

INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA)

ETHICS CASE PROCEDURES

INTRODUCTION.

The ISA develops and promotes high ethical standards for credentialing programs, and requires that all credential holders meet these standards. The following disciplinary procedures are the only rules for processing possible violations of these ethical standards, and are applicable to credential holders, as well as those who are seeking certification from ISA. Credential holders and candidates seeking certification or recertification/renewal agree during the application process, and at each subsequent recertification/renewal 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 credential holder.

A.GENERAL PROVISIONS.

- 1. Authority.** ISA has the only authority to choose to pursue or deny any ethics matter, regardless of circumstances. By applying for certification or recertification/renewal, candidates and credential holders agree that they will not challenge the authority of ISA 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 may be represented by an attorney with respect to an ethics matter, if they choose to do so. If a party has retained an attorney, that attorney may be directed to communicate with ISA solely through the ISA legal counsel. The parties are encouraged to communicate directly with the Compliance Services Manager. ISA may use the services of ISA legal counsel without limitation.
- 2. Participants.** Ethics cases may be decided by the ISA Compliance Services Manager, the ISA Ethics Review Committee, ISA, and/or any other authorized designee. A credential holder 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.** ISA will make every effort to follow the time requirements noted in this document. However, ISA'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 Compliance Services Manager if a timely written request explains a reasonable cause.

- 4. Litigation/Other Proceedings.** ISA 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, or ISA may continue or delay the resolution of any ethics complaints in such cases at the discretion of ISA
- 5. Improper Disclosure.** The Compliance Services Manager or Ethics Review Committee may issue any appropriate directive(s) where a candidate or credential holder provides a misleading disclosure, or fails to disclose requested information, related to certification or recertification/renewal or to an ethics complaint, disciplinary proceeding, or similar matter. Where a discipline, order, or other directive is issued by the Compliance Services Manager or Ethics Review Committee under this Section, the candidate or credential holder involved may seek review and appeal pursuant to these procedures.
- 6. Time Limitations Concerning Complaints.** ISA may consider any ethics charge, regardless of: what type of ISA credential at the time of the alleged violation; when the alleged violation occurred; or, whether the respondent continues to hold or seek an ISA 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 ISA will be confidential, unless otherwise authorized by these procedures. The identities of all members of the Ethics Review Committee shall remain confidential and will not be released without the specific authorization of each member. Among other information, ISA 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 credential holder, 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 Review Committee or ISA.

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 ISA 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. Each party may disclose information to legal counsel and/or witnesses, provided that counsel and/or witnesses keep the information confidential.

8. **Failure to Cooperate.** If any party refuses to fully cooperate with the ISA concerning matters arising under these procedures without good and sufficient cause, the Compliance Services Manager or Ethics Review Committee 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 Compliance Services Manager or Ethics Review Committee under this Section, the candidate or credential holder involved may seek review and appeal pursuant to these procedures.
9. **Resignation of Credential from ISA.** Should a respondent attempt to relinquish ISA certification or withdraw an application during the course of any ethics case, the Ethics Review Committee reserves the right to continue the matter to a final and binding resolution according to these procedures.

B. ETHICS CHARGE STATEMENTS/ETHICS COMPLAINTS.

1. **Ethics Charge Statement Review.** Any person, group, organization, or in appropriate cases, the ISA Compliance Services Manager, may initiate an ethics complaint. Each complainant must submit to ISA a detailed, written description of the factual allegations supporting the Ethics Charge Statement. Upon receipt of an Ethics Charge Statement, the Compliance Services Manager will review each charge submitted by a complainant and then determine if it will become the subject of a formal Ethics Complaint and Investigation (Ethics Complaint).
2. **Charge Acceptance/Rejection Criteria.** In order to determine if an Ethics Charge Statement is accepted or rejected, the Compliance Services Manager 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. The Compliance Services Manager, or designee is authorized to contact either party for supplementary information or clarification. The Compliance Services Manager may consult with the Ethics Review Committee for validity of the complaint.

- 3. Ethics Complaint Rejection.** If the Compliance Services Manager determines that an Ethics Charge Statement should not be the subject of a formal Ethics Complaint, the Compliance Services Manager or designee will notify the complainant in writing of the rejection and its basis.
- 4. Appeal of Charge Statