

CAS Rules of Procedure for Disciplinary Actions

(As Amended May 3, 2009)

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The Board of Directors of the Casualty Actuarial Society (CAS) has promulgated these Rules of Procedure to govern the consideration and recommendations for disciplinary action against members presented by the appropriate investigatory body, e.g., the Actuarial Board for Counseling and Discipline (ABCD) or the Canadian Institute of Actuaries (CIA). These Rules are intended to provide fundamental fairness and due process in the procedure for disciplinary action by requiring adequate notice, an opportunity to respond, and a fair and impartial decision maker in the discipline process. The Board reserves the right to amend or otherwise alter these Rules of Procedure as it deems necessary and delegates the interpretation of these rules to the CAS Discipline Committee.

Introduction

The CAS Discipline Committee shall consist of 10 Fellows. The Chairperson shall form a Discipline Committee Panel consisting of 7 members of the Discipline Committee each time a recommendation for disciplinary action against a member is received from an investigatory body. If 7 members of the Committee without a conflict of interest cannot be found the President shall appoint (a) special member(s) to the Discipline Committee Panel to complete the formation of the Panel. The Discipline Committee Panel shall be responsible for considering recommendations for disciplinary actions against members presented by the appropriate investigatory body and for taking actions on those recommendations as it deems appropriate. The member whose activities are the subject of the disciplinary recommendation is referred to here as the subject actuary.

A. Consideration of Disciplinary Action

1. When the CAS receives from the appropriate investigatory body a written report recommending reprimand, suspension, or expulsion of a member of the CAS (the subject actuary) the matter shall be referred to the Chairperson of the Discipline Committee.
2. The Chairperson shall review the recommendation and record provided by the investigatory body and may seek further information from them or delegate further fact-finding or investigation to other members of the Committee.
3. The Chairperson shall schedule a hearing at which the subject actuary shall have the right to appear personally and with counsel and/or other advisor (at the subject actuary's expense) to explain why the recommendation of the investigatory body should not be followed.

4. The Chairperson, with the assistance of the CAS Executive Director, may engage legal counsel to advise the CAS and to explain relevant legal principles.

5. The Chairperson shall provide written notice of this hearing, including the time, date, and place where the Discipline Committee Panel will consider the matter to the subject actuary not less than 45 days in advance of the hearing. The 45-day time limit may be waived by mutual written consent of the parties.

6. The notice shall also be provided to the members of the CAS Discipline Committee, the CAS President, the CAS Executive Director and the authorized representative of the investigatory body that recommended discipline.

The notice shall:

a. advise the subject actuary that disciplinary action has been recommended by the investigatory body, state the charge(s) made, and cite the specific Code of Professional Conduct violations that are alleged;

b. advise the subject actuary of the right to submit any new evidence which was not previously made available to or considered by, the investigatory body;

c. advise the subject actuary of the right to appear at the Discipline Committee Panel hearing with or without counsel and/or other advisor at the expense of the subject actuary;

d. list the Fellows who will serve on the Discipline Committee Panel and advise the subject actuary of the right to object to any Panel member he or she believes might have an actual or potential conflict of interest, provided that he or she must state the basis for that conflict in writing within 30 days of receipt of the written notice from the Chairperson; in the event that the subject actuary objects to a Panel member, the Chairperson (or, in the event that the person alleged to have the conflict is the Chairperson, the President of the CAS) shall determine if an actual conflict exists and if determined so to exist, shall appoint a replacement Panel member without a conflict of interest to consider the matter.

e. The Chairperson of the Discipline Committee shall serve as the Chairperson of the Discipline Committee Panel. If the Chairperson has a conflict of interest the CAS President shall designate one of the Panel members as the Panel Chairperson.

This notification may be made by certified mail or in such other manner in which receipt may be verified as the Discipline Committee Chairperson may direct.

7. If the subject actuary does not request an appearance, the Chairperson shall so advise the Panel members and the Panel shall then meet in person or by teleconference to consider the matter under review and render a decision in accordance with these Procedures.

