

NAHRO CODE OF PROFESSIONAL CONDUCT
RULES OF PROCEDURE
July 2002, as amended July 2003

ARTICLE I. GENERAL

- Section 1. **Responsibility for Implementation:** The Board of Ethics and Credentialing Trustees (BECT) shall have the authority and responsibility to implement the NAHRO Code of Professional Conduct (CPC) in accordance with these Rules. Such action shall include review of all relevant information and testimony and preparation of final decisions on matters pertaining to the enforcement of CPC, including, but not limited to, sanctions for the violation thereof.
- Section 2. **Coverage:** All individual associates and allied individual members of NAHRO, and all persons who hold a credential or are otherwise formally certified under a NAHRO education, training or examination program, agree to abide by the CPC and are subject to these Rules with respect to its enforcement.
- Section 3. **Purpose:** These Rules govern the procedures for enforcing the CPC as adopted by the NAHRO Board of Governors and provide a reasonable process for investigating and determining whether a violation of the CPC has occurred, giving a full and fair opportunity to the party or parties accused (respondent(s)) to be heard throughout the process.
- Inasmuch as a protracted disciplinary process is not in the best interest either of NAHRO or respondents who are subject to a disciplinary process, these Rules are to be carried out carefully but expeditiously in order to minimize the time during which disciplinary actions are pending, consistent with thoroughness and fairness. Accordingly, time limits stated in these Rules are binding, subject to extensions that may be granted by the Board of Ethics and Credentialing Trustees (BECT), or the NAHRO Executive Director, for reasonable cause, upon request. Notwithstanding the foregoing, extensions for taking any action later than the time allowed for such action under these rules will generally not be granted if such action will have the anticipated effect of extending the BECT's proceedings to conclude any case beyond 18 months after the filing of the complaint therein.
- Section 4. **Jurisdiction:** All members of NAHRO or holders of NAHRO credentials are subject to the CPC and are subject to sanctions for any violations thereof. A member or credential holder may be subject to sanctions for a violation that originated prior to membership or receipt of a credential.

The BECT shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation resigns from NAHRO,

allows the membership to lapse or voluntarily gives up the credential. In no event shall there be a reinstatement of any type if there is an outstanding and unresolved complaint.

Section 5. **Conflict of Interest:** No member of the BECT may participate in any proceeding on a complaint brought under these Rules if such member is or may be a witness or complainant in that case or if his or her participation would otherwise create, or appear to create, a conflict of interest. The Chair of the BECT may select a replacement for any person who is unable to participate in a case for this reason.

Section 6. **Confidentiality.** All participants in investigations or proceedings under these Rules shall maintain all information acquired in connection with such activities in strict confidence and shall not disclose any such information, including the existence of any investigation or proceedings, to any unauthorized person. All members of the BECT shall have executed a confidentiality oath in form approved by the BECT before participating in any investigation or proceedings under these Rules. Unauthorized disclosure of information required to be held in confidence under this Section, including disclosure by a respondent to persons other than the respondent's duly authorized representatives in proceedings under these Rules, shall be considered to be a violation of the CPC.

Section 7. **Teleconferences:** Any time a meeting is mentioned in these Rules, the meeting may take place by teleconference if any respondent who has a right to be present and a majority of the BECT members who may participate in such meeting so agree.

Section 8. **Role of the Executive Director:** The NAHRO Executive Director shall assist the BECT in enforcing the CPC and implementing these Rules. In this regard, the Executive Director shall keep the Chair of the BECT fully informed concerning all complaints, including those for which no recommendation for action are made. In addition, it is the responsibility of the Executive Director to inform the membership and the general public about the existence and importance of the CPC.

Section 9. **Time Limits.** Whenever these Rules specify that a notice must be given or an action taken within a period specified in these Rules, if the last day of such period falls on a Saturday, a Sunday, or a legal holiday officially recognized by the federal government, then the period shall be extended to the next business day.

ARTICLE II. DEFINITIONS

Section 1. **Definitions:** For purposes of applying these Rules, the following definitions shall be applicable:

Delivery by “registered mail” means any form of delivery, including delivery by messenger service, in which a signature is required to indicate receipt, so as to enable verification of delivery to the addressee.

