

International Society of Arboriculture (ISA) Certification Program

ISA Ethics Case Procedures

INTRODUCTION.

The ISA Certification Board develops and promotes high ethical standards for the Certified Arborist and Board Certified Master Arborist (BCMA) Programs, and requires that all certificants meet these standards. The following disciplinary procedures are the only rules for processing possible violations of these ethical standards, and are applicable to certificants, as well as those who are seeking certification from the ISA Certification Board. Certificants and candidates seeking certification or recertification agree that: these procedures are a fair process for resolving all ethics matters; they will be bound by decisions made pursuant to these procedures; these procedures are governed by the principles of the law of the State of Illinois; and these procedures do not constitute a contract between the ISA and the candidate or certificant.

A. GENERAL PROVISIONS.

- 1. Nature of the Process.** The ISA Certification Program has the only authority to end any ethics matter, regardless of circumstances. By applying for certification or recertification, candidates and certificants agree that they will not challenge the authority of the ISA Certification Program to apply the Code of Ethics, the Ethics Case Procedures, or other applicable policies to resolve ethics matters. These Ethics Case Procedures are not formal legal proceedings, so many legal rules and practices are not observed, and the Procedures are designed to operate without the assistance of attorneys. Any party, of course, may be represented by an attorney with respect to an ethics matter. If a party has retained an attorney, that attorney may be directed to communicate with the ISA Certification Program solely through the ISA Certification Legal Counsel. The parties are encouraged to communicate directly with the Certification Program. The ISA Certification Program may use the services of ISA Certification Legal Counsel without limitation.
- 2. Participants.** Ethics cases may be decided by the ISA Ethics Review Committee (ERC or Ethics Committee), the ISA Certification Board, and/or any other authorized designee. A certificant or candidate who is the subject of an ethics complaint or investigation will be the respondent. The person(s) initiating an ethics complaint will be the complainant(s).
- 3. Time Requirements.** The ISA Certification Program will make every effort to follow the time requirements noted in this document. However, the Program's failure to meet a time requirement will not prohibit the final resolution of any ethics matter. Complainants and respondents are required to comply with all time requirements specified in these procedures. Time extensions or postponements may be granted by the ISA Director of Certification if a timely written request explains a reasonable cause.
- 4. Litigation/Other Proceedings.** The ISA Certification Program may accept and resolve ethics complaints when civil or criminal litigation or other proceedings related to the complaint have been, or are presently, before a court, regulatory agency, or professional body. The ISA Certification Program may also continue or delay the resolution of any ethics complaints in such cases.

5. Improper Disclosure. The Ethics Review Committee may issue any appropriate directive(s) where a candidate or certificant provides a misleading disclosure, or fails to disclose requested information, related to certification or recertification or to an ethics complaint, disciplinary proceeding, or similar matter. Where a discipline, order, or other directive is issued by the ERC under this Section, the candidate or certificant involved may seek review and appeal pursuant to these procedures.

6. Time Limitations Concerning Complaints. The Ethics Review Committee may consider any ethics complaint, regardless of: whether the respondent held a Certified Arborist or BCMA credential at the time of the alleged violation; when the alleged violation occurred; or, whether the respondent continues to hold or seek a Certified Arborist or BCMA credential during the course of any ethics case.

7. Confidentiality. In order to protect the privacy of the parties involved in an ethics case, all material prepared by, or submitted to, the Ethics Review Committee will be confidential, unless otherwise authorized by these procedures. The identities of all members of the Ethics Committee shall remain confidential and will not be released without the specific authorization of each member. Among other information, the ERC will not consider the following materials to be confidential: materials which are disclosed as the result of a legal requirement; upon the written request of a candidate or certificant, any certification information which he/she would like made available to other credentialing or professional organizations, or similar bodies; and, all final published rulings of the Ethics Committee or the Certification Board.

Until an ethics case has been closed or finalized pursuant to Section H, all parties and participants must maintain the confidentiality of all information related to the ethics case, including its existence, consistent with these rules. If any party discloses information related to the ethics case contrary to these rules, the Ethics Review Committee and/or the Certification Board may terminate the ethics complaint if such disclosure is by the complainant; or, may impose any sanction included within these rules if such disclosure is by the respondent.

8. Failure to Cooperate. If any party refuses to fully cooperate with the Certification Program concerning matters arising under these procedures without good and sufficient cause, the ERC may: terminate the ethics complaint of an uncooperative complainant; or, impose any sanction included within these rules if a respondent is uncooperative. Where a discipline, order, or other directive is issued by the Ethics Committee under this Section, the candidate or certificant involved may seek review and appeal pursuant to these procedures.

