



## Ethics Complaints Procedures

### I. The Ethics Committee

**Duties:** Investigate complaints of violations of CAPS Code of Professional Ethics. Keep President fully informed of activities.

**Composition & Term:** Five individuals (not currently serving on the Board of Directors) appointed by the President with consent of the Board of Directors. Appointees to serve one three-year term at their own expense. Chair of Ethics Committee to be elected annually by the five committee members. 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:** Ethics Committee meets at the call of the chair as necessary. Quorum requires three of five members. Chair votes only to eliminate a tie.

### II. Initiating A Complaint

**Who May File:** Any person, member of CAPS or not, who has reason to believe that an association member has acted in violation of the Code of Professional Ethics. Ethics committee may initiate a complaint based on alleged violations brought to its attention if allegations are considered to have the potential to cause serious harm to the profession.

**How To File:** Complete an Ethics Complaint Form as provided by CAPS National Office in writing. Form to be forwarded to the Executive Director of the association who will send it to the Chair of the Ethics Committee.

### III. Investigation & Hearing Procedures

**Initial Procedure:** The Ethics Committee reviews the complaint to determine if it is worthy of consideration. If not, complaint is dismissed and complainant is notified. Decision to dismiss at this stage is final.

Acceptable reasons for dismissal include: failure to identify a provision of code violated; more than three years has elapsed since facts were known or could have been known; respondent is not currently a CAPS national member.

If worthy of consideration, the Ethics Committee sends a copy of the complaint to the respondent within 30 days of receipt of complaint. Respondent is invited to file a written reply. If no reply is received within the time specified (typically 30 days, although extensions may be allowed by the chair), complaints are taken as true by default.

Copy of respondent's reply is shared with complainant, Ethics Committee and CAPS President. At this time (and at all times) the complainant and the respondent may reach an agreement, since both sides have put forward their sides of the issue. If an agreement is not reached or the complainant does not withdraw the complaint, the Ethics Committee will begin an investigation into the complaint.

However, if the Ethics Committee deems the violation to have the potential to be of concern to other members of CAPS, they may continue to investigate and sanction regardless of any agreement between the respondent and the complainant.

**Decision by Ethics Committee:** The Ethics Committee Chair will appoint three members of the Ethics Committee to investigate the complaint (including the Chair if appropriate). A person too close to either the complainant or the respondent shall not be appointed to the investigation.

This investigation team will decide whom to interview, including the complainant, the respondent and any appropriate witnesses. The purpose of an interview is to verify information received and to gather more details as needed.

All interviews shall be conducted, in person, on the phone, or via other forms of communication by at least two members of the investigation team. Email correspondence shall be limited to clarifying information only, as they may not be as reliable as communication in real time.

The complainant and respondent, as well as any member of CAPS who is a witness, is expected to co-operate fully in providing information, when interviewing or corresponding with the investigation team.

At the beginning of each interview, the investigation team shall explain the process of the investigation, the process for recording information (notes or audio recording), and answer any questions about the investigation process.

Once the investigation team has concluded their investigation, they will submit the report of their findings to the Ethics Chair.

**Decision by Ethics Committee:** The Ethics Chair will convene a meeting of all the Ethics Committee, or the required quorum if it is impractical for all members to meet at the same time, within a reasonable time frame.

The Ethics Committee will review the findings of the investigation team and will render a decision based on the findings of fact. If the decision is not unanimous, a clear majority will determine the decision of the Ethics Committee.

Complaint that has reached this stage can be withdrawn by complainant if a written reason for withdrawal is received before the committee reaches a decision or if the committee gives its consent.

Ethics Committee will set out in writing the finding of facts and recommended action, if any. This information is shared with both parties along with notification of deadline for filing a request for a hearing.

If neither party requests a hearing within 30 days of receiving the decision of the Ethics Committee, decision of Ethics Committee becomes final. Disciplinary action to be taken after the appeal period has passed.