“Proceedings” means any action concerning a complaint by the NAHRO Executive Director and any meeting, including any teleconference, investigation, hearing, or other action taken by the BECT or any subcommittee thereof, in connection with evaluating, investigating, or considering a complaint alleging violation of the CPC or any other matter concerning which the BECT may impose sanctions under these Rules.

“Violation” means any act, omission, or circumstance that constitutes a material violation of NAHRO’s CPC or any act, omission, or circumstance that would constitute cause for disbarment, suspension or Limited Denial of Participation under 24 CFR Part 24.

ARTICLE III. SANCTIONS

- Section 1. **Guidelines:** In determining the sanction to be imposed, the following factors may be considered: the nature of the violation, prior violations, the willfulness of the violation, the level of professional or public responsibility and any other factors, including a pattern or practice of violation, that bear upon the seriousness of the violation. In considering sanctions, the BECT may take into account such mitigating factors as it may in its discretion deem appropriate in each case.
- Section 2. **Authorized Actions:** The following actions relating to sanctions may be imposed singly or, where appropriate, in combination, as provided in these Rules:
- A. **Dismissal.** The BECT determines that no violation of the CPC or other ground for which sanctions may be imposed under these Rules has occurred, and the complaint is dismissed, with appropriate notifications to the complainant and the respondent.
 - B. **Notice of Disposition Without Sanctions.** A letter is sent to the respondent which provides notification that a complaint has been received about behavior in a specific situation, and that the BECT has determined that if the facts alleged in the complaint were investigated and proved to be true, they would constitute violation of a specified provision or provisions of the CPC. However, because the matter involves the first complaint against the respondent and the matters alleged are *de minimis* or merely technical in character, the BECT has decided not to investigate or assign guilt, but merely notify the person of complaint and the disposition without the imposition of sanction.

- C. Private Letter of Reprimand. A letter is sent to the respondent which provides notification that the respondent has violated a specified provision or provisions of the CPC, that NAHRO disapproves of such conduct, and that if such conduct is repeated in the future, it may be cause for more serious sanctions.
- D. Censure. A letter to the respondent, Regional Council President and the complainant indicating that the respondent has been found to have violated the CPC, that NAHRO disapproves of such conduct and that, if it is repeated in the future, it may be cause for more serious sanctions. If the complainant is a non-member, he or she shall be notified that the case was considered and resolved and that no public action was taken.
- E. Suspension. A temporary revocation of membership privileges or the right to utilize, claim, or display the relevant credential. A credential may be suspended because of violations of the CPC that are not directly related to the holder's use of the credential.
- F. Revocation. A permanent revocation of a respondent's credential. A credential may be revoked because of violations of the CPC that are not directly related to the holder's use of the credential.
- G. Expulsion. A permanent revocation of the respondent's NAHRO membership privileges.

Section 3. **Reinstatement:** In cases involving the expulsion or revocation, the BECT may in its discretion elect to provide that the respondent may apply for reinstatement upon specified conditions or following a specified period of time, or both.

ARTICLE IV. COMMENCEMENT OF PROCEEDINGS

Section 1. **Complaint or Other Process:** Proceedings under these Rules may be initiated by the filing of a complaint or when the NAHRO Executive Director or the Chair of the BECT receives other written information which authorizes the BECT to act without a complaint as provided in these rules.

Section 2. **Registration of Complaint:** A complaint may be registered by any person through submission of a complaint to the NAHRO Executive Director alleging that a violation of the CPC has occurred and describing the factual basis for the violation. A complaint involving conduct on the part of the NAHRO Executive Director may be filed with the Chair of the BECT. The NAHRO Executive Director may also originate a complaint by filing the same with the Chair of the BECT. All complaints must be in writing and signed by the complainant, who must certify under oath that

the facts alleged therein are, to the best knowledge of the complainant, true and correct.

