

# **ETHICAL PRACTICE AND GRIEVANCE COMMITTEE**

## **Standard Operating Procedure**

### **I. PURPOSE**

The Ethical Practice and Grievance Committee (“EP&G”) of The International Association of Arson Investigators (“IAAI”) has been established to review complaints, from any source, which are brought against members or individuals that were members of the IAAI at the time the alleged violation occurred or who hold certifications or accreditations issued by the IAAI even though they are not members and to report its findings and recommendations to the Board of Directors and the IAAI Officers (“Board”). The purpose of the EP&G Committee is to maintain and protect the high degree of professionalism and integrity of the membership of the IAAI and, additionally, to protect the public and the association membership from violations of rules or codes of the IAAI. Decisions of the Board imposing sanctions may be disseminated for the edification of the fire investigation community, except a private letter of censure.

### **II. COMPLAINT FILING AND ADMINISTRATION**

#### **A. Basis.**

The basis for a complaint may include the following:

1. Conviction of a felony or any criminal offense.
2. Judgment or order entered against the member in a criminal, civil or contempt action related to the status of the accused as an investigator.
3. Breach of the professional responsibilities or legal duties as an investigator.
4. Violations of the IAAI Constitution and By-Laws or IAAI Code of Ethics.
5. Misuse or misrepresentation of an IAAI professional designation or certification.
6. Violation of any IAAI committee Standard Operating Procedure that has been approved by the Board of Directors and posted on the IAAI website.

7. Falsification or misrepresentation under circumstances intended to influence or affect the outcome of any proceeding, including, but not limited to trials, hearings, depositions, interviews or applications.

**B. Filing.**

A current copy of this SOP and the forms needed to file a complaint shall be made available on the IAAI website. The procedure for filing a complaint, as listed below, must be followed and failure to comply with this procedure may result in dismissal of the complaint. The procedure is as follows:

1. Complainant obtains a complaint packet from the IAAI web site or makes a written request for a complaint packet (sample attached to this SOP) from the IAAI office at the address listed on the IAAI web site.
2. Complainant completes the complaint form and returns it with all supporting documents and other evidence. The documents may be sent to the office of the IAAI by e-mail or U.S. mail. The complaint must include identifying information and contact information regarding the complainant, and an electronic submission shall serve as the signature of the complainant.
3. Complaints may be filed at any time, subject to the limitations in paragraph C below. If civil or criminal court actions are pending the time of processing the complaint, processing may be suspended by a majority vote of the EP&G Committee. The chairman of the EP&G Committee shall be responsible for determining when the case shall be reactivated for decision by the EP&G Committee.
4. Matters that come to the attention of the Executive Officers and/or Board of Directors outside of the normal complaint process can be referred to the EP&G committee for review and appropriate action.

**C. Time Limitation.**

Except for instances involving fraud, misrepresentation or omission of an applicant to become a member of the association complaints must be received at the IAAI office within one year of the date of the occurrence which is the basis of the complaint. In the event the occurrence, which is the basis for the complaint, was not discovered and could not have been reasonably discovered within three years before the complaint is filed then the complaint must be received within one year of the date of discovery. Any complaint received at the IAAI office based on conduct which occurred more than one year before the date of receipt and which could have been discovered within that one year will be dismissed. There is no time limitation for membership fraud, misrepresentation or omission.

**D. IAAI Office Procedures.**

Upon receipt of a properly completed complaint form, the administration of the IAAI will do the following:

1. Assign a unique case number to the complaint.
2. Create and maintain a confidential file for original documents and other submitted evidence.
3. Forward copies of the complaint form, and all supporting documents to the EP&G Chairperson.
4. At the conclusion of the case all materials associated with the case shall be returned to the IAAI office which shall create an electronic file archive that shall be maintain for a period of 10 years from the date of case closure.

**III. PROCESSING THE COMPLAINT**

**A. Review.**

Complaints will be reviewed initially by the EP&G Committee. The review may include investigation and will include dismissal or the EP&G Committee recommendation to the Board. The following procedures will be in effect.

