall remain permanently confidential, regardless of the outcome of the ethics hearing.

**B. Investigation of Possible Disciplinary Matter**

Upon receipt of a Complaint indicating that an AHIMA Member may have engaged in any of the behaviors described in the AHIMA Disciplinary Policy, the available facts of the matter shall be reviewed by a Complaint Review Subcommittee (“CRS”) composed of the PEC Chair and two PEC members appointed by the PEC Chair. Individuals with potential conflicts shall be excluded.

1. The PEC staff liaison shall issue a written Notice of Investigation to the Respondent, which shall include the following information:
  - a. A statement of the grounds for the disciplinary investigation;
  - b. A statement that the Respondent’s behavior leading to the disciplinary investigation will be reviewed by the CRS, and that the CRS may thereafter determine to forward the matter to the PEC for full review; and
  - c. A request that the Respondent submit in writing a response (“Response”) that includes any information that the Respondent wishes to have considered by the CRS. Any documentation and responses must be sent either by Certified US Mail, Return Receipt Requested or an express courier (e.g. US Mail Express Mail, FedEx, UPS, or DHL) with signature confirmation service. Alternatively, you may respond electronically with documentation that is sent to [profession.governance@ahima.org](mailto:profession.governance@ahima.org) and is electronically signed by you with an electronic signature. Any documentation that is sent in must be typed, signed by you, and you must have your signature notarized. The Response must be received by the CRS staff liaison within thirty (30) calendar days after the date of the Notice of Investigation.
  - d. The name of the Complainant shall remain Confidential and shall not be disclosed to the Respondent.
2. Based on its review, the CRS shall take one of the following actions:
  - a. If the CRS determines that no investigation is warranted, the matter shall be closed. The staff liaison shall provide notice to the named AHIMA Member (the “Respondent”) that no further action shall be taken.

- b. If the CRS determines that further information is required to determine whether an investigation should be initiated, it shall request such information. The CRS may request any additional information it deems relevant to the matter.
- c. If the CRS determines that there is a reasonable basis to believe that the allegations in the Complaint may support a determination that the Respondent has violated the AHIMA Disciplinary Policy, the CRS shall submit the matter to the PEC staff liaison. The staff liaison shall refer the matter for consideration by the full PEC and shall provide notice to the Respondent that a disciplinary investigation has been initiated.
- d. All information on which the CRS based its decision shall be maintained on file (the “CRS File”)
- e. The investigation will be completed within 60 days. If the investigation cannot be completed within 60 days, the AHIMA staff liaison will notify the Respondent of the delay and an anticipated completion date.

**C. Notice to Respondent**

The PEC staff liaison shall issue a written Notice of Proposed Disciplinary Action to the Respondent, which shall include the following information:

- a. A statement that the CRS has determined that there is a reasonable basis to believe that the allegations in the Complaint may support a determination that the Respondent has violated the AHIMA Disciplinary Policy, and that the matter shall be reviewed by the PEC which shall determine if a violation has occurred and, if so, what sanctions, if any, may be imposed;
- b. A statement that the Respondent may request a telephone appearance at a hearing before the PEC;
- c. A statement that the Respondent may, within thirty (30) days after the date of the Notice of Proposed Disciplinary Action, submit any further information that the Respondent wishes to have considered by the PEC by email <[profession.governance@ahima.org](mailto:profession.governance@ahima.org)> or mailed , to the following address:

AHIMA  
Profession Governance - Professional Ethics Committee  
233 N. Michigan Ave, 21st Floor  
Chicago, IL 60601

Any documentation and responses must be sent either by Certified US Mail, Return Receipt Requested or an express courier (e.g. US Mail Express Mail, FedEx, UPS, or DHL) with signature confirmation service. Alternatively, you may respond electronically with documentation that is sent to [profession.governance@ahima.org](mailto:profession.governance@ahima.org) and is electronically signed by you with an electronic signature. Any documentation that is sent in must be typed, signed by you, and you must have your signature notarized.

- d. A statement that, should the Respondent not submit in a timely manner information for consideration by the PEC, (a) the PEC shall review the matter and, at its discretion, determine whether the facts warrant the imposition of disciplinary action and, if so, what disciplinary action should be taken, and (b) the decision of the PEC shall be the final action by AHIMA on the matter.

A copy of AHIMA's *Policy and Procedures for Disciplinary Review and Appeal* shall be enclosed with the Notice.

**D. Review Record**

The PEC shall consider the Notice of Proposed Disciplinary Action, the Response and the CRS Record. The foregoing shall constitute the Review Record. A copy of the Review Record shall be forwarded to the Respondent at least 14 calendar days before the meeting of the PEC.