Upon receiving a written complaint, the Executive Director must notify the Chair of the BECT that a complaint has been received and must ascertain whether the statements are sufficiently clear and complete to initiate proceedings and, if so, whether the documentation alleges conduct that may be in violation of the CPC. If the Executive Director concludes that the complaint is not sufficiently clear or complete to initiate proceedings, he or she shall seek further clarification from the complainant or other source before taking any further action. If the Executive Director cannot determine whether the alleged conduct, if proven, might have violated the CPC, he or she shall refer the question to the Chair of the BECT for a ruling. No further action shall be taken in respect to the complaint or information unless the Chair of the BECT rules that the alleged conduct, if true, may constitute a violation of the CPC.

In any complaint against the Chair of the BECT, the Executive Director shall designate another member of the BECT to act for the Chair with respect to such complaint.

Section 3. **Initiation of Proceedings:** If the Executive Director concludes that the complaint is sufficiently clear and complete to initiate proceedings and may if proven indicate a violation of the CPC, a copy of the complaint or information shall be forwarded by registered mail to the respondent named in the complaint or information. The respondent shall be informed at that time which provision or provisions of the CPC the respondent is alleged to have violated. The Executive Director may also request that the respondent answer specific questions pertaining to the alleged violations.

Section 4. **Time for Response:** The respondent shall be given thirty (30) days within which to respond in writing to the complaint or information, provide further documentation or material considered relevant to the allegations, and answer any specific questions raised by the Executive Director.

Within ten (10) days of receipt of the respondent's response, but in no event more than forty (40) days after written notice of the alleged violation has been given to the respondent, the Executive Director shall refer the case to the BECT for proceedings in accordance with these Rules.

A letter will be sent to the complainant providing notification that the complaint has been forwarded to the BECT for action. A copy of the CPC and Rules will accompany the letter. The complainant will be reminded that all of these activities are to proceed in confidence, that violating that confidence is a breach of the CPC and that no further information will be provided on the matter except in accordance with these Rules.

ARTICLE V. INVESTIGATIONS AND DETERMINATIONS OF PROBABLE CAUSE

- Section 1. **Initiation of Investigation:** Upon receiving referral by the Executive Director of a complaint concerning an alleged violation of the CPC, the BECT shall commence an investigation into the allegations. However, the BECT may elect not to investigate in any case where the BECT finds that the complaint is insufficient on its face or the respondent: (1) admits to the violation in the initial response, (2) has already entered a plea of guilty or nolo contendere, or was found guilty and has exhausted all appeals, in a criminal case involving the same conduct, (3) is already included on the HUD or other federal government list of persons who are debarred, suspended or subject to Limited Denials of Participation, (4) does not contest the written complaint or (5) has not previously been the subject of a complaint alleging violation of the CPC and the BECT determines to issue a Notice of Disposition Without Sanctions.
- Section 2. **Structure for Investigating and Evaluating Complaint:** Upon receipt of a complaint which has been determined by the Executive Director to be sufficiently clear and complete to initiate proceedings, an Ethics Hearing Subcommittee (EHS) of the BECT will be designated.
- Section 3. **Appointment of Ethics Hearing Subcommittee:** In each case other than those in which an investigation is not required, an EHS shall be established for such case within fifteen (15) working days of the request made by the Executive Director as follows: the Chair of the BECT shall appoint three members from the regionally appointed members of the BECT, two of whom are from the region in which the respondent is located, if feasible, and the NAHRO President shall appoint two members from the At-Large and Presidential Appointments. The members of an EHS will continue to serve until the case report and recommendation is prepared and presented to the BECT for action.
- Section 4 **Responsibilities:** The EHS will be responsible for reviewing the facts of the individual case and making a recommendation on action to the BECT functioning as a Committee of the Whole. The EHS shall establish a date certain for a meeting which will occur no later than thirty (30) days after establishment of the EHS to afford the respondent an opportunity to meet with the committee in person and may, at its discretion, afford such an opportunity to the complainant as well. The respondent may appear at such meeting personally and may be accompanied by a representative, or alternatively, the respondent may appear solely through a representative. (If all participants and the respondent agree, the meeting may take place by teleconference)

