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CAPS Ethics Complaints Procedure

1. Preamble:

The Canadian Association of Professional Speakers (CAPS) is committed to fostering a professional organization built on ethical conduct, respect, and dignity for all members. This includes educating its members about ethical conduct and preventing misconduct. This **Ethics Complaints Procedure** is designed to provide a fair and transparent process for addressing alleged violations of the **CAPS Code of Professional Ethics and the CAPS Anti-Harassment Policy**. CAPS recognizes the sensitive nature of ethical complaints and is committed to maintaining the highest standards of confidentiality throughout the resolution process. All parties involved are expected to uphold the principles of privacy and discretion, ensuring a safe and supportive environment for all members.

2. Overview:

CAPS Code of Professional Ethics and Anti-Harassment Policy 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 Board together with any recommendations. The Ethics Committee is investigative only, not judicial.

In certain circumstances, the CAPS National Board may act immediately or, at its discretion, 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.

3. Definitions:

Board: the National Board of Directors of CAPS, which is the governing body of CAPS.

CAPS: the Canadian Association of Professional Speakers

Complainant: An individual who files an ethics complaint.

Respondent: An individual against whom an ethics complaint is filed.

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Ethics Complaint: A formal allegation of a violation of the CAPS Code of Professional Ethics and Conduct or the CAPS Anti-Harassment Policy.

Harassment: Any unwelcome conduct that demeans, humiliates, or embarrasses a person, and that a reasonable person would consider offensive.

Investigative Team: A designated subcommittee of the Ethics Committee responsible for gathering facts and conducting interviews.

Ethics Committee: The committee responsible for reviewing complaints, conducting investigations, and making recommendations to the Board. In this Procedure, the Ethics Committee may also be called the “Committee”.

4. Initiating a Complaint:

Any individual, whether a member of CAPS or not, who believes that a CAPS member has acted in violation of the CAPS Code of Professional Ethics and Conduct or the Anti-Harassment Policy may initiate a complaint.

Complaints should be made as soon as possible after the alleged violation occurs and in any event no later than **one year from the date of the last incident** of perceived harassment, unless there are circumstances that prevented the member from doing so. The burden of establishing satisfactory reason for the delay rests on the complainant.

Complaints shall be submitted using the official CAPS Ethics Complaint Form, available online at [insert URL] or in physical form from the Executive Director or President. The completed form shall be submitted to the Executive Director. In the absence of an Executive Director, the form shall be submitted to the President. The online complaint form includes an agreement for the complainant to abide by CAPS policies, including maintaining confidentiality. The Executive Director or President, as applicable, will acknowledge receipt of the complaint within **three-business days**.

In the instance where a complaint is filed by a member of the Ethics Committee, such member shall not sit on the investigation team, and shall abstain from any vote on the matter.

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5. Initial Review:

Upon receipt of a complaint, the Ethics Committee Chair will convene the full Ethics Committee within **ten business days**. The full Ethics Committee will conduct an initial review to determine whether the complaint warrants further investigation.

A complaint may be rejected if it is deemed frivolous, malicious, or based on unknown or unsubstantiated allegations. Any such decision to reject shall be noted in the minutes of the Ethics Committee, including reason. The complainant will be notified. Acceptable reasons for rejection include, but are not limited to, failure to identify a provision of the CAPS Code of Professional Ethics and Conduct violated, the fact that too much time has elapsed since the relevant facts were known or could have been known, and that the respondent was not a member of CAPS at the time of the alleged violation.

If the Ethics Committee determines that the complaint does not warrant further action, the Committee shall advise the complainant. If the complainant wishes to appeal the determination, the complainant can request that a Hearing Panel be set up to review the matter. The scope of the Hearing panel in this case would be solely to determine whether the complaint has merit and should be investigated by the Ethics Committee.

However, if the Ethics Committee determines that the complaint warrants further investigation, the respondent will be notified in writing within **ten business days**. The notification will include:

- Details of the allegations made against them, including the names of the complainant or complainants.
- The timeline for the respondent to provide a written response to the allegations.
- A copy of the CAPS Code of Professional Ethics and Conduct and the CAPS Anti-Harassment Policy and the Ethics Complaints Procedure.
- An encouragement to seek independent legal advice if desired.

The respondent is required to prepare a written statement in response to each of the allegations and provide it to the Ethics Committee within **ten business days** of receiving the notification. If the respondent fails to provide such response within the said ten business days, or such reasonable

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extensions as may be allowed by the Chair of the Ethics Committee, they will be deemed to have agreed to the substance of the complaint and will be subject to such actions as CAPS may take.

6. Initial Procedure

If a reply is entered within the time limit, a copy shall be shared with the complainant, the Ethics Committee and CAPS' President, without undue delay.