**E. Disciplinary Review Process and Action**

1. If the Respondent requests a telephone appearance before the PEC, the Respondent shall be given 30 days written notice of the place, date and time of the PEC hearing, unless such notice is waived in writing by the Respondent. The notice shall advise the Respondent of the following:
  - a. During the telephone appearance, the Respondent may present written and oral testimony, and may be represented by legal counsel;
  - b. Any written testimony must be received by the PEC staff liaison no later than ten (10) calendar days before the scheduled date of the hearing; and
  - c. All expenses incurred by the Respondent and his or her legal counsel in connection with the appearance shall be borne by the Respondent.
2. During any telephone appearance before the PEC, the following procedural rules shall apply:
  - a. The Respondent shall be given the opportunity to make a statement summarizing his or her position. At the discretion of the PEC, the Respondent's legal counsel may make an opening or closing statement. At the conclusion of the Respondent's statement, members of the PEC and AHIMA's legal counsel may ask the Respondent to respond to questions.
  - b. The PEC shall not be bound by technical rules of evidence usually employed in legal proceedings, but may consider any evidence it deems appropriate.
3. If the Respondent requests a telephone appearance and, without good cause, fails to appear or fails to advise the PEC staff liaison in writing by email (you may respond electronically with documentation that is sent to [profession.governance@ahima.org](mailto:profession.governance@ahima.org) and is electronically signed by you with an electronic signature. Any documentation that is sent in must be typed, signed by you, and you must have your signature notarized) or by Certified US Mail, Return Receipt Requested or an express courier (e.g. US Mail Express Mail, FedEx, UPS, or DHL) with signature confirmation service, more than three (3) calendar days before the scheduled date of the telephone appearance that he or she shall not appear, the PEC may, at its discretion, notify the Respondent that no further opportunity for a personal appearance shall be provided and that the PEC shall make its determination based upon the written materials before it.

4. Following the telephone appearance, or if no appearance was requested, the PEC shall consider the Review Record and the Respondent's statement during the appearance, if any. Based on its review, the PEC shall determine whether grounds for disciplinary action exist and, if so, what disciplinary action should be taken.

**F. Possible Disciplinary Actions**

The PEC shall take one or more of the following actions:

1. No action;
2. Issue a Letter of Censure;
3. Deny or expel the Respondent from membership in AHIMA, permanently or for a specified period of time;
4. Recommend that AHIMA take legal action against the Respondent;
5. Assess a disciplinary fine; or
6. Take a combination of any of the above actions or such other action that may be deemed appropriate in the particular circumstances.

**G Notification of PEC's Determination and Request for Discretionary Appeal**

1. The Respondent shall be notified in writing of the PEC's action, including the reasons therefore, within thirty (30) calendar days after the PEC reaches its decision.

If the PEC determines that disciplinary action should be taken, the Respondent shall receive a Notice of Disciplinary Action. The Notice of Disciplinary Action shall advise the Respondent of the right to request a discretionary appeal to the AHIMA Executive Committee by submitting a written Request for Discretionary Appeal. A Request for Discretionary Appeal documentation must be submitted by Certified US Mail, Return Receipt Requested or an express courier (e.g. US Mail Express Mail, FedEx, UPS, or DHL) with signature confirmation service to:

AHIMA  
Profession Governance - Professional Ethics Committee  
233 N. Michigan Ave, 21st Floor  
Chicago, IL 60601

within thirty (30) days after and must include payment of a \$100 Appeal Fee in the form of a check or money order made payable to AHIMA.

2. **If a Request for Discretionary Appeal is not received within thirty (30) calendar days after receipt of the Notice of Disciplinary Action, the decision of the PEC shall constitute the final decision of AHIMA on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by AHIMA.**

**III. DISCRETIONARY APPEAL PROCESS FOR DISCIPLINARY ACTIONS**

All decisions rendered under AHIMA's Disciplinary Procedures are subject to the Discretionary Appeal Process described below.

**A. Acceptable Grounds for Appeal**

The following shall be the only grounds considered for granting a Discretionary Appeal:

1. The Respondent provides evidence that the PEC committed a procedural error that materially affected the outcome of the disciplinary review process; or
2. The Respondent provides evidence that the sanction(s) imposed by the PEC are arbitrary and capricious.

**B. Grant or Denial of Discretionary Appeal**

1. A timely Request for a Discretionary Appeal shall be considered by the President of AHIMA.
2. If the President, in his or her discretion, denies the Respondent's Request for Discretionary Appeal, the decision of the PEC shall constitute the final decision of AHIMA on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by the AHIMA Executive Committee.
3. If the President, in his or her discretion, determines that an Appeal should be granted, the Appeal shall be heard by the AHIMA Executive Committee, sitting as an Appeal Committee, at a meeting occurring at the next regularly scheduled meeting of AHIMA's Board of Directors, or at a special meeting of the Appeal Committee convened for such purpose, occurring within 60 days of receipt of the timely request for appeal.
4. The Respondent shall be notified in writing of the President's determination, including the reasons therefor, within ten (10) calendar days after the President reaches his/her decision.