1. The EP&G Committee Chairperson will send written notification of the complaint to members of the EP&G Committee, the complainant, and the accused. This written notification will include copies of the complaint and supporting documents and if practical, copies or photos of other evidence submitted. Notice to the accused will be sent by certified mail, return receipt requested.

**NOTE: The accused will be given the name of the complainant at this time. Anonymous claims will not be processed by the IAAI office or the EP&G Committee chairperson.**

2. The accused will have 30 days from the date of mailing of the complaint by the EP&G chairperson to the accused, to provide a written response, including additional documents or evidence, to the EP&G Chairperson. This written response should be provided directly to the EP&G chairperson who will then send copies to the other EP&G members and the complainant.
3. The Complaint, along with any response from the accused, and documents or evidence will be reviewed by the EP&G Committee to determine if further action is warranted. A quorum consisting of a majority of the EP&G Committee membership shall be required to

take any action on a complaint. At the discretion of the EP&G Chairperson reviews may be conducted by physical meeting, electronically or telephonically.

4. After preliminary review by the EP&G Committee, no further action will be taken on complaints determined to be frivolous, unsubstantiated or unwarranted by no less than two-thirds (2/3) vote of the EP&G members voting. The accused and the complainant will be notified of the no-action decision.
5. An investigation may be initiated at the discretion of the EP&G chairperson only on complaints requiring further action and meeting all criteria discussed in these procedures.

**B. Investigation Procedures.**

1. Any EP&G investigation may be deferred pending resolution of criminal or civil matter actions involving the accused. If at any time evidence of a criminal act on the part of the accused surfaces, the EP&G/IAAI investigation will stop and the complaint may be placed on hold pending resolution of the criminal matter. Investigators or other experts retained by the EP&G Committee shall immediately notify the chairperson of the EP&G Committee who will consult with the President of the IAAI to determine the need to notify law enforcement.
2. To the extent required, the EP&G chairperson will assign investigators or other experts as needed to conduct a confidential and thorough investigation of the complaint.
3. Reports of investigators or other experts will be given directly to the EP&G chairperson at the conclusion of their investigation. The EP&G chairperson in turn will provide these reports to the Committee and the accused but not to the complainant.

**C. EP&G ACTION.**

1. Based on all available facts, supporting documents, reports and other evidence, including the original complaint and the response, if any, by the accused, the EP&G Committee will review the complaint and submit a written recommendation for disposition of the matter by majority vote of the EP&G Committee meeting in a quorum as defined by Section III A 3 and IX. The written recommendation shall include:
  - a. findings of fact as to the violation alleged,
  - b. recommendations as to sanctions to be imposed
  - c. where appropriate, recommendations regarding publication of the case findings and the identity of the accused and

- d. the information that will be disclosed to the complainant concerning the disposition of the case.

This review may be conducted by a physical meeting, electronically or telephonically.

2. The EP&G recommendations will be submitted to the Board at an official board meeting.
3. Complaints which are brought against the chairman or any member of the EP&G Committee will be sent directly to the President of the IAAI and will be handled, in the same manner described above, with the President serving as chairperson and the Board serving as the EP&G Committee.

#### **IV. SANCTIONS.**

Any one or more of the following sanctions may be imposed if a complaint is found justified by the EP&G and sustained by Board of directors. As potential sanctions of a member of the association are of great concern and of significant importance the votes necessary for action are based on those eligible to vote versus those in the quorum. The following actions require a simple majority of those eligible to vote:

1. An order to cease and desist from a specified activity.
2. A public letter of reprimand from the Board.
3. A private letter of censure from the Board.
4. IAAI Membership probation.

The following actions require a 2/3 majority of those eligible to vote:

5. IAAI Membership suspension
6. IAAI Membership revocation.<sup>1</sup>
7. Suspension of any certification or accreditation issued by the IAAI.
8. Revocation of any certification or accreditation issued by the IAAI

#### **V. OFFICERS/BOARD PROCEDURE.**

- A.** In the event the EP&G Committee recommends sanctions the Board will review the Committee's written recommendation and sustain, reverse or modify it. As potential sanctions of a member of the association are of great

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<sup>1</sup> Membership revoked by the Board of Directors can be reinstated only by written application directly to the Board of Directors one year after the date the revocation is effective.

concern and of significant importance, any Board review of an EP&G Committee recommendation shall be conducted in executive session and shall require the presence of a quorum of 2/3 of those eligible to vote.