9. Resignation from ISA Certification. Should a respondent attempt to relinquish ISA certification or withdraw an application during the course of any ethics case, the ERC reserves the right to continue the matter to a final and binding resolution according to these procedures.

B. SUBMISSION OF ETHICS COMPLAINTS/ACCEPTANCE OR REJECTION.

1. Ethics Review Committee (ERC) Complaint Review. Any person, group, organization, or in appropriate cases, the ISA Director of Certification, may initiate an ethics complaint. Each complainant must submit to the ERC a detailed written description of the factual allegations supporting the ethics complaint. The ERC will be responsible for the investigation and resolution of each ethics complaint. Upon receipt of a complaint, the Ethics Review Committee will determine whether sufficient detail is presented to constitute a formal Ethics Complaint and to permit the Committee to conduct an appropriate review.

2. Complaint Acceptance/Rejection Criteria. In order to determine if an ethics complaint is accepted or rejected, the ERC will consider whether: a proven complaint would constitute a violation of the Code of Ethics; the passage of time since the alleged violation requires that the complaint be rejected; relevant, reliable information or proof concerning the charge is available; the complainant is willing to provide testimony or other evidence concerning the complaint; and, the charge appears to be justified or insupportable, considering the proof available.

3. Ethics Complaint Acceptance. Upon a determination that an ethics complaint is appropriate, the ERC will issue a formal Ethics Complaint Notice identifying each Code of Ethics violation alleged and the supporting factual basis for each complaint. This Notice will be delivered to the respondent, and will be marked “Confidential.”

4. Ethics Complaint Response. Within thirty (30) days of the mailing date of an Ethics Complaint Notice, the respondent must submit a response to the ERC. The Ethics Complaint Response must include a full response to each complaint, a copy of each document relevant to the resolution of the Ethics Complaint, and any other information that the respondent believes will assist the ERC in considering the Ethics Complaint fairly.

5. Response Deficiencies. The ERC may require the respondent to supplement or expand a response.

6. Optional Reply to Ethics Complaint Response. The ERC will forward a copy of the Ethics Complaint Response to the complainant within approximately ten (10) days following the receipt of the Response. The complainant may submit a Reply to the respondent’s Ethics Complaint Response by letter or similar document within ten (10) days of the mailing date of the Response to the complainant. If submitted, this Reply must fully explain any objections that the complainant wishes to present to the ERC concerning the Ethics Complaint Response.

7. Optional Response to Complainant Reply. If an optional Reply to the Ethics Complaint Response is submitted by the complainant, the ERC will forward a copy of the Reply to the respondent within approximately ten (10) days following the receipt of the Reply. The respondent may submit a Response to the complainant’s Reply by letter or similar document within ten (10) days of the mailing date of the Reply to the respondent. If submitted, the Response must fully explain, and is limited to, any objections that the respondent wishes to present to the Ethics Committee concerning the complainant’s Reply to the Ethics Complaint Response.

8. Ethics Complaint Rejection. If the ERC determines that an allegation should not be a formal ethics complaint, the Committee will notify the complainant in writing of the rejection and its basis.

9. Appeal of Complaint Rejection Determination. Within thirty (30) days of the mailing of a complaint rejection letter, the complainant may appeal to the ISA Certification Board by stating in writing: the procedural errors possibly made by the ERC with respect to the charge rejection, if any; the specific provisions of the Code of Ethics believed violated; and, the specific information believed to support the acceptance of the complaint.

C. MEDIATION.

1. **Cases Appropriate for Mediation.** All Ethics Complaints will be reviewed by the ERC to determine whether the ethics matter is appropriate for resolution by mediation. The Ethics Committee will consider the seriousness of the allegations, the respondent's background, prior conduct, and any other pertinent material, and make a decision concerning the likelihood that the matter can be resolved fairly without formal disciplinary proceedings as described in these procedures. Ethics cases concerning charges issued by a regulatory agency or professional body, and those involving criminal litigation, are not appropriate for mediation.
2. **Mediation Determination.** Should the ERC determine that a particular ethics matter is appropriate for mediation, the Ethics Committee will attempt to resolve the dispute to a fair and just conclusion.
3. **Successful Mediation.** The ERC will prepare a report outlining the terms of the final mediated resolution of an ethics case, or will refer the case to the ISA Certification Board for review.
4. **Unsuccessful Mediation.** The ERC will notify the Certification Board in the case of mediation failure and process the ethics matter according to these procedures.

