



Ethics Complaints Procedures

Overview

CAPS Ethics complaints originate by way of a complaint to the Ethics Committee. If the Ethics Committee determines the complaint to be worthy of investigation, a sub-committee of the Ethics Committee (the Investigative Team), shall make whatever enquiries it thinks necessary, after which the Ethics Committee as a whole shall make a report to the CAPS National Board of Directors, together with any recommendations. The Investigative Committee is investigative only, not judicial.

In certain circumstances the CAPS National Board may act immediately, and in other circumstances may set up a Hearing Panel of its members to review the report and recommendations of the Ethics Committee, hear and consider evidence, and render a decision, including sanctions, if any. The Hearing Committee is tribunal in nature.

I. The Ethics Committee

Duties:

1. Investigate complaints of violations of CAPS' Code of Professional Ethics and make recommendations to the National Board.
2. Educate CAPS members as to matters of ethics and good CAPS citizenship.
3. Keep the President and Executive Director fully informed of activities.

Composition & Term:

1. Five individuals (not currently serving on the Board of Directors) appointed by the President with consent of the Board of Directors.
2. Appointees shall serve one three-year term, without compensation.
3. In order to protect the integrity of the Ethics complaint process and to ensure that Ethics committee members are not lobbied by either the Complainant or the Respondent in any potential Ethics complaint, the identities of the CAPS Ethics committee members shall not be published to the CAPS membership at large. Only the Ethics committee members themselves as well as the CAPS National Board of Directors shall be privy to this information.
4. The Chair of the Ethics Committee is to be elected annually by the five committee members.
5. CAPS' Executive Director is an ex-officio member of the Ethics Committee, serving as Recording Secretary and maintaining an archive of all proceedings, but shall have no vote.

Meetings:

1. Ethics Committee meets at the call of the Chair as necessary.
2. Quorum requires three of the five members.
3. Chair votes only to eliminate a tie.

II. Initiating A Complaint

Who May Initiate a Complaint:

1. Any person, whether a member of CAPS or not, and including any member of the Ethics Committee, who has reason to believe that a CAPS member has acted in violation of the Code of Professional Ethics. In this document, the individual making the complaint is called the “complainant” and a person who is the subject of the complaint is called the “respondent”.
2. In the instance where a complaint is filed by a member of the Ethics Committee, such member shall not sit on the investigation, and shall abstain from any vote on the matter.

How To File:

1. The complainant shall complete, in writing, an Ethics Complaint Form as provided by CAPS National Office.
2. The completed Ethics Complaint Form shall be forwarded to the Executive Director of the Association, who will forward it to the Chair of the Ethics Committee. In the absence of an Executive Director, the form shall be forwarded to the President.
3. The Executive Director or the President, as the case may be, shall confirm receipt of the complaint within three days.

III. Investigation & Investigative Hearing Procedures

Initial Procedure:

1. The Ethics Committee shall review the complaint to determine, on a balance of probabilities, if it is worthy of consideration. If not, the complaint is rejected with brief reasons and the complainant is notified. Acceptable reasons for rejection include, but are not limited to, failure to identify a provision of the code violated, the fact that more than three years have elapsed since the relevant facts were known or could have been known, and that the respondent is not currently a CAPS member.
2. Any such decision to reject shall be noted in the minutes of the Ethics Committee, including reasons.
3. If the decision is made not to reject the complaint, then within 15 days the Ethics Committee shall send a copy of the complaint to the respondent. The respondent is invited to file a written reply within 30 days of receipt. If no reply is received within the 30 days, or such reasonable extensions as may be allowed by the Chair of the Ethics Committee, the complaint shall be taken as true by default, and this shall be

reported by the Ethics Committee to the CAPS Board, together with any recommendations the Ethics Committee deems fit.

4. If a reply is entered within the time limit, a copy shall be shared with the complainant, the Ethics Committee and CAPS' President.
5. The complainant and the respondent shall have fifteen days after filing the respondent's reply to resolve the matter, if they wish to do so, and propose a resolution, if any, including that the complaint be withdrawn. Such fifteen days may be extended up to a maximum of thirty days by mutual request to the Ethics Committee. Any agreement reached shall be reduced to a written and signed document and submitted within three days to the Ethics Committee.
6. Such an agreement must be ratified by the Ethics Committee, failing which the matter shall proceed as if there were no agreement. The Ethics Committee may not lightly refuse to ratify but may do so if they have reason to believe the matter has the potential to be of material concern to other members of CAPS.
7. If the said time period has passed and there is no agreement, or if the agreement is not ratified by the Ethics Committee, the Ethics Committee shall continue its investigation and make its report to the Board.
8. Notwithstanding that the parties fail to reach an agreement at this point, they may, until any recommendation has been submitted by the Ethics Committee to the Board, continue to attempt to reach an agreement as between them and submit the same in writing to the Ethics Committee for its consideration.