- B.** If the Board, by a majority vote of a quorum, sustains or modifies the sanctions, the President of the IAAI shall promptly notify the accused of the sanctions recommended and of the right to request a hearing (See paragraph VI A ). Notice by the President to the accused will be in writing and sent by certified mail, return receipt requested.
- C.** The Board, before taking any action on the EP&G Committee recommendation, may request additional investigation, or information through the use of investigators, experts or the chairperson of the EP&G.

## **VI. RIGHT TO A HEARING.**

- A.** The accused has 30 days from the date of receipt, by certified mail, of written notice of the decision by the Board to request a hearing before the Board.
- B.** The request for a hearing must be in writing and must be sent to the IAAI office.
- C.** The hearing will be presided over by the President of the IAAI or a designee and will include as triers of fact\_all available Officers and members of the Board of Directors. A quorum will be required before the hearing can begin or continue, consisting of a 2/3 majority of the officers and Board of Directors of the IAAI who are eligible to vote on the issue at hand. Once the hearing begins, no officer or board member may participate in the decision unless they have been present for all prior hearings\_on the matter. The necessary quorum shall be reduced by those precluded from continued participation or who have removed themselves based on a conflict of interest.
- D.** The hearing will be held, to the extent practicable, at the mid-years or annual meetings and the accused will be provided at least a 60-day notice in advance of the hearing.

## **VII. HEARING PROCEDURE.**

- A.** The accused has a right to be represented, by counsel, at his/her own expense, at all stages of the hearing.
- B.** The accused has the right to a copy of all supporting documents, and access to other evidentiary material utilized by the IAAI. The accused may use other materials and documents as well as live witnesses or affidavits at the hearing. The accused has the following rights.

1. The right to be present at the hearing at his/her own expense.
  2. A reasonable opportunity to be heard in his/her own defense;
  3. To present witnesses and other evidence; and
  4. To cross-examine any witness called on behalf of the IAAI.
- C.** The complainant may testify but cannot be forced to appear to testify.
- D.** Failure of the accused to appear at the time set for the hearing shall be deemed a waiver of his or her right to be present and the hearing shall proceed in his or her absence.
- E.** The chairperson of the EP&G Committee or a designee shall present evidence of the misconduct. All evidence shall be presented in the presence of the accused and his/her counsel, if any, unless the accused is absent or the right to be present is waived by the accused.
- F.** After the chairperson of EP&G Committee or the designee has presented their case they shall rest and the accused may call witnesses and present evidence. The accused shall not be required to present a case if he or she chooses not to. The chairperson of EP&G or the designee shall not be called as a witness by the accused.
- G.** At the hearing, the presiding officer shall not be bound by the Rules of Evidence applicable in courts of law or by the Rules of Civil Procedure. The presiding officer may exclude matters which in his/her judgment are irrelevant, duplicative, or unnecessary.
- H.** An audio recording of the hearing will be kept and the accused may request a transcribed copy of the recording at his/her own cost.
- I.** If the Board, after the hearing, fails to sustain the recommendation for sanction by either adopting the sanctions recommended by the EP&G committee or appropriately modifying the recommended sanctions, the matter will be dismissed and returned to the chairperson of the EP&G. The chairperson will then dismiss the complaint and notify the accused, the complainant and the EP&G of the dismissal.
- J.** If the Board, after the hearing, votes to sustain or modify the recommendation for sanctions by an appropriate majority vote, the President shall notify the accused within 30 days by certified letter, return receipt requested, of the decision and his/her right of appeal in accordance with Sections V B and VIII .

- K.** The Board shall also decide by a simple majority whether the decision of the Board and identity of the accused shall be published and what information concerning the case disposition shall be disclosed to the complainant.

