

3.07 Professional Practice and Discipline

The professional practice and discipline policy and procedure of the Certification Commission are intended to assist and inform certificants and candidates for certification as to professional conduct and disciplinary procedure. The Certification Commission conducts a certification program for Life and Annuity Certified Professionals and has established recertification requirements. The Certification Commission affirms that after a candidate has successfully passed the certification examination, the standards for entry into certification have been satisfied. The Certification Commission does not express an opinion on the competence or warrant the job performance of certificants. However, it is expected that certificants and candidates for certification maintain continuing competence and agree to comply at all times with the NAIFA *Code of Ethics*. All matters pertaining to the professional practice and discipline of certified individuals are governed by the Certification Commission's Appeals, Ethics, and Discipline Committee.

Persons concerned about possible violations of certification program standards must identify in a written statement to the Certification Commission the persons alleged to be involved and the facts concerning the alleged conduct in as much detail and specificity as possible, with available documentation. The statement must include the name, address, telephone number, email address, and signature of the person making the statement and others who may have knowledge or facts concerning the alleged violation.

3.07(1) Disciplinary Standards

The Certification Commission may revoke or otherwise take action with regard to the application or certification of an individual in circumstances including but not limited to the following:

1. ineligibility for certification;
 2. irregularity in connection with any certification examination (such as cheating, or other irregularities including but not limited to those addressed in the Certification Commission's *Policy and Procedure Manual*);
 3. unauthorized possession, use, access to, or distribution of certification examinations, score reports, answer records, certificates, certificant or applicant files, documents, or other materials;
 4. material misrepresentation or fraud in any statement to the Certification Commission or to the public including but not limited to statements made to assist the applicant, certificant, or another apply for, obtain, or retain certification;
 5. any drug or alcohol abuse to a degree that impairs competent performance of activities addressed by the certification;
 6. gross or repeated negligence or malpractice in professional responsibilities addressed by the certification, which includes violation of confidentiality requirements and releasing confidential information of consumers or others with whom the certificant or applicant has a professional relationship;
 7. the conviction of, plea of guilty, or plea of *nolo contendere* to a felony or misdemeanor that is directly related to an applicant or certificant's education, training, or employment;
 8. failure to adhere to the NAIFA *Code of Ethics* or other relevant professional standards of practice; or
 9. unauthorized use of NAIFA certification marks and/or logos by any individual(s).
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3.07(2) Disciplinary Panels

1. The Certification Commission will select persons who are certified by the Certification Commission and nominated by the Appeals, Ethics, and Discipline Committee to form (a) a Review Panel, (b) a Hearing Panel, and (c) an Appeals Panel. These panels will consider alleged violations of any application, certification, or ethical standard set forth in this procedure. If needed, these panels may be established as standing panels.
2. Each of the panels will be composed of three (3) full-voting members and up to four (4) alternate members, whose terms will run for three (3) years and may be renewed. A full or alternate member may not serve more than two (2) terms consecutively and may not serve on more than one (1) Review, Hearing, or Appeals panel at a time.

If a full or alternate member serves as a member on one of these panels, he or she may not consider the same matter while serving on a different panel.

A full or alternate member may not serve in any situation in which his or her impartiality or the presence of actual or apparent conflict of interest might reasonably be questioned.

3. The Appeals, Ethics, and Discipline Committee will select the Chair for each panel when it is formed or, if ongoing, at the beginning of each year.
4. A quorum consists of three (3) full-voting members, and panel action will be determined by a majority vote.
5. Where a vacancy of a full-voting member occurs in any of the panels as a result of resignation, unavailability, or disqualification, the Appeals, Ethics, and Discipline Committee will designate a full-voting member from the alternate members.

3.07(3) Disciplinary Review Procedures

Whenever the Certification Commission receives allegations that raise an issue under the disciplinary review procedure, the Certification Commission will transmit such allegations to the Chair of the Appeals, Ethics, and Discipline Committee, which will forward it to the Review Panel.

If the Review Panel determines that no good cause exists to pursue the allegations, its Chair will inform the Appeals, Ethics, and Discipline Committee, and no adverse action will be taken.