**C. Appeal Committee Composition**

The Appeal Committee shall consist of the members of the AHIMA Executive Committee; provided that, if a potential conflict of interest exists between the Respondent and the President or one or more Executive Committee members, the President shall recuse such individual(s) and shall appoint one or more AHIMA Directors to replace them, as necessary.

**D. Appeal Process**

1. If a Discretionary Appeal is granted, the following procedure shall be followed:
  - a. The Appeal Committee shall consider the Review Record, the Notice of Disciplinary Action, and the Respondent's written Request for Appeal. The Appeal Committee also shall receive and review a statement from the Chair of the PEC that took the adverse disciplinary action, which shall include the grounds for disciplinary action(s), the sanction(s) imposed, and the rationale for these sanctions. The foregoing shall constitute the Appeal Record. A copy of the Appeal Record shall be forwarded to the Respondent at least fourteen (14) calendar days before the meeting of the Appeal Committee.

- b. The Respondent may request consideration of evidence, documentation, or written testimony not previously submitted to the PEC *only if* he or she can demonstrate that such evidence, documentation, or written testimony was not available at the time that the PEC considered the matter. If the Appeal Committee grants the Respondent's request to submit new evidence, the matter shall be referred back to the PEC for reconsideration. If, after reconsideration, the PEC affirms its determination that grounds exist for disciplinary action, the Respondent may, within 30 days following receipt of notice of the PEC's affirmed determination, submit a new Request for a Discretionary Appeal. If the Respondent does not submit a new Request for a Discretionary Appeal, the decision of the PEC shall constitute the final decision of the AHIMA on the matter and shall not be subject to further appeal.
- c. If the Appeal is being requested based on an alleged procedural error, and the Appeal Committee determines that such procedural error by the PEC may have materially affected the outcome of the disciplinary review process, the matter shall be referred back to the PEC for correction of the error and reconsideration. If, after reconsideration, the PEC affirms its determination that grounds exist for disciplinary action, the decision of the PEC shall constitute the final decision of the AHIMA on the matter and shall not be subject to further appeal.
- d. If the Appeal is being requested based on an allegation that the PEC's decision was arbitrary and capricious, the Appeal Committee shall determine whether the PEC's decision was in fact arbitrary and capricious.
- e. If the Appeal is being requested due both to an alleged procedural error and to an allegation that the PEC's decision was arbitrary and capricious, the matter shall first be referred back to the PEC for correction of the error and reconsideration. If, after reconsideration, the PEC affirms its determination that grounds exist for disciplinary action, the matter shall be forwarded to the Appeal Committee for a determination of whether the PEC's decision was in fact arbitrary and capricious.
- f. The Appeal Committee shall carefully consider all of the information presented in the Appeal Record. After due and thorough deliberation and upon the affirmative vote of a majority of the Appeal Committee members, the Appeal Committee shall determine whether to ratify, reverse, or modify the PEC's decision.

**A DECISION BY THE APPEAL COMMITTEE TO RATIFY, REVERSE OR MODIFY AN ADVERSE DECISION SHALL CONSTITUTE THE FINAL DECISION OF AHIMA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.**

- 2. The Respondent shall be notified in writing of the decision, including the reasons therefor, within 30 calendar days after the Appeal Committee reaches its decision.

**IV. ADDITIONAL PROVISIONS**

**A. Application for Restoration of Membership Following Disciplinary Action**

Applications following denial or expulsion of Respondent from AHIMA membership shall be considered and acted upon at the sole discretion of the AHIMA Executive Committee.

**B. Responsibility for Notification of Address Change**

AHIMA Members are solely responsible for providing timely notification to AHIMA of changes of address. If a Respondent does not receive notice(s) from AHIMA related to disciplinary investigation or action due to his or her failure to timely notify AHIMA of a change of address, that lack of notification shall not be considered as the basis for reconsideration or appeal of any decision on the matter.

**C. Contacting AHIMA**

Whenever there is a requirement for a written notice, request or other writing to be submitted to AHIMA, such writing shall be addressed to the following address:

AHIMA  
Profession Governance - Professional Ethics Committee  
233 N. Michigan Ave, 21st Floor  
Chicago, IL 60601

Any documentation and responses must be sent either by Certified US Mail, Return Receipt Requested or a reputable express courier (e.g. US Mail Express Mail, FedEx, UPS, or DHL) with signature confirmation service. Alternatively, you may respond electronically with documentation that is sent to [profession.governance@ahima.org](mailto:profession.governance@ahima.org) and is electronically signed by you with an electronic signature. Any documentation that is sent in must be typed, signed by you, and you must have your signature notarized.

Failure of delivery of written communications caused by improper addressing may not be considered as the basis for an appeal or reconsideration of any decision in the matter or the extension of any time period provided for Respondent's reply to a notice from AHIMA in connection with any disciplinary proceeding.

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***The procedures set forth above for the review and appeal of disciplinary matters may be subject to an expedited schedule when deemed necessary by AHIMA.***

*Revised/Effective: January 8, 2019*