D. PRELIMINARY ACTIONS AND ORDERS.

1. **Voluntary Temporary Suspension of Certification.** At any time following the issuance of a formal Ethics Complaint, the respondent may be asked to agree to and sign a Voluntary Temporary Suspension Agreement stating that he/she will voluntarily and immediately cease from representing himself or herself as certified or otherwise endorsed by the ISA Certification Board and Program until further notice, in addition to any other directives issued by the ISA Certification Board or Ethics Committee.
2. **Involuntary Suspension of Certification.** If a respondent fails to agree to and sign a Voluntary Temporary Suspension Agreement, the ERC may issue an Order suspending the respondent's certification(s) until the final resolution of the Complaint. Suspension Orders are authorized when:
 - a. The respondent has been indicted for, similarly charged with, or convicted of any violation of criminal law under statute, law or rule;
 - b. The respondent is the subject of a formal complaint, similar charge, and/or investigation, or has been found in violation of any law, regulation or rule, by a professional regulatory body;
 - c. The respondent is the subject of a formal complaint, similar charge, and/or investigation concerning an ethics or disciplinary matter, or has been found in violation of an ethics code, by a professional association or credentialing body; or,
 - d. The respondent is the subject of litigation or a petition relating to his/her professional practice(s).
3. **Other Preliminary Orders.** The ERC or the Certification Board may require the respondent to do, or to refrain from doing, certain acts by preliminary and temporary order reasonably related to the

Complaint under consideration. The Ethics Committee or the Certification Board may discipline a respondent who fails to comply with a temporary or preliminary order. Preliminary and temporary orders are not subject to appeal.

E. ETHICS REVIEW COMMITTEE COMPLAINT HEARINGS.

1. Ethics Review Committee. The ISA Certification Board will appoint at least seven (7) certifiants in good standing to serve as the Ethics Review Committee to investigate and resolve each ethics complaint matter, including an ERC Chair and Vice Chair. The Ethics Review Committee will be composed of both Certified Arborists and Board Certified Master Arborists (BCMAs). Three (3) disinterested members of the ERC will be assigned to each case, and will conduct an informal Ethics Complaint Hearing designed to collect and weigh all of the available information and proof, and will have full authority to convene, preside over, continue, decide, and conclude an ethics hearing.

2. Hearing Schedule, Notice, and Attendance. The hearing date, time, and location for each ethics case will be scheduled by the ERC in consultation with the parties, and both parties will be notified in writing. Each party may attend the hearing in person, or via telephone conference where all participants will be able to hear each other.

3. Participation of Legal Representatives. Should the ISA Certification Legal Counsel be present at an Ethics Complaint Hearing, Legal Counsel shall have the privilege of the floor and may conduct the hearing with the ERC. Legal or other representatives of the parties do not have such privilege and are bound by the determinations and rulings of the Ethics Review Committee and ISA Certification Legal Counsel. No formal legal rules of evidence, cross-examination, oath, and other procedures will apply to hearings. The candidate or certificant, or a legal representative, will be permitted to ask questions of witnesses at the discretion of the ERC. Objections relating to relevance of information and other procedural issues will be decided by the ERC and these decisions are not subject to appeal.

4. Record of the Hearing. A taped, written or other record of the hearing will be made by the ERC, another Certification Program representative, or a stenographer/recorder, as determined by the Ethics Review Committee.

5. Hearing Expenses. Parties will be responsible for their expenses associated with the case. The ISA Certification Program will bear other general costs of conducting the hearing, including costs associated with the activities of ISA Certification Program representatives.

6. Closing of the Hearing Record. Any ethics hearing may proceed to a conclusion and decision whether or not the parties are present based on the appropriate written record, as determined by the ERC. The ERC will review the hearing record, as well as any submissions presented by the parties and other relevant information, and thereafter, will determine the outcome of the ethics matter by majority vote in a closed session. The hearing record will be closed following the conclusion of the hearing, unless otherwise directed by ERC.

7. Ethics Review Committee Decision and Order. A Decision and Order will be prepared by the ERC after the closing of the record, which will include: a summary of the case, including the positions of the parties; a summary of all relevant factual findings based on the record of the hearing; a final ruling on each Code of Ethics violation charged; and, a statement of any disciplinary action(s) and other directives issued by the Committee. Copies of the ERC Decision and Order shall be sent to the parties. The parties will also be notified that the final decision may be published consistent with the requirements of these procedures.