- From there, the complainant and the respondent shall have **ten business 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 **ten business days** may be extended from time to time on approval of the Ethics Committee, but in no case shall be extended beyond **30 business days**.
- Any agreement reached between complainant and respondent shall be reduced to a written and signed document and submitted within **three business days** to the Ethics Committee.
- Such an agreement must be ratified by the Ethics Committee within **15 business days**. The Ethics Committee may refuse to ratify if they have reason to believe the matter has the potential to be of material concern to CAPS.
- 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 begin its investigation.
- 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 between them and submit a written and signed document to the Ethics Committee for its consideration.
- In the event that multiple complaints are received, the Ethics Committee may, at its absolute discretion, consolidate all such complaints.

7. Investigation Process:

If the Ethics Committee determines that a complaint warrants investigation, the following procedures will be followed:

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- a. **Formation of Investigative Team:** The Ethics Committee Chair will appoint an Investigative Team consisting of at least three members of the Ethics Committee. At least one member of the Investigative Team shall identify as female and at least one shall identify as male. 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.
- b. **Investigative Procedures:** The Investigative Team will conduct a thorough investigation, including interviews with the complainant, respondent, and any relevant witnesses they deem appropriate. Throughout the investigation, evidence, credibility, and sincerity of all parties involved will be carefully and compassionately considered.
 - i. Interviews shall be conducted in person, by virtual meeting platform, 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.
 - ii. 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.
- c. **Witness Interviews:** Witness interviews will be specific and will focus only on the-matters of which the witness has personal knowledge. Witnesses may be asked to submit any documentary evidence.
- d. **Recording of Interviews:** All interviews will be recorded, except where recording is not feasible. In such cases, a detailed written summary of the interview will be prepared, with explicit reasons for the absence of a recording.
- e. **Witness Cooperation:** CAPS members are required to cooperate with the investigation. Failure to cooperate may result in sanctions.
- f. **Simultaneous External Investigations:** If a simultaneous investigation of the same or substantially the same matter is being conducted by an external body (e.g., Human Rights

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Commission, police), the CAPS investigation will be suspended until the external investigation is complete.

- g. **Investigation Continuation After Withdrawal of Complaint:** In cases involving harassment or sexual harassment, the Ethics Committee may continue the investigation even if the complainant withdraws the complaint, if it is deemed to be in the best interest of the organization.
- h. **Investigation Timeline:** The investigation, if any, shall be completed within **twenty business days**. The Ethics Committee may extend such time, in which case it shall provide all parties with written reasons.
- i. **Investigative Team Report:** Upon completion of the investigation, the Investigative Team will submit a comprehensive report of its findings to the Ethics Committee.

8. Mediation and Early Resolution:

- a. **Optional Mediation Process:** Mediation may be initiated by either the complainant or the respondent provided that the other party agrees to use the mediation process and its terms. Mediation can be initiated at any time before the matter goes before the Board for its decision. The cost of the mediator will be paid by the parties in such proportions as they agree. Mediation offers the possibility of the parties resolving the issue themselves. The role of the mediator is to be neutral and to assist the parties to come to an agreement.
- b. **Party Representation:** Each party to the complaint has the right to be accompanied and assisted during mediation sessions by a person of their choosing.
- c. **Mediator Selection:** Mediators will be selected by mutual agreement of the parties or from a list of approved mediators provided by the Ethics Committee. If the parties cannot agree, the Ethics Committee will appoint a mediator. If either party refuses the appointed mediator, the mediation will be deemed terminated with no conclusion.

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- d. **Mediation Timelines and Failure:** The mediation shall be completed within **twenty business days** of the agreement to mediate unless such period is extended with permission of the Ethics Committee Chair. If it is not completed within that period, the mediation shall be presumed to have failed. The mediator will advise the Ethics Committee of the reasons for failure.
- e. **Ratification of Mediated Agreements:** Any mediated agreement must be documented in writing, signed by the parties and the mediator and submitted to the Ethics Committee for ratification. The Ethics Committee may refuse to ratify an agreement if it is deemed to be contrary to the interests of CAPS.

9. Ethics Committee Decision:

Upon receiving the Investigative Team's report, or satisfactory completion of mediation, or both if that is the case, the Ethics Committee shall:

- a. **Call a Meeting:** After receiving the report of the Investigative Team, the Ethics Committee Chair will, within **fifteen business days**, convene a meeting of the Ethics Committee.
- b. **Review of Investigative Team's Report:** The Ethics Committee shall thoroughly review the Investigative Team's relevant evidence, documentation, findings, and preliminary recommendations.
- c. **Decision-Making Process:** Deliberate and make a decision within ten business days based on the evidence and the organization's ethical standards. 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.
- d. **Recommendations to the National Board:** Within **ten business days**, prepare a written report summarizing the findings, the decision, and any recommendations for sanctions to the National Board.