8. If the subject actuary requests an appearance before the Discipline Committee Panel, any additional factual materials or new evidence which he or she wishes to be considered by the Panel must be submitted in writing at least 15 days in advance of the hearing.

9. A hearing of the Discipline Committee Panel shall require a quorum to be present, which shall be 5 members of the Panel. A Discipline Committee Panel decision to render an order to reprimand, suspend or expel the subject actuary requires the affirmative vote of at least 5 members of the Discipline Committee Panel. Members of the Committee Panel who were not in attendance at the hearing may not vote on the outcome.

10. A transcript shall be made of the hearing of the Discipline Committee Panel by a court reporter selected by the CAS. No other recording of the hearing will be permitted. However, since the hearing is intended to address the professional conduct of the subject actuary, professional dialogue between the subject actuary and Panel members should not be impeded by formal legal rules of evidence or procedure. Accordingly, there shall be no discovery, no depositions or interrogatories, and no new information or testimony presented by the subject actuary that was not provided in writing at least 15 days prior to the appearance.

11. The subject actuary may make an oral presentation of reasonable length and respond to any questions posed by the Discipline Committee Panel members. The subject actuary may be accompanied by legal counsel or other advisor, and may consult with such counsel. However, the role of such counsel shall be limited to providing advice to the client and explaining relevant legal principles.

12. The deliberations of the Discipline Committee Panel shall be limited to Panel members and counsel to the CAS. The Discipline Committee Panel has discretion to accept, reject, or modify the recommendation received from the investigatory body.

13. The Discipline Committee Panel decision shall be based on the investigative report, written record and any further information provided by the investigatory body as well as any additional fact-finding or investigation by the Discipline Committee Panel, and any new evidence submitted in writing by the subject actuary at least 15 days in advance of the hearing. In reaching its decision the Panel shall consider without limitation the intent of the subject actuary, whether the violation was willful, the economic loss or other harm caused by the conduct alleged, the seriousness of the violation, the experience of the subject actuary, any alleged prejudicial material errors in the process of the investigatory body, and any other factors the Panel deems appropriate. The Panel may also take into consideration whether the subject actuary has been disciplined before and the Chairperson is authorized to inquire with the CAS Executive Director or any other body in this regard.

14. The decision of the Discipline Committee Panel shall include a written report of its findings and the rationale for the conclusion. If the Panel determines that a violation of the Code of Professional Conduct has not occurred the decision should explain why the Panel's conclusion differs from that of the investigatory body. If the Panel determines that

a violation has occurred the decision should cite the specific Code provisions violated and explain how the subject actuary's conduct constituted a Code violation. The Panel decision should also contain the rationale for the disciplinary action chosen.

15. The decision of the Discipline Committee Panel, including the vote, shall be provided to the subject actuary within 30 days after the decision is reached. Copies of the Panel decision shall be provided to the CAS President and the CAS Executive Director. The decision of the Panel shall be considered final and binding unless written notice of appeal is submitted by the subject actuary within 45 days of receipt of the decision of the Panel. If there is no request for appeal submitted by the subject actuary, the President shall then also provide notice of the decision of the Discipline Committee Panel to the Board of Directors.

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B. Appeals

1. The subject actuary shall be entitled to appeal the decision of the Discipline Committee Panel by submitting a written request for an appeal to the CAS President within 45 days from receipt of the Discipline Committee Panel decision.

2. Upon receipt of the written request for appeal, the CAS President shall designate 5 members of the Board of Directors who do not have a conflict of interest as eligible to serve on an Appeals Panel and provide those names to the subject actuary.

3. Within 5 days of receipt of those names the subject actuary shall select three of those designated Board members to serve on the Appeals Panel and provide those choices to the CAS President. The President shall select one of those three to serve as the Chairperson of the Appeals Panel and shall so notify the three panel members, the subject actuary and the CAS Executive Director. The Appeals Panel shall act on behalf of the CAS Board of Directors.