8. Disciplinary Actions Available. When a respondent has been found to have violated one or more provisions of the Code of Ethics, the Ethics Review Committee may issue and order one or more of the following disciplinary or remedial actions:

- a. The denial and rejection of any certification or recertification application;
- b. Specific training, supervision, and/or instruction concerning his or her professional activities;
- c. Private reprimand and censure, including any conditions or directives;
- d. Public reprimand and censure, including any conditions or directives;
- e. Certification probation for any period up to three (3) years, including any conditions or directives;
- f. Suspension of certification for a period of no less than six (6) months and no more than two (2) years, including any conditions or directives; and,
- g. Revocation of certification, including any directives.

F. ISA CERTIFICATION BOARD/APPEAL.

1. Time Period for Submitting Appeal. Within thirty (30) days of the mailing date of an adverse Ethics Review Committee Decision and Order, the respondent may submit a written appeal of all or a portion of the Decision and Order to the ISA Certification Board consistent with the requirements of these procedures.

2. Grounds for Appeal. An adverse Ethics Review Committee Decision and Order may be reversed, or otherwise modified by the ISA Certification Board. However, the grounds for appeal of an adverse decision are strictly limited to the following:

a. New or Previously Undiscovered Information. Following the closing of the hearing record, the respondent has located relevant proof that: was not previously in his/her possession; was not reasonably available prior to closure of the record; and, could have affected the ERC decision;

b. Contrary to the Information Presented. The ERC decision is contrary to the most substantial information provided in the record;

c. Procedural Error. The ERC misapplied a procedure contained in these rules and prejudiced the respondent; or,

d. Misapplication of the Ethics Code. The ERC decision contains the misapplication of the provisions contained in the Code of Ethics and the misapplication prejudiced the respondent.

With respect to Subsections 2.c. and 2.d. above, the ISA Certification Board will consider only arguments that were presented to the ERC prior to the closing of the hearing record.

3. Contents of Appeal Letter. The respondent must submit a letter or other written document to the ISA Certification Board and to the complainant which contains the following information and material: the ethics case name, docket number, and the date that the ERC decision was issued; a statement and complete explanation of the reasons for the appeal under Section F.2, including any reduction in discipline, or other modification of the decision issued by ERC; and, copies of any material supporting the appeal.

4. Appeal Deficiencies. The ISA Certification Board may require respondent to clarify, supplement, or amend an appeal submission.

5. Appeal Rejection. If the ISA Certification Board determines that an appeal does not meet the appeal requirements or otherwise warrant further formal review, consistent with the requirements set forth in these procedures, the appeal will be rejected. The complainant and respondent will be notified of the rejection, as well as the reason(s) for the rejection, by letter within approximately twenty-one (21) days of the determination. Appeal rejection determinations are not subject to appeal.

6. Optional Reply to Appeal Letter. Within fifteen (15) days of the mailing date of a respondent's appeal, the complainant may submit to the Certification Board a Reply to the Appeal by letter or similar document. If submitted, this Reply must fully explain any objections that the complainant wishes to present to the ISA Certification Board concerning the appeal.

7. Optional Response to Complainant Reply. If an optional Reply to the Appeal is submitted by the complainant, the Certification Board will forward a copy of the Reply to the respondent within approximately ten (10) days following the receipt of the Reply. The respondent may submit a Response to the complainant's Reply by letter or similar document within ten (10) days of the mailing date of the Reply to the respondent. If submitted, the Response must fully explain, and is limited to, any objections that the respondent wishes to present to the Certification Board of Directors concerning the complainant's Reply to the Appeal.

G. ISA CERTIFICATION BOARD APPEAL HEARINGS.

1. ISA Certification Board. The Certification Board will appoint at least three (3) disinterested Certification Board Directors to serve as the Board to resolve each ethics appeal, including a Chair, who will preside over each Appeal Hearing. The Certification Board will have full authority to convene, preside over, continue, decide, and conclude an ethics appeal.

2. Appeal Hearings. Following receipt of a complete and proper written appeal, the ISA Certification Board will schedule a date on which to conduct an appeal hearing, and the parties will be notified of the date in writing. The Certification Board will review the hearing record, as well as any appeal submissions presented by the parties and other relevant information, and thereafter, will determine the outcome of the appeal by majority vote in a closed session.

3. Request to Appear Before the Certification Board. Either party may request the opportunity to appear before the ISA Certification Board in writing at least thirty (30) days prior to the date scheduled for the Appeal Hearing. In the event that a request to appear before the Certification Board is approved, the appearance may be limited in any manner. Denials of requests to appear before the Certification Board are not subject to appeal.

