

**NAHRO CODE OF PROFESSIONAL CONDUCT  
RULES OF PROCEDURE  
Version 6.1 3/24/2017**

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## **ARTICLE 1: GENERAL**

### **1.1 Purpose**

These Rules of Procedure (Rules) for enforcement of the Code of Professional Conduct (CPC), have been adopted by the NAHRO Board of Governors to provide a process for receipt, investigation and determinations concerning Complaints alleging that a violation of the CPC has occurred, giving an opportunity to the Complainant and the party or parties that are the subject of the Complaint (Respondent[s]) to be heard throughout the process. These Rules govern the procedures and time frames for enforcing the CPC as described and provided for herein.

### **1.2 Applicability**

All members or holders of NAHRO certifications shall be subject to the CPC and these Rules. Any violations thereof shall make a member or certification holder subject to the sanctions or actions prescribed by these Rules. A violation that occurred or originated prior to admission to membership or receipt of a certification may render the Respondent ineligible for membership or to receive a certification if the violation becomes known to NAHRO Membership Office or to the BECT prior to or after issuance of a Credential or Certification without regard to whether it is the subject of a Complaint or Expedited Complaint. Similarly, if a Complaint is filed and the Respondent resigns or allows their membership to lapse before the conclusion of an investigation by the BECT, the BECT shall complete the proceeding and issue any sanction, if applicable. In no event shall a Respondent be eligible for membership or an issuance of certification until any outstanding and unresolved Complaint or proceeding is resolved.

### **1.3 Authority for Implementation**

The Board of Ethics and Credentialing Trustees (BECT) has been vested with the authority and responsibility to implement the NAHRO CPC in accordance with these Rules. Said authority shall include the authority to request, investigate, and review all relevant information, evidence, and testimony and to make any final decisions, including any actions or sanctions relating to the enforcement of the CPC.

The BECT shall assume and retain jurisdiction over all Complaints against members; all persons who hold a certification or are otherwise formally certified under a NAHRO examination program; and individual associates and allied or contractual entity associate members of NAHRO.

### **1.4 Role of the CEO**

The Chief Executive Officer of NAHRO (CEO) shall bear responsibility to inform the membership and the general public about the existence and importance of the CPC, The CEO shall assist the BECT in enforcing the CPC and the implementation of these Rules.

In this regard, the CEO shall establish a procedure for the receipt and registration of any Complaints filed in the National office. After a Complaint has been received and registered, the National office shall refer all Complaints to the Chair of the BECT (Chair) for further consideration and processing. The CEO may also initiate Complaints as provided in Article III of these Rules.

**1.5 Conflict of Interest**

No Member of the BECT (Members) may participate in any proceeding or a Complaint brought under these Rules if said member is a complainant or may be a witness 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 shall exclude such Member who is disqualified to serve for this reason. If the Chair of the BECT has a conflict, the CEO and NAHRO President shall call upon the Vice Chair of the BECT to perform the duties of the BECT Chair. If there still remains a conflict, the next highest officer, then most senior member, of the BECT shall perform the duties of the BECT Chair.

**1.6 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 shall have executed a confidentiality oath in a 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.

**1.7 Time Limits**

When notices or actions described in these Rules make reference to a period of days for completion by the BECT or a Respondent, days shall mean "calendar days." Notwithstanding the foregoing, 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 2: DEFINITIONS

2.1 **Definitions.** The following definitions shall be applicable in the implementation of these Procedures:

- (1) **“Complaint”** shall mean a written document or documents which form and state the factual basis of the allegations against a NAHRO member, associate, or certification holder which allege a violation of the CPC. Complaint shall include an “Expedited Complaint”
- (2) **“Complainant”** is the individual or entity who files a Complaint and may include anyone, whether a Member or Associate of NAHRO or not.
- (3) **“National office”** National office shall be the main business office of NAHRO, address as indicated in the NAHRO website.
- (4) **“Notice of Disposition”** is a writing which conveys the decision rendered by the BECT describing the disposition of a Complaint and the sanction, if any, recommended in enforcement of the CPC to address the issues of the Complaint.
- (5) **“Proceedings”** means any activity, meeting, teleconference, investigation, hearing or other action taken by the BECT, or any subcommittee thereof, in consideration of Complaints filed or any other matter in which the BECT may recommend or impose an action under these Rules. Any proceeding or meeting referenced in these Rules may take place in person or by teleconference, as noticed. If a Respondent has a right to participate, BECT shall make provisions to make the proceeding available for participation by the Respondent by teleconferencing or other method by the Respondent at his or her own expense. Any proceeding or meeting convened to take any action under these Rules requires that a quorum (majority) of the BECT members be present to make decisions.
- (6) **“Respondent”** shall mean the person or persons or an entity that is a Member, Associate, or Certification holder of NAHRO and is identified as the responsible party in a Complaint alleging a violation of the CPC.
- (7) **“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 Federal or State law.

### ARTICLE 3: COMMENCEMENT OF PROCEEDING

#### 3.1 **Complaint**

A Complaint shall be initiated by the filing of a written Complaint against a Member, Associate, or Certification holder of NAHRO (the Respondent) by any person or entity (the Complainant) who is affected by any action of the Respondent which is alleged to be a violation of the CPC.

The Complaint is not required to be in any particular form but must clearly identify the Complainant, the Respondent, and the facts which support the allegation. All Complaints must be in writing and signed by the Complainant who must certify or affirm that the facts alleged therein are known personally and are true and correct according to the best knowledge of the Complainant.

The NAHRO CEO may also originate a Complaint by filing the same under these Rules.

#### 3.2 **Expedited Complaint**

The CEO or BECT Chair or any NAHRO Member may refer a matter which is a violation of the CPC to the BECT for consideration without the basic requirements of the Complaint procedure above if it becomes known that a member or certification holder has entered a plea of guilty or “*nolo contendere*”, or was found guilty by a court or jury in a criminal case on the matter and has exhausted all appeals. It may include conduct involving serious criminal behavior or behavior that results in a HUD debarment.

The BECT shall determine and evaluate the facts of the conduct, the accuracy of the information received, and the status of the adjudication of the matter by the appropriate jurisdictional authority and determine if the facts considered constitute a violation of the CPC and take or recommend the appropriate action under the circumstances.

This includes an incident or matter that comes to or is brought to the attention of the BECT Chair, whether as a result of media coverage or public notoriety or by witnesses or Members who may have knowledge of the circumstances of the case or of the conduct of the alleged Respondent. In considering whether to commence an investigation, the BECT may take into consideration the relative seriousness of the matter and its public notoriety, the status of any investigation by responsible authorities, the availability of staff resources to conduct an adequate inquiry, and such other factors as the BECT may determine to be appropriate.

As contemplated herein:

- (1) “**Serious criminal activity**” means criminal activity that is felonious or constitutes either a gross misdemeanor or other class of misdemeanor that is punishable by jail or imprisonment of one year or longer.

- (2) “**A behavior resulting in HUD debarment**” means a violation of law or federal requirements of such a nature that it has resulted in debarment as indicated by an enforcement actions taken by HUD or an expressed intention by HUD officials or the HUD Office of Inspector General in the particular matter under consideration. Behavior resulting in debarment from participation in any other Federal or State housing program is also included.
- (3) “**Public notoriety**” means exposure in mass media or widespread knowledge in the affordable housing professional community.

If a Complaint is filed against the Chair of the BECT, the CEO shall appoint another member of the BECT to act for the Chair with respect to such Complaint. If a Complaint is filed against the CEO or a Member of the Board of Governors, any regional officer, the NAHRO President shall participate in the proceeding along with the Chair of the BECT to act with respect to such Complaint.

### 3.3 **Initiation of Complaint or Expedited Complaint**

The Complainant shall send the Complaint to the National Office of NAHRO at the address listed on the website. The National Office shall keep a record of the Complaint and refer and forward the Complaint to the Chair of the BECT for processing.