If a respondent terminates his/her membership, by resigning or failing to renew membership, while the subject of an ethics complaint, investigation or hearing, the process may not cause any process to be terminated nor the outcome to be invalidated. A future application for CAPS membership from the respondent shall initiate the disciplinary action previously imposed or re-commence the process that may have been unfinished. The

CAPS Board will consider a re-application in light if previous behaviour was found to be an ethics violation. This clause will also apply to a complainant or witness who has been found in violation of the Code.

**Requests For Hearing (Appeal):** If either party is dissatisfied with decision of Ethics Committee, he or she can ask for a hearing. The President shall appoint a hearing panel consisting of three members of the Board of Directors. The President (or a fourth Board appointee) shall chair the hearing panel and shall be without a vote.

Hearing panel sets a time and place for hearing with 60 days written notice to complainant and respondent. The complainant and the respondent are expected to appear at the hearing if requested by the hearing panel. Practical considerations will be given to the process of the hearing. While a hearing may be required where all parties must appear in person, 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 audio or video conference calls.

Refusal to attend is not grounds for rescheduling a hearing. The hearing panel shall conduct a hearing even though a party(s) is(are) not present, unless at the discretion of the hearing panel they determine that a party has a legitimate reason for not being present (unavoidable circumstances).

The hearing panel shall consider documentation and testimony from the Ethics Committee investigation and additional testimony from the complainant and/or respondent. The hearing panel shall determine the procedures to be followed

**Decision of Hearing Panel:** Decision shall be by majority vote and set in writing the findings and disciplinary action, if any. The hearing panel's decision will be sent to the complainant and respondent, the Ethics Committee, and a copy maintained in the CAPS archive files. The decision of the hearing panel is final.

#### **IV. Hearing Panel**

**Composition:** If a hearing is required, a hearing panel of three will be appointed by the President from among the Board of Directors. President (without vote) to chair panel.

#### **V. Disciplinary Action**

**Power:** Where this policy permits, the Ethics Committee may impose or recommend disciplinary action for violation of any article of Code of Professional Ethics, failure to cooperate with ethics committee or hearing panel, or in the case of a guilty finding or liability by a legal proceeding that shows a failure to abide by the Code.

**Type of Discipline:** May consist of one or more of the following: 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. If discipline is to suspend or remove a member's CSP or HoF designation, a request will be made to the respective bodies overseeing those designations to take appropriate action.

***Ethics Committee may issue:*** Letters of warning, and letters of censure.

***Ethics Committee may recommend to the CAPS Board of Directors:*** Suspension of membership, designation or privileges, expulsion of membership or loss of designations or privileges.

**Publication of discipline:** If the decision imposes disciplinary action involving censure, suspensions 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 CAPS complaint or hearing time lines have been exhausted.

**Assessment of Costs:** Any party to a complaint who intentionally falsifies or withholds information or refuses to cooperate with an ethics investigation may be assessed all or part of any expenses occurred by the association in the investigation.

## **VI. Other Matters**

**Waiver of Liability:** Neither the Association 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 regulations. All possible claims or liability arising out of any such action or failure to act shall be deemed waived by all applicants and members of the Association, as a condition of obtaining and continuing membership.

**Confidentiality:** Ethics complaints are to be considered privileged and confidential by all parties involved.

**Whistleblowers:** CAPS is committed to protecting our members that, in good faith, report concerns related to unethical or illegal activities, actions and behaviours of other CAPS members. CAPS will not tolerate reprisals, harassment, discrimination or victimization of the person(s) reporting evidence of an activity that violates our Code of Ethics, Canadian or Provincial laws and regulations.

**Sanctions for Abusing Complaint Procedures:** Any member who files an ethics complaint to harass another member or abuse the ethics procedures will be subject to disciplinary sanctions at the discretion of the Ethics Committee.

**Ethics Committee Member Conflicts of Interest:** Any member of the Ethics Committee should declare a conflict of interest should a complaint directly affect them personally, or their business. 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.

Approved: February 25, 2014  
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