The EHS may but shall not be obligated to make audio recordings of its meetings, and, with the consent of the other parties involved, may make

audio recordings of interviews of the respondent, complainant and witnesses. The EHS shall prepare and maintain minutes of all meetings , prepare summaries of all interviews, and may request persons interviewed to sign statements prepared on the basis of the interview summaries. The respondent shall be entitled to review such interview summaries and statements and any other documentation and evidence gathered in the course of the investigation and shall be afforded the opportunity to respond in writing thereto. A respondent shall not have a right to receive audio recordings or minutes of any meeting or teleconference of an EHS at which the respondent has not participated, or of any portion of such a meeting or teleconference that is held in executive session.

The EHS shall take reasonable steps to ascertain the facts relevant to the case, including, but not limited to, interviews with witnesses, review of the respondent's submissions and examination of all published material judged to be relevant and reliable.

Within sixty (60) days of the appointment of the EHS, the investigation shall be concluded and the EHS shall deliver a written report of the findings and recommendations of the EHS to the BECT and the Executive Director. Findings contained in the report must be supported by evidence determined by the EHS to be reliable and relevant, which has been made available to the respondent for review.

The EHS shall have the burden of establishing the facts and justifying its recommendations concerning any proposed sanctions.

The presence in person or by teleconference of four members of the EHS shall be necessary to constitute a quorum. The approval of at least three members of the EHS shall be necessary in order to take any action.

- Section 5. **Recommendation to the BECT:** If the EHS determines that the evidence demonstrates probable cause that a violation of the CPC has occurred, it shall so inform the BECT along with a recommendation on the appropriate sanction(s). If not, the EHS shall recommend to the BECT that the case be dismissed. Such recommendation shall be made to the BECT within ten (10) working days of the date of the EHS determination.

ARTICLE VI. DECISIONS BY BECT

- Section 1. **Proposed Action by BECT.** Within fifteen (15) working days of receipt of the recommendation from the EHS in each case, the BECT shall hold face-to-face meeting or teleconference to consider final disposition of the matter. A majority of the seated members of the BECT must participate in such meeting or teleconference including at least four of the five members of the EHS. If the BECT adopts the recommendation of the EHS, the BECT will direct the Executive Director to notify the respondent of the

BECT's proposed action. The BECT may, prior to any hearing of the matter or consideration of further response from the respondent, propose to impose less severe, but not more severe, sanctions than those recommended by the EHS.

- Section 3. **Uncontested Cases:** The respondent shall have 15 working days after notice of the BECT's proposed action within which either to contest the proposed action in writing or to request a hearing in writing. In the event the respondent submits no written contest of the proposed action and does not request a hearing, the BECT may promptly adopt the proposed findings and sanction(s) as final or may impose less severe sanctions than those recommended by the EHS. The BECT shall immediately inform the NAHRO President and the Executive Director concerning the final action taken.
- Section 4. **Contested Cases.** If the respondent elects to submit a written contest of proposed action without requesting a hearing, the proposed action of BECT shall be final unless the submission of the respondent contesting the proposed action shows that the findings of fact are erroneous or that the proposed sanction(s) should not be imposed in light of mitigating factors which were not considered by the EHS. The BECT may either adopt, or amend and adopt as revised, the findings and/or sanction(s) of the EHS as it deems appropriate. The BECT shall promptly notify the NAHRO President and the Executive Director of its decision. If the respondent timely requests a hearing, the BECT shall schedule and conduct a hearing on the matter in accordance with Article VII of these Rules. No sanction (s) shall be imposed before the hearing is concluded.
- Section 5. **Alternative Action:** Notwithstanding any other provision of these Rules, any case may be resolved without a hearing or other contest through settlement negotiated with the respondent by the Chair of the BECT and approved by the BECT.