4. In the event of a request for appeal by the subject actuary, the full written record, decision, findings and vote of the Discipline Committee Panel shall be made available to the Appeals Panel. The appeal shall be based entirely upon the written record and shall not include any appearance by the subject actuary but may include a written submission by the subject actuary, and any reply submission by the Chairperson of the Discipline Committee Panel.

5. The Appeals Panel shall conduct and complete the appeal within 90 days after receipt of the request for appeal. The Appeals Panel may affirm, modify or reverse the decision of the Discipline Committee Panel. A decision to do other than affirm shall require a determination by the Appeals Panel that: (1) the Discipline Committee Panel's determinations were clearly erroneous and, absent such errors, a different action is warranted; or (2) the Discipline Committee Panel failed to conform to the Rules of Procedure in a manner that was unduly prejudicial and which led to an unwarranted result; or (3) the disciplinary action imposed by the Discipline Committee Panel was clearly inconsistent with the seriousness of the Code of Professional Conduct violation(s)

or the harm that was done. The decision of the Appeals Panel shall require the vote of at least 2 members of the Appeals Panel.

The Appeals Panel decision shall include a written statement of the Panel's findings and conclusions and shall be provided to the subject actuary, the Chairperson of the Discipline Committee Panel, the Panel members, the CAS President and Executive Director, and the CAS Board of Directors. The Appeals Panel decision shall be final.

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C. Confidentiality of Process

1. All proceedings with respect to communications, investigations, and deliberations as provided in these Rules, shall be confidential. This requirement shall not preclude the investigatory body from advising, at its discretion, complainants about the outcome of their complaints. And, this requirement of confidentiality shall not preclude the investigatory body from reviewing previously closed files as they relate, in any manner, to the consideration of a new matter before it.

2. Notwithstanding the above, should there be any unauthorized disclosure of information with respect to these confidential proceedings, the CAS shall have the right to respond to such disclosure by providing factual information about the deliberations and proceedings.

3. In all cases, except with respect to the specific notification authorized pursuant to Section D., the matter shall continue to be treated in a confidential manner, with all records of the hearing and any appeal sealed and retained by the CAS Office under the control of the Executive Director. The Discipline Committee Panel Chairperson, the President, or the Executive Director may, however, be required to divulge such records by court order or other legal process in some circumstances, or as necessary to fulfill their appointed functions.

D. Disposition

1. The Board of Directors shall notify the members in all instances in which the Discipline Committee Panel orders public disciplinary action. Notification shall not be given until the time to appeal has expired or, in the event of an appeal, until such appeal has been resolved. Specifically, such notification shall not take place **until after** the subject actuary has received notice of the decision of the Discipline Committee Panel or Appeals Panel, as applicable, or otherwise reasonable efforts have been made to effect that notification.

2. At the same time notification of public disciplinary action is given to the members, the Board of Directors shall also give notice of any such disciplinary action to the appropriate investigatory body, all other actuarial organizations of which the actuary is a member, and to other persons or organizations, including governmental entities, which, in the opinion of the Board, should also receive notice of the action as being in the best interest of the public.

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4. In the event of subsequent reinstatement of the subject actuary, the Board of Directors shall give notice of such action to all members and to entities previously advised by the Board of the public disciplinary action.¶

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3. The President on behalf of the Board shall initiate and direct the action necessary to comply with the final decision and the determination of appropriate notification by the Board in cases of public disciplinary action. In the event that the Discipline Committee Panel hearing or the appeal results in no public disciplinary action, the President shall authorize the specified private disciplinary action, if any.

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4. In the event of subsequent reinstatement of the subject actuary, the Board of Directors shall give notice of such action to all then current members and to entities previously advised by the Board of the public disciplinary action.

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E. Report on Activities

The Discipline Committee shall issue an annual report to the Board of Directors and to the membership that shall include a description of its activities, including commentary on the types of cases pending, resolved, and dismissed. This annual report shall be subject to the confidentiality requirements and provisions set forth above.