4. Certification Board Decision and Order. Following the conclusion of an Appeal Hearing, the Certification Board will issue an Appeal Decision and Order stating and explaining the outcome of the appeal, and including: a summary of any relevant portions of the ERC Decision and Order; a summary of any relevant procedural or factual findings made by the Certification Board; the Certification Board's ruling(s) and

decisions with respect to the matters under appeal; and, the Certification Board's final Order affirming, reversing, amending or otherwise modifying any portion of the ERC Decision and Order, including any final disciplinary action or sanction issued by the Board. Copies of the ISA Certification Board Decision and Order shall be sent to the parties. The parties will also be notified that the final decision may be published consistent with the requirements of these procedures.

H. FINALIZING ETHICS CASES.

1. Events Which Will Cause Closure of an Ethics Case. An ethics case will be closed when any of the following occur: the ethics case has been rejected pursuant to these procedures; a final decision has been issued by the Ethics Review Committee and/or the Certification Board pursuant to these procedures without appeal; or, an Ethics Complaint has been terminated or withdrawn by the complainant(s).

2. Events Which Will Cause an Ethics Case Decision and Order to Become Final. The Ethics Case Decision and Order issued by the Ethics Review Committee that is not appealed within the prescribed time requirements will be considered final. The Ethics Case Decision and Order issued by the Certification Board will be considered final.

3. Referral and Notification Action. The ISA Director of Certification may notify appropriate governmental, professional, or similar bodies of any disciplinary action taken against a respondent by sending a copy of the final Ethics Case Decision and Order issued by the Ethics Review Committee and/or the Certification Board, or by sending another appropriate notice. This notification may be done at any point after the time period for the respondent to appeal an adverse decision has elapsed. During the appeal period, the Director of Certification may respond to inquiries regarding the existence of ethics cases and indicate the existence of such proceedings.

4. Publication of Final Disciplinary Action. Following the lapse of any appeal rights and upon case closure, the ISA Director of Certification may release or publish a notification of a final Ethics Case Decision and Order following the issuance of an adverse Ethics Review Committee or Certification Board ruling. Any party or interested individual may request publication of any final decision, consistent with these procedures. However, the Ethics Review Committee or Certification Board may deny such requests, and such decisions cannot be appealed.

I. REVOCATION, SUSPENSION, AND PROBATION ORDERS/REAPPLICATION AND REINSTATEMENT PROCEDURES.

1. Revocation Orders/Reapplication Petition. Five (5) years after the issuance of a final revocation order issued under these procedures, a respondent may submit to the ISA Certification Board a Petition For Permission To Reapply For Certification, which will include: a statement of the relevant ethics case name, docket number, and the date that the final Ethics Decision and Order was issued; a statement of the reasons that support or justify the acceptance of the Reapplication Petition; and, copies of any relevant documentary or other material supporting the Petition.

2. Suspension Orders/Reinstatement Requests. After the expiration of a final suspension order issued under these procedures, a respondent may submit to the Certification Board a Request For Certification Reinstatement, which will include: a statement of the relevant ethics case name, docket number, and the date that the final Ethics Decision and Order was issued; a statement of the reasons that support or justify the acceptance of the Reinstatement Request; and, copies of any relevant documentary or other material supporting the Request.

3. Probation Orders/Reinstatement or Referral. Following the expiration of a final probation order under these procedures, the Certification Board will determine whether the respondent has satisfied the terms of the probation order, and will do the following: if the respondent has satisfied the terms of probation in full, the Certification Board will immediately verify that the probation has been completed and reinstate the individual to full certification status; or, if the respondent has not satisfied the terms of probation in full, the Certification Board will issue any appropriate action consistent with these Procedures.

4. ISA Certification Board Reapplication Petition and Reinstatement Request Decisions. Following the submission of a complete Reapplication Petition or Reinstatement Request, the Certification Board will schedule and conduct a hearing to review and rule on the Petition or Request. Each Petition or Request will be considered by a quorum of the Certification Board. During these deliberations, the Certification Board will review the information presented by the respondent and any other relevant information. The Certification Board will then determine the outcome of the appeal by majority vote in closed session. The Certification Board will prepare and issue a final Decision and Order indicating whether the Petition or Request is granted, denied, or continued to a later date, and if appropriate, any conditions of certification or recertification. Copies of the Certification Board Decision and Order will be sent to the parties. While no appeal of the Decision and Order is permitted, the respondent may submit a new Petition or Request pursuant to this Section, one (1) year or more after the issuance of the ISA Certification Board Decision and Order.