Ethics Committee Procedure:

1. The Ethics Committee Chair will appoint any three members of the Ethics Committee (the Chair may but need not be one of these) to be the Investigative Team to investigate the complaint. No person who could be seen by a reasonable observer to be too close to either the complainant or the respondent shall be appointed to the Investigative Team. The Investigative Team will declare not to have any conflicts of interest with respect to the complaint that they are adjudicating.
2. The Investigation Team shall verify information received and gather more details as needed. They will decide whom to interview, including the complainant, the respondent, and any appropriate witnesses, provided that both the complainant and the respondent are given a fair opportunity to be interviewed.
3. Interviews shall be conducted in person, by telephone, or via other forms of communication by at least two members of the Investigative Team acting together. Email correspondence shall not be considered "in person" interviewing but may be used to clarify information.
4. Only in exceptional circumstances will the interview not be recorded, and in that case an anonymized summary shall be kept with explicit reasons why the interview was not recorded.
5. The complainant and respondent, as well as any member of CAPS who is a witness, shall co-operate fully in providing information to the Investigative Team.

6. At the beginning of each interview, the Investigative Team shall explain the process of the investigation, the process for recording information (such as notes or recordings) and answer any questions about the investigation process. The Investigative Team will then proceed with the interview.
7. As soon as possible after the Investigative Team has concluded their investigation, they will submit the report of their findings to the Ethics Chair, together with any agreement of the parties as set out immediately above.

Decision by Ethics Committee:

1. After receiving the report of the Investigative Team, the Ethics Committee Chair will, within fifteen days, convene a meeting of the Ethics Committee.
2. The Ethics Committee will review the findings of the Investigative Team and will, within thirty days, render a written decision based on the findings. If the decision of the Ethics Committee is not unanimous, a clear majority will determine the decision. Any dissenting member may, but need not, include a written dissent.
3. The Ethics Committee may, but need not, recommend disciplinary action for any violation raised in the complaint or subsequently discovered, as well as any failure to cooperate with the Ethics Committee.
4. If a written agreement by the parties has been received before the Ethics Committee begins its deliberations, the Ethics Committee shall attach the agreement, and set out in its recommendation whether or not it ratifies the agreement, together with its reasons.
5. In the event that the Ethics Committee in its deliberations believes that an ethics complaint has been made by one member to harass or embarrass another member or to abuse the ethics procedure, or that any member of CAPS, including the complainant or the respondent, did not testify in good faith, the Ethics Committee shall, in its recommendations to the Board, set out any such findings and the reasons for its belief, as well as its recommendations for sanction, which may also include the assumption of costs.
6. The recommendation of the Ethics Committee to the Board is confidential and internal to CAPS and shall not be divulged to any person, in whole or in part, in the absence of a court order or a decision of the Board.

IV. First Determination by the Board

1. Within twenty days of receipt of the written recommendations of the Ethics Committee, the Board shall decide
 - a. to accept the recommendations of the Ethics Committee, which could include sanctions
 - b. to reject the recommendations of the Ethics committee, and proceed to a Hearing Committee of the Board, or
 - c. Take such other step as the Board deems appropriate, including sanctions.
2. The Board shall then, within ten days, in writing notify each person implicated in the Ethics Committee recommendation of its decision.

3. If the complainant, the respondent, or any other implicated person is not satisfied with the decision of the Board, such person has a right to request a hearing, such request to be made in writing to the President of CAPS within ten days of receipt of the notification described above.
4. If no hearing is requested, the Board may dismiss the complaint, or impose such sanctions and take such other steps as have been indicated, and the decision of the Board is final and binding.

IV. Hearing Panel

1. If a hearing is required, or is initiated by the Board, a Hearing Panel of three (not including the President) will be appointed by the President from among the Board of Directors. The President shall act as chair, may participate in deliberations, but may not vote.
2. The Hearing Panel shall set a time and place for the hearing, with 60 days written notice to the complainant, the respondent, and any other implicated person.

If at any time any person fails to appear after having been requested to do so, and without valid reason, the Hearing Panel is at liberty to conclude that any allegation made against them is true and any evidence presented against them is true. In the case of CAPS members, such failure to appear shall be deemed to be in violation of the terms of membership. The Chair of the ethics committee will determine whether a reason is valid, acting reasonably. Example valid reasons include, but are not limited to, being in the midst of travel, presenting to clients, unexpected family emergency, or being treated in hospital.

3. The process of the hearing shall be as practical as possible while in accordance with fundamental justice. Within these parameters, the Hearing Panel shall determine its own procedures.
4. While an in-person hearing may be required, if it is deemed fair and does not prejudice any party, the Hearing Panel, at its discretion, may convene a hearing using appropriate forms of electronic communication, such as, but not limited to video conference calls, provided that all participants are able to see and hear all others.
5. The hearing shall proceed with such adjournments as the President from time to time deems reasonable, but shall in all cases conclude within twelve months from the date of the first hearing.
6. The hearing shall be reliably recorded.
7. The Hearing Panel shall deliberate in private.