**Note: The size of the quorum may be reduced by the provisions of paragraph VI C or paragraph X.**

- L.** When so directed, the chairperson of the EP&G Committee shall draft a summary of the case and sanctions imposed and, after the time for filing an appeal has expired or at the conclusion of any appeal and after approval by the President, submit the summary to the editor of the Fire & Arson Investigator for publication in the next issue and/or to the webmaster for electronic publication. A personal letter of censure shall not be published.
- M.** The chairperson of EP&G Committee shall be responsible for notifying the complainant of the results of the case, either after the expiration of the time for appeal or at the conclusion of the appeal, if filed. This notice shall comply with the direction of the Board (see Section VII K)

## **VIII. RIGHT OF APPEAL.**

In the event that the decision for sanctions is upheld or modified by the Board at a hearing, a written appeal may be filed by the accused by using the procedures set forth in the Appellate Review Committee SOP. A copy of that SOP shall be included in the certified letter sent to the accused informing him or her of the results of the Board hearing. See Section VII J.

## **IX. CONFIDENTIALITY AND PUBLICATION**

1. The filing of a complaint and all actions taken in the investigation of a complaint, the recommendations of the EP&G Committee and the decision of the Board shall be confidential. When a final decision imposing sanctions is made, the decision shall no longer be confidential except for a private letter of censure under Section IV 3, which shall remain confidential. If the matter is dismissed it shall remain confidential.
2. How individual members of the EP&G Committee voted will remain confidential. All votes of the Board shall be by secret ballot and shall remain confidential. There will be no publication or other dissemination of the recommendations for sanctions until the time for a hearing demand or an appeal, if appropriate, has passed or until the hearing or appeal has been concluded and sanctions approved.
3. Because violations of professional conduct represent deviations from acceptable conduct, Board shall decide if any findings imposing a sanction and/or the identity of the accused, other than a personal letter of censure,



shall be published in the Fire and Arson Investigator and on the IAAI website or by whatever other means the Board directs, once the findings are final.

## **X. CONFLICTS OF INTEREST**

Any member of the EP&G Committee or Board who has a conflict of interest concerning the matter under consideration shall recuse themselves and not participate in further consideration of the matter. Any such recusal shall have the effect of reducing the number of those otherwise eligible to vote by one and may affect the number needed for a quorum. In the event the EP&G chair person recuses him/herselves the President shall appoint an acting chairperson. If the IAAI President recuses him/herself the First Vice President or successor shall act in place of the President. The accused may ask that a member of the Committee or Board recuse themselves if he or she believes there is a conflict of interest. Mere filing of a complaint that is brought to the attention of a director should not be necessarily considered a conflict of interest.

**Revised and Accepted by IAAI Board of Directors, January 12, 2013**

01/12/2013

**ETHICAL PRACTICES AND GRIEVANCE COMPLAINT FORM**

**COMPLAINANT**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE NO: \_\_\_\_\_

**MEMBER NAMES IN COMPLAINT**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE NO: \_\_\_\_\_

**DETAILS OF VIOLATION**

DATE OF OCCURRENCE: \_\_\_\_\_

DESCRIPTION OF VIOLATION (use additional page if necessary): \_\_\_\_\_

\_\_\_\_\_

EVIDENCE INCLUDED (i.e., transcripts, reports, etc.): \_\_\_\_\_

IS THERE ANY OPEN CRIMINAL OR CIVIL CASES INVOLVING BOTH YOU AND THE OTHER PARTY? Yes \_\_\_ No \_\_\_

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Date

**OFFICE USE ONLY**

Complaint No. \_\_\_\_\_

Date Received \_\_\_\_\_

Date Forwarded to EP&G \_\_\_\_\_

**ETHICAL PRACTICES AND GRIEVANCE COMPLAINT**

**Date Complaint Request Received** \_\_\_\_\_

**Complaint Package Sent to Complainant** \_\_\_\_\_

**Date Complaint Received** \_\_\_\_\_

**Date Sent to Committee** \_\_\_\_\_

**Date Complainant and Subject Notified** \_\_\_\_\_

**Date of Committee Review** \_\_\_\_\_

**Date Presented to Board** \_\_\_\_\_

**Hearing Date** \_\_\_\_\_

**Appeals Date** \_\_\_\_\_

**All Parties Notified of Final Deposition** \_\_\_\_\_

**Date File Closed** \_\_\_\_\_

**COMMENTS** \_\_\_\_\_

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