### 3.4 **Procedure for Investigation, Evaluation, and Disposition of Complaint or Expedited Complaint**

#### (a) **Procedure Following Making of Complaint**

The Chair of the BECT shall have thirty days to evaluate the Complaint to determine whether to initiate proceedings or seek further clarification of the Complaint.

If the Chair of the BECT 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 convening the BECT to take any further action. The Chair shall also have the assistance of the CEO and/or, at the CEO’s direction, to the NAHRO General Counsel for appropriate legal advice.

If the Chair determines that the Complaint provides sufficient facts on its face to support that a violation of the CPC has occurred, the Chair shall convene a proceeding of the BECT within sixty days after receipt of the Complaint. At that proceeding, the BECT shall consider the evidence and deliberate on the actions, which shall be taken in the Disposition of the Complaint. A quorum of the BECT shall accept or reject the Complaint and vote on the proposed actions to be taken in addressing the issues of the Complaint formally and issue a Proposed Notice of Disposition to the Respondent.

The Chair shall send f the Complaint and the Proposed Disposition of the Complaint by the BECT to the Respondent The Chair shall also send a copy of the CPC, and these Rules to the Respondent, which shall serve as notice to the Respondent of the response times. By copy of the CPC, Respondent shall be advised that failure to respond within the time requested shall authorize the BECT to assume that the allegations are true as alleged and may proceed to take any appropriate action indicated by the Proposed Disposition of the Complaint sent to the Respondent. The Proposed Notice of Disposition shall also advise the Respondent, which provision or provisions of the CPC the Respondent is alleged to have violated. The BECT Chair may request that the Respondent answer specific questions pertaining to the alleged violations.

The Respondent must file any written response to the Complaint within thirty days of its mailing, including, but not limited to making a request for a hearing, as set forth in 3.4 (b).

After the Respondent has filed a timely response, the Chair shall convene a second proceeding of the BECT for consideration of the response and any evidence related to facts of the Complaint which the BECT will use to deliberate on the issues raised by the Respondent's response and determine whether the Proposed Notice of Disposition issued to Respondent related to the Complaint should be maintained. The Chair shall establish a date certain for a proceeding to consider the matter but no later than thirty days after the date of receipt of the Respondent's response. If the Respondent has requested a hearing, The Chair shall schedule the hearing for the date set for deliberation by the BECT of the Respondent's answer or response.

**(b) Procedure for Expedited Complaint**

If a matter is initiated as an Expedited Complaint, as referenced in Section 1, above, the BECT may elect not to conduct an investigation and proceed directly to issue a Proposed Notice of Disposition where it finds that the Respondent: (1) admits to the violation in the response to the Notice of Disposition, (2) does not contest the allegations, (3) 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, or (4) is already included on the HUD or other federal government's list of persons who are debarred, suspended or subject to Limited Denials of Participation.

The Respondent under this procedure shall also have thirty days to file a written answer to the Proposed Notice of Disposition sent by the BECT. If timely filed, the Respondent may provide additional information for consideration by the BECT. The Respondent may also request a hearing to afford the Respondent an opportunity to present his or her information or defense. The hearing shall be conducted pursuant to the procedures described in Article 5.

**(c) Generally**

If no hearing is requested or the action is not contested by the Respondent to the Complaint or Expedited Complaint, the BECT shall issue its Notice of Disposition within thirty days of receipt of the Respondent's additional answer or information.

The decision of the BECT shall be final unless the Respondent shall appeal the Notice of Disposition rendered by the BECT pursuant to the Appeal procedures described herein in Article 6.

After the conclusion of the Appeals proceeding, the decision of the Appeals Board shall be rendered as the Final Disposition of the matter.

After the Disposition by the BECT or a Final Disposition of the matter by the Appeals Board, NAHRO shall implement the final actions described herein

Dates established by these Rules may be waived for good cause in the sole discretion of the BECT.

**3.5 Conduct of Proceedings by BECT**

All proceedings of the BECT are purposefully informal.