ARTICLE VII. HEARINGS

- Section 1. **General:** These procedures shall govern all hearings conducted pursuant these Rules.
- Section 2. **Process:** Within ten (10) working days of receiving a request for a hearing, the Executive Director shall notify the respondent, at his/her last and usual address, by registered mail that a hearing has been scheduled before the BECT. The hearing date shall be at least thirty (30) days after the date the notice is postmarked or delivered to a messenger service for delivery, as the case may be. The notice shall also state that the respondent has the following rights:

1. To appear personally at the hearing;
2. To be accompanied and represented at the hearing by an attorney or other representatives;
3. To review all documentary evidence, if any, against him or her, in advance of the hearing;
4. To cross-examine any witness who testifies against him or her at the hearing; and
5. To submit documentary evidence, and to present testimony, including the respondent's, in his or her defense at the hearing.

Section 3. **Procedures:** At any hearing of the BECT conducted under these Rules, representatives of the EHS shall first present evidence in support of its recommended decision. Upon conclusion of the EHS's presentation, the respondent shall have the opportunity to present evidence in his or her defense, including any mitigating evidence. The respondent shall have the burden of establishing that the findings of the EHS are erroneous and/or that the sanction recommended by the EHS is inappropriate. The Chair shall resolve any dispute concerning the relevancy of evidence.

The BECT shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability as determined by the BECT.

The report from the EHS shall be considered as evidence in the hearing.

The BECT may not hear evidence of any alleged violation of the CPC by the respondent that was not the subject of the initial complaint and investigation.

Within fifteen (15) working days of the conclusion of the hearing, the BECT shall render a decision in the case. The decision of the BECT shall be in writing and include a statement of the reasons for therefor. Only evidence which was put before the BECT may be considered in reaching the decision.

ARTICLE VIII FINAL ACTIONS

Section 1. **Options for Decision.** The BECT may, following its consideration of a matter decide either to:

- A. Dismiss the case;
- B. Dispose of the case without sanction;
- C. Adopt the findings and sanction(s) as previously recommended; or

D. Revise, and adopt as revised, the findings and/or sanction(s) previously recommended. However, the BECT may not increase the sanction(s) recommended by the EHS unless new evidence, not previously available to the BECT, is disclosed at a hearing, which indicates that the respondent's violation was more serious than previously known to the EHS. No sanction may be imposed for any violation of which the respondent had no prior notice.

Section 2. **Notification by BECT:** In each case, the BECT shall, within five (5) working days after such decision is taken, deliver written notice of the BECT's final decision to the NAHRO President and Executive Director.

Section 3. **Notification to Respondent:** Upon receipt of notice from the BECT, the Executive Director shall deliver further notice of the BECT's final action as follows:

Dismissal. Upon receiving notice from the BECT that the matter has been dismissed, the Executive Director shall inform both the complainant and the respondent by letter that such action has been taken.

Notice of Disposition Without Sanctions or Private Letter of Reprimand. Upon receiving notice from the BECT of its determination that a Notice of Disposition Without Sanctions or a Private Letter of Reprimand is the appropriate sanction, the Executive Director shall send the appropriate letter to the respondent.

Censure. Upon receiving notice from the BECT of its determination that a censure is the appropriate sanction, and that the respondent has not requested a hearing, the Executive Director shall send a letter of private censure to the respondent, with copies to the complainant, the employer and the Regional Council President. The case shall then be closed. No other notification of the censure shall be made. NAHRO may publish the fact that certain kinds of conduct have resulted in the issuance of censures provided that no names or identifying details are disclosed.

Suspension, Revocation or Expulsion. Upon receiving notice from the BECT of its determination that a suspension, revocation of credential(s) or expulsion is the appropriate sanction, the Executive Director shall send a letter of suspension, cancellation of credential(s) or expulsion to the respondent in accordance with the decision of the BECT.

Section 4. **Closing of Case:** Upon notification to the respondent and implementation by the Executive Director of any sanction imposed therein, the case shall be deemed to be closed subject to the approval by the Board of Governors of any termination of NAHRO membership as required under Article III, Section 5 of the NAHRO Constitution or to any appeal brought by the respondent as provided in Section 5. of this Article. Records of each case

shall be retained by the BECT for a period not less than three (3) years after closing the case without appeal or the approval by the Board of Governors of any termination of NAHRO membership or the final disposition of a case on appeal, whichever last occurs.