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The Ethics Committee may, but need not, make recommendations including disciplinary action for any violation raised in the complaint or subsequently discovered, as well as any failure to cooperate with the Ethics Committee.

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 or a fine.

The recommendations of the Ethics Committee to the Board are 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. The report will include:

- i. a description of the allegations;
- ii. the response of the person the complaint was made against;
- iii. if mediation was chosen and if a satisfactory agreement was reached or if the mediation failed;
- iv. 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;
- v. a summary of the evidence gathered;
- vi. if the conduct or actions are on a balance of probabilities contrary to the ideals, objectives, and accepted standards of the Canadian Association of Professional Speakers as set out in the CAPS Code of Professional Ethics and Conduct and the Anti-Harassment Policy of the organization; and
- vii. any recommendations.

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10. National Board Decision:

The CAPS National Board will convene a special board meeting within twenty business days of receipt of the written report of the Ethics Committee and will:

- a. **Review Ethics Committee Report:** Thoroughly review the Ethics Committee's findings and recommendations.
- b. **Final Decision and Sanctions:** Make a final decision on the Ethics Committee's findings and recommendations. Any negotiated agreements, including any by way of mediation, between the parties must be ratified by the Board, and the Board's final decision may include changes to that negotiated agreement.
- c. **Notification of Parties:** The CAPS Executive Director will notify the complainant and respondent in writing within **ten business days** of the Board's decision, along with any sanctions.

11. Confidentiality and Disclosure:

The highest standards of confidentiality are to be maintained throughout the ethics complaint process.

- a. **Confidentiality Principles:**
 - i. All ethics complaints, including harassment complaints, are to be treated as privileged and highly confidential.
 - ii. All parties involved shall respect the privacy and confidentiality of others.
 - iii. Discussion of complaints shall be limited to those directly involved in the resolution process.
- b. **Access to Information:**

Access to complaint information will be restricted to:

 - i. The complainant and respondent

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- ii. Members of the Investigative Team
- iii. Members of the Ethics Committee
- iv. The Executive Director/President
- v. Members of the Board (as necessary)
- vi. Any mediator involved
- vii. Legal counsel as needed

c. Information Protection:

- i. All complaint-related documents and records will be stored securely.
- ii. Electronic records will be password-protected and encrypted.
- iii. Physical records will be kept in locked cabinets.
- iv. After the conclusion of the matter, all Board members and Ethics Committee members shall immediately destroy all paper and electronic records pertaining to the matter.

d. Non-Disclosure Agreements (NDAs):

A purpose of signing an NDA is to protect the integrity of the Ethics investigative process, reduce any inadvertent disclosures, and the potential for a defamation lawsuit or other legal action.

- i. All members of the Ethics Committee and Board of Directors will sign non-disclosure agreements before any complaint procedure commences.
- ii. By virtue of submitting the complaint, the complainant will have agreed that all matters in the proceedings and outcomes are confidential, except as varied by the Board.
- iii. The respondent must sign the non-disclosure agreement
- iv. Any CAPS member who is a witness must also sign the non-disclosure agreement.
- v. The requirement for the respondent, complainant, or witnesses to sign a non-disclosure agreement can be waived by the Ethics Committee.

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e. **Breach of Confidentiality:**

- i. **Duty of confidentiality** refers to the obligation of an individual or organization to safeguard entrusted information. Breaches of confidentiality will be considered a serious violation of the CAPS Code of Professional Ethics and Conduct.
- ii. All matters regarding the specific complaint, investigation, and outcome are strictly confidential, except to the specific extent of any ratified disclosure agreement to the contrary.
- iii. Examples of breaches may include disclosing either directly or indirectly protected information, names, descriptions of events and people, agreements (where there is a confidentiality clause), any investigation details, etc.
- iv. **Breaches of confidentiality** include direct communication of the matters, as well as indirect references, whether they be on social media, in person, or any other format.
- v. If a breach occurs, it is the duty of the breaching parties to mitigate the impact in a timely manner to reduce the impact of said breach. This provision shall not limit the rights of an aggrieved party to seek civil remedy, criminal charges, or to proceed under the CAPS Code of Professional Ethics and Conduct or Anti-Harassment Policy.
- vi. Consequences may include sanction.

f. **Whistleblower Protection:**

- i. Retaliation against whistleblowers will not be tolerated and as such shall be considered a breach of the CAPS Code of Professional Ethics and Conduct.

g. **Legal Considerations:**

- i. The ethics process will be considered privileged information to the fullest extent allowed by law.
- ii. Legal counsel will be consulted on confidentiality matters as needed.