The BECT may prepare and maintain minutes of all meetings, summaries of all interviews, and request persons interviewed to sign statements prepared on the basis of interview summaries. The BECT 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.

The BECT may conduct investigations of Complaints or matters with the entire BECT or through a smaller subcommittee provided that the BECT shall authorize the Chair to appoint to such smaller subcommittees.

A Proposed Notice of Disposition must be supported by evidence determined to be reliable and relevant, that shall be made available to the Respondent for review in the conduct of a hearing or appeal.

The BECT may, but shall not be obligated to, make audio recordings of its proceedings, but, with the consent of the other parties involved, may make audio recordings of interviews of the Respondent, complainant and fact witnesses.

Any proceeding by the BECT may occur at the three conference meetings of the NAHRO or by teleconference at any time determined by the BECT or a subdivision thereof. All documents, of any kind, shall be maintained for five years.

## ARTICLE 4: DECISIONS AND ACTIONS

### 4.1 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.

### 4.2 Authorized Actions

The following actions relating to sanctions shall be conveyed pursuant to a “Notice of Disposition” and 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) **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/or 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) **Imposition of Sanctions**
  - (1) **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.
  - (2) **Non-Private Letter of Reprimand:** 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.
  - (3) **Suspension:** A temporary revocation of membership privileges or the right to utilize, claim, or display the relevant certification. A certification may be

suspended because of violations of the CPC that are not directly related to the holder's use of the certification.

(4) **Revocation:** A permanent revocation of a Respondent's certification. A certification may be revoked because of violations of the CPC that are not directly related to the holder's use of the certification.

(5) **Expulsion:** A permanent revocation of the Respondent's NAHRO membership privileges. A disposition of a matter by the BECT that recommends expulsion of a member must be approved by the Board of Governors as provided for Article 7, herein.

#### 4.3 **Reinstatement**

In cases involving expulsion of a Member or revocation or denial of a certification, the Respondent may request reinstatement of the privilege sanctioned. The BECT may, in its sole discretion, provide that the Respondent be eligible for reinstatement upon specified conditions or following a specified period of time, or both or deny such option permanently.

#### 4.4 **Negotiated Disposition**

Nothing in the Rules shall prohibit resolution of a case through negotiated disposition at any stage of the proceedings. Either the Respondent or the BECT may propose an agreed disposition at any time. Any disposition reached through negotiation with a Respondent shall require the approval of the BECT.

### **ARTICLE 5: HEARINGS**

#### 5.1 **General**

These procedures shall govern all hearings conducted pursuant these Rules.

#### 5.2 **Process**

If a Respondent desires a hearing to contest a Proposed Notice of Disposition issued by the BECT, he or she must request the hearing in their response to the Notice. If a hearing is timely requested in the response, the Chair shall schedule and notify the Respondent, at his/her last known business or residential address, by registered mail that a hearing has been scheduled before the BECT. The hearing date shall be set within thirty days after the date the hearing is requested by the Respondent in their response and shall state whether the hearing will be in person or by teleconference. The notice shall also state that the Respondent has the following rights:

- (1) to appear personally or by teleconference at his or her personal expense 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.

### 5.3 **Procedures**

At any hearing of the BECT conducted under these Rules, a BECT representative shall first present evidence in support of its recommended decision. Upon conclusion of the 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 BECT are erroneous and/or that the sanction recommended by the BECT 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.

Any report or writing produced by the BECT shall be considered as evidence in the hearing.

The BECT may not consider evidence of any alleged violation of the CPC by the Respondent that was not the subject of the initial Complaint and investigation.

Within thirty days of the conclusion of the hearing, the BECT shall render a Notice of Disposition in the case. The Notice shall be in writing and include a statement of the reasons for any actions taken therein. Only evidence which was provided to the BECT during the time for deliberation or at the hearing may be considered in reaching the decision.

## **ARTICLE 6: APPEALS**

### **6.1 Appeals**

A Respondent may appeal any Notice of Disposition by the BECT which proposes a sanction or action adverse to the Respondent, if on or before thirty days after mailing of the of Notice of Disposition by the BECT to the Respondent, the Respondent files with the BECT a written petition requesting an appeal of the BECT Disposition.