Section 5. **Appeals.** A respondent may elect to appeal any action adverse to the respondent taken by the BECT if on or before the 20th day after receipt by the respondent of notification of such adverse action, the respondent files with the BECT a written petition requesting an appeal of the BECT's action.

A. Petition. The petition shall identify the case, describe specifically the decision of the BECT or portion thereof that is appealed, state the action sought on appeal (reversal, mitigation, clarification, or modification, etc.), and state the grounds upon which the appeal is based. In addition, if the respondent desires to present an oral argument upon appeal the petition shall so state. The length of the petition shall not exceed 8 typed letter size pages.

B. Reply. The BECT shall have 20 days after receipt of the petition in which to reply in writing thereto. The BECT may in its discretion elect not to reply. No adverse inference shall be drawn on the appeal based upon an election not to reply. A reply, if filed, may not exceed 8 typed letter-size pages.

C. Notice to Board of Appeal/ Transmittal of Record. Within 20 days after receipt of any petition for appeal the BECT shall transmit a copy of the petition to the NAHRO president. The petition shall be accompanied by the originals or copies of all materials in the possession of the BECT (the "record") relating to the matter under appeal and the reply, if any, of the BECT.

D. Convening of Board of Appeal. Within 15 days after receipt of a petition and accompanying materials, the NAHRO President shall deliver written notice to the members of the Board of Appeals, the petitioner and the BECT convening a meeting of the Board of Appeals on the date and time specified in the notice. Generally, the date specified shall occur during the next scheduled NAHRO conference; however, the President may, in his or her discretion, specify another date for the convenience of the participants or any other reason he or she deems sufficient.

E. Board of Appeal. The Board of Appeal, shall consist of the NAHRO President, the NAHRO Senior Vice President, and the three NAHRO Immediate Past Presidents who serve on the Board of Governors at the time the petition is received. The current President shall serve as Chair of the Board of Appeals. The composition of the Board of Appeals will not change with respect to any appeal during the pendency thereof

notwithstanding the expiration of any term of office affecting any of its members. The Board of Appeal is not established, and shall not have jurisdiction, to consider any matter other than the appeal of an action of the BECT. A quorum of the Board of Appeal shall consist of four members.

F. Proceedings on appeal. The Board of Appeal may consider and decide the appeal based solely on the record, or it may, in its sole discretion, entertain written or oral statements from the petitioner, or his or her representative, and the BECT. If a request for oral argument is received, the Board of Appeals shall inform the petitioner and the BECT in writing of its decision at least 10 days prior to the meeting at which the oral argument will be presented. The notification shall state the time allowed to each of the parties, which shall be an equal amount of time generally not exceeding 30 minutes for each. _

G. Disposition/Notice. The Board of Appeals may affirm or reverse a decision of the BECT in whole or in part, mitigate any sanction imposed by the BECT, or otherwise clarify or modify such decision. However, the Board of Appeals may not increase the severity of any sanction imposed by the BECT. Any decision by the Board of Appeals shall require the affirmative vote of at least three members thereof. The Board of Appeals shall provide written notice of its decision to the petitioner and the BECT within a reasonable time after such decision is taken. The notice need not state the basis for the decision. The written decision of the Board of Appeals shall constitute the final disposition of the matter under appeal, and no additional appeals are permitted (except that the Board of Governors shall approve any termination of membership). Upon notification of the decision of the Board of Appeals, the case in which the decision is rendered shall be closed.

H. Conflict of Interest/ Recusal/ Additional Appointments. A member of the Board of Appeals who has personal involvement in any matter under appeal or whose consideration of such a matter would give rise to the appearance of impropriety shall recuse himself or herself from participating in the consideration of the matter. If, as a result of recusals, illness, or for other reasons, it becomes necessary to designate an additional member or members in order to achieve a full 5-member complement of the Board of Appeals or a quorum, the NAHRO President shall designate such member or members. The additional members shall be past presidents of NAHRO not currently serving on the Board of Appeals, selected in reverse chronological order of their terms of office. If the designations cannot be made from among past NAHRO presidents, then the NAHRO president may designate another present or former NAHRO officer.