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h. Disclosure of Outcomes:

- i. The Canadian Association of Professional Speakers will share through the annual report of the Board of Directors an aggregated summary each year on incidents of harassment and ethics violations.
- ii. Individual complaint outcomes will remain confidential except when the Board deems it necessary to publicize the matter or any part thereof.

12. Sanctions:

If the National Board determines that a violation of the CAPS Code of Professional Ethics and Conduct or the Anti-Harassment Policy has occurred, the following sanctions may be applied, including, but not limited to:

- a. An oral or written apology.
- b. A letter of warning (unpublished), letter of censure (published), possibly with guidance for how to avoid future reprimands.
- c. Suspension/barring attendance or participation at future CAPS events, committees, and/or working groups.
- d. A fine, which must be paid prior to membership renewal.
- e. The revocation of previous listings, images, awards of merit within CAPS. In the event that discipline includes the removal of a member's designation or awards such as CSP (Certified Speaking Professional), HoF (Hall of Fame), Warren Evans Spirit of CAPS award, the Peter Legge Philanthropic award, Presidents award, and a request will be made to the respective bodies overseeing those designations to take appropriate action.
- f. A suspension from membership in CAPS for a particular period of time.
- g. Expulsion and permanent barring from membership in CAPS.
- h. Any other sanctions deemed necessary.

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Retaliation against a complainant, respondent, witness, Ethics Committee member, Board member, or any other person involved in an investigation is a serious violation of the CAPS Code of Professional Ethics and Conduct and will be subject to disciplinary action.

13. Appeal:

If either the complainant or the respondent is not satisfied with the National Board's decision, they may file a written appeal with the National Board within **ten business days** of receiving the decision. The appeal must state the specific grounds for appeal, which can include procedural errors or highly relevant new evidence which was not previously available with reasonable effort.

The Hearing Panel will review all evidence, and provide a recommendation to the Board.

The Board will then make the final decision in its absolute discretion. Possible outcomes of the appeal include upholding the original decision, modifying the recommendations, or ordering a new investigation.

Hearing Panel

- If a Hearing Panel is initiated, a 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.
- The Hearing Panel shall set a time and place for the hearing. The complainant, the respondent, and any other implicated person, will be given **30 calendar days** notice.
- If the Respondent or the Complainant wish to provide additional evidence or material, it must be submitted not later than **15 calendar days** prior to the hearing.
- If at any time any person fails to appear after having been requested to do so, and without valid reason, the Hearing Panel will consider only material which has been previously submitted, including the Ethics Committee report and Board resolution.
- In the case of CAPS members, such failure to appear may be deemed to be in violation of the CAPS Code of Professional Ethics and Conduct. The Chair of the Ethics Committee will determine

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whether a reason is valid. Example reasons may include, but are not limited to, being in the midst of travel, concurrent professional engagement, unexpected family emergency, or being treated in hospital.

- f. The Hearing Panel shall determine its own procedures in accordance with fundamental justice.
- g. A hearing can take place in person, or held remotely, at the discretion of the Hearing Panel, provided that all participants are able to see and hear all others.
- h. 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.
- i. The hearing shall be reliably recorded.
- j. The Hearing Panel shall deliberate in private.
- k. The Hearing Panel may assess costs against any party.

Decision of Hearing Panel:

- a. 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.
- b. The decision may, but need not, be accompanied by written reasons.
- c. 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.
- d. The decision of the Hearing Panel is final.

14. Additional Matters:

- a. **Conflicts of Interest:** Any member of the Ethics Committee or National Board who has a conflict of interest must recuse themselves from the complaint process.
- b. **Assessment of Costs:** A fine or costs can be imposed by the Board on any party or witness who behaves unreasonably or maliciously, at any stage of the Ethics Complaint process, for example,

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intentionally has falsified information or refuses to cooperate. Any fine or costs must be paid prior to membership renewal.

- c. **Method of Communication:** All written notices will be sent via email or registered mail.
- d. **Date of Receipt:** Notices are deemed received **three (3) business days** after mailing or upon email delivery.
- e. **Waiver of Liability:** CAPS and its representatives are not liable for actions taken in good faith under the CAPS Code of Professional Ethics and Conduct and this Ethics Complaints Procedure.
- f. **Attempted Renewal of Membership:** Membership termination during an ethics process does not halt the process.
- g. **Jurisdictional Clauses:** The applicable law shall be the law of Canada and of the province most closely connected with the matter of the complaint, such determination to be made by the Ethics Committee in its absolute discretion.