### **6.2 Petition**

The petition shall identify the case, describe specifically the Disposition 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 supporting the appeal, the petition shall so state.

### **6.3 Notice to Board of Appeal/ Transmittal of Record**

Within twenty days after receipt of any petition sent requesting an appeal by a Respondent, 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 Complaint under appeal and the reply, if any, of the BECT.

### **6.4 Reply by BECT to Appeal**

Within thirty days after receipt of the petition by the BECT, the BECT may file a reply in writing thereto. No adverse inference shall be drawn on the appeal based upon an election not to reply by the BECT. The BECT shall respond to any request for information requested by the Board of Appeals within the time set by the request.

### **6.5 Convening of Board of Appeal**

Within thirty days after receipt of a petition and any accompanying materials by the BECT, the petition shall be sent to the NAHRO President, who shall initiate the appeal procedure. Within fourteen days of receipt, the President shall appoint the members of the Appeals Board and deliver written notice and a copy of the complete record of the complaint to the members. Within thirty days of receipt, the President shall send written notice to the members, the Respondent, and the BECT of the date and time that the Board of Appeals shall convene a meeting to consider the Appeal. If possible, the meeting shall occur during a scheduled NAHRO conference. However, the President may, in his or her discretion, specify another date for the convenience of the members or participants and elect whether the meeting shall be in person or by electronic means.

**6.4 Composition of Board of Appeals**

The Board of Appeal shall consist of the NAHRO President, the NAHRO Senior Vice President, the Chair of the BECT, and two NAHRO 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 shall not change during the pendency of the Complaint notwithstanding the expiration of any term of office affecting any of its members. However, if a member becomes unavailable, the NAHRO President shall appoint a replacement member from the Board of Governors. The Board of Appeals shall have the sole jurisdiction to consider appeals of an action of the BECT. A quorum of the Board of Appeal shall consist of four members.

**6.5 Appeal Procedure**

On the date set for the Appeals meeting, the Board of Appeals shall consider and decide the appeal based solely on the evidence presented in the record, and, if permitted by the Board, oral arguments from the Respondent, his or her representative, and the BECT. If oral argument is requested by the Respondent, the Board of Appeals shall notify the Respondent and the BECT of the date and time of the meeting and the time allowed to each of the parties for its testimony.

**6.6 Disposition/Notice**

At the conclusion of the Appeals Board meeting, the Board shall issue a written Final Notice of Disposition which may affirm, modify, or reverse a decision of the BECT, in whole or in part and/or mitigate any sanction imposed by the BECT. 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 of a quorum thereof. The notice shall be issued within a reasonable time after such decision is taken and shall state the decision of the Board but it is not required to restate the basis for the decision. The Final Notice of Disposition of the Board of Appeals shall constitute the final disposition of the matter under appeal, and no additional appeals are permitted. If a termination of membership is imposed, the approval of the Board of Governors is not required again if it approved of such sanction in the original Disposition by the BECT. Upon notification of the decision of the Board of Appeals, the case in which the decision is rendered shall be closed.

**6.7 Conflict of Interest**

If an appointed member of the Board of Appeals has a personal involvement in any matter under appeal or whose consideration of such a matter would give rise to the appearance of impropriety, that member 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 replace a member as noted in 6.4 above.

**ARTICLE 7: FINAL DISPOSITON OF COMPLAINT**

A Final Disposition of a complaint by the BECT, which is un-appealed, or a Final Disposition of a complaint by the Appeal Board shall be implemented by the appropriate administrative staff of NAHRO within thirty days of rendition. Any Disposition by the BECT and, if appealed, by the Appeals Board that includes a termination of NAHRO membership shall be approval by the Board of Governors as required under Article III, Section 5 of the NAHRO Constitution. Upon notification to the Respondent of the Final Disposition and implementation of any sanction imposed, the case shall be deemed to be closed.

Records of each case shall be retained by the BECT for a period not less than five (5) 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 occurs last.