However, if the Review Panel determines by majority vote that good cause does exist, it will inform the Appeals, Ethics, and Discipline Committee, which will direct communication to the applicant or certificant by certified mail, return receipt requested. The communication will state the factual allegations constituting the alleged violation and disciplinary standard allegedly violated, consistent with Review Panel findings as reported to the Appeals, Ethics, and Discipline Committee, and also will include the following recitation of rights and procedure:

1. The applicant or certificant has the right to a hearing if he or she disputes the truthfulness of the allegations.
 2. The applicant or certificant may appear in person or by telephone at the hearing and that the applicant or certificant must bear his or her own expenses in connection with any such hearing.
 3. The applicant or certificant may be represented by counsel at the hearing at his or her own expense, may present evidence on his or her own behalf, and may examine or cross-examine any witness.
 4. The applicant or certificant will have 21 calendar days to notify the Chair of the Appeals, Ethics, and Discipline Committee whether he or she disputes the allegations, requests a hearing, and/or has comments regarding appropriate sanctions.
 5. The applicant or certificant will receive at least 30 calendar days of notice of the time and place of the hearing, and will receive a copy of the record to be reviewed at least 10 calendar days before the hearing.
 6. Sanctions may be imposed if the allegations are determined to be true by a disciplinary panel or if the applicant or certificant fails to submit a timely response.
 7. The applicant or certificant will be deemed to consent to the imposition of sanctions by the Certification Commission if he or she does not dispute the truthfulness of the allegations.
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Whenever the Appeals, Ethics, and Discipline Committee determines, based on the findings of the Review Panel, that there is cause to believe that a threat of immediate and irreparable damage exists, the Appeals, Ethics, and Discipline Committee will forward the allegations to the Hearing Panel.

The Hearing Panel will hear the matter by immediate telephone or other expedited notice and hearing procedure. After such notice and opportunity by the individual to be heard, if the Hearing Panel determines that a threat of immediate and irreparable damage exists, certification may be suspended for up to 60 calendar days pending a full hearing under the procedure described above.

3.07(4) Disciplinary Hearing

If an applicant or certificant disputes allegations made against him or her, or requests a hearing:

1. The Chair of the Appeals, Ethics, and Discipline Committee will
 - a) forward the allegations and the applicant or certificant's response to the Hearing Panel,
 - b) schedule a hearing of the Hearing Panel after the request is received, and
 - c) send by certified mail, return receipt requested, a Notice of Hearing to the applicant or certificant. The Notice of Hearing will include a statement of the time and place of the hearing as selected by the Certification Commission after consultation with the Chair of the Hearing Panel.
 2. The Hearing Panel will maintain minutes or a verbatim oral or written transcript.
 3. The Certification Commission and the applicant or certificant may make opening statements, present documents and testimony, examine and cross-examine witnesses, make closing statements, and present written briefs as scheduled by the Hearing Panel.
 4. The applicant or certificant may be represented by counsel at the hearing at his or her own expense, may present evidence on his or her own behalf, and may examine or cross-examine any witness.
 5. The Hearing Panel will determine all matters relating to the hearing. The hearing and related matters will be determined on the record by majority vote. Formal rules of evidence will not apply. Relevant evidence may be admitted. Disputed questions will be determined by majority vote of the Hearing Panel.
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3.07(5) Sanctions

Sanctions for violation of any Certification Commission standards may include one or more of the following as they pertain to LACP certificants:

1. denial or suspension of eligibility,
2. revocation,
3. non-renewal,
4. censure,
5. reprimand,
6. suspension,
7. training or other corrective action,
8. reports, and
9. conditions relating to the above.

3.07(6) Disciplinary Appeal Process

The applicant or certificant may appeal to the Appeals, Ethics, and Discipline Committee a decision by the Hearing Panel regarding the truthfulness of the allegations and may appeal a decision by either the Review Panel or the Hearing Panel regarding the imposition of sanctions. An appeal must be filed within 30 calendar days of the applicant or certificant's receipt of the decision by submitting a written statement of appeal to the Appeals, Ethics, and Discipline Committee.

The Appeals, Ethics, and Discipline Committee will file a written response reporting the findings of the Appeals Panel regarding the statement of appeal of the applicant or certificant.

The Appeals Panel will render a decision on the record without an oral hearing, although a written briefing may be submitted.

3.07(7) Disciplinary Decision

The decisions of the Review, Hearing, and Appeals panels will be rendered in writing to the Appeals, Ethics, and Discipline Committee, which will report them in full to the Certification Commission. The decisions will contain factual findings, conclusions of law, and any sanctions applied. They will be transmitted to the applicant or certificant by certified mail, return receipt requested.

As prescribed, the individual gives up certain rights to privacy as a condition of application for or granting of certification and/or recertification.

The individual releases, discharges, and exonerates NAIFA, the Certification Commission, its officers, members, employees, agents, committee members, and any person furnishing documents, records, and other information relating to eligibility, certification, or recertification from any and all liability of any nature and kind arising out of the furnishing or inspection of documents, records, and other information and any investigation, evaluation, and communication made by the Certification Commission.