Decision of Hearing Panel:

1. The decision shall be by majority vote and shall set out in writing the findings and recommended action, if any. The Hearing Panel's decision shall be sent to the complainant, the respondent, any other implicated person, the Ethics Committee, and a copy maintained in the CAPS archive files.
2. The decision may, but need not, be accompanied by written reasons.

3. Except as to simple publication of a letter of censure in any CAPS media as set out below, and in the absence of a Court Order, the decision and any reasons shall be considered and treated as confidential by all parties.
4. The decision of the Hearing Panel is final.

V. Disciplinary Action

1. Discipline may include a letter of warning (unpublished), letter of censure (published), suspension of membership or other designation or privileges for a specified period of time, expulsion from membership or loss of other designations or privileges. In the event that discipline includes the suspension or removal of a member's designation such as CSP or HoF, a request will be made to the respective bodies overseeing those designations to take appropriate action.
2. If the decision imposes disciplinary action involving censure, suspension or expulsion of membership or other designations or privileges, the disciplinary action, including the name of the member shall be published in the next regularly scheduled form of communication going to all CAPS members. Publication will only take place after the decision has become final. Unless the Board recommends to the contrary based on strong concerns for the reputation of CAPS as an organization, such publication shall not occur until at least forty-five days have passed from the giving of notice of the decision to the affected person.

VI. Other Matters

1. Conflicts of Interest: Any member of the Ethics Committee or of the Hearing Committee shall declare a conflict of interest should a complaint directly affect them personally, or their business, or if a reasonable member of the public would likely perceive this to be the case. Any declaration of a conflict of interest will result in the committee member not being able to participate or vote on the specific matter. Should a complaint be brought against any member of the Ethics Committee (voting or ex-officio) the member shall recuse themselves from all matters of the Ethics Committee until the complaint has been resolved. Should the Chair of the Ethics Committee need to declare a conflict of interest or have a complaint brought against him/her, the President will appoint an Acting Chair from the Committee until such issues are resolved. Other members of the Ethics Committee shall not be considered to be in conflict of interest solely by reason of their having served on the committee alongside the impugned member.
2. Assessment of Costs: Any party to a complaint who intentionally falsifies or knowingly withholds information or unreasonably refuses to cooperate with an ethics investigation or hearing may be assessed all or part of any expenses incurred by CAPS in the investigation.
3. Method of Communication: All written notices, recommendations, decisions and other communication may be made by regular mail or by electronic mail, and not by any other technology such as SMS, Chat messages, or video.
4. Date of Receipt: unless otherwise set out, any document which is to be delivered under these procedures shall be deemed delivered on the third day after being sent, unless an earlier date is conclusively proved.

5. **Waiver of Liability:** Neither CAPS nor any officer, employee or agent of CAPS, nor any member of Board of Directors, Ethics Committee or Hearing Panel, shall be liable for any action taken or not taken in relation to these procedures. It is a condition of obtaining and continuing membership in CAPS that all possible claims or liability arising out of any such action or failure to act shall be deemed waived.
6. **Confidentiality:** Ethics complaints are to be treated as privileged and confidential by all parties involved. Further, all members of the Ethics committee, as well as National Board directors, are required to sign non-disclosure agreements.
7. **Whistleblowers:** All ethics matters shall proceed on the basis that CAPS is committed to protecting members that, in good faith, report concerns related to unethical or illegal activities, actions and behaviours of other CAPS members, and that CAPS will not tolerate reprisals, harassment, discrimination or victimization of persons reporting evidence of an activity that violates our Code of Ethics, Canadian or Provincial laws and regulations, or violation of the laws of another jurisdiction which would, given the same fact situation, be a violation of the laws of Canada or a province.
8. **Attempted renewal of membership:** If any member terminates their membership by resigning or failing to renew membership while the subject of an ethics complaint, investigation or hearing, such termination of membership shall not cause any process to be terminated nor the outcome to be invalidated, provided however that the Ethics Committee may recommend, and the Board may by 60% majority determine, that the process be terminated. In the event of a future application for CAPS membership from the respondent, the Board may re-initiate the disciplinary action previously imposed or re-commence the process that may have.
9. “CAPS” or “National” in this document means the Canadian Association of Professional Speakers, a Not-for-Profit corporation, and “Board”, “President”, or like terms shall mean the Board, President, or other entity of CAPS as the case may be.

Final revision of the Ethics Committee as submitted to the Board 2023/09/29 with revisions submitted on 2023/10/12.

Approved at the Board of Directors meeting held on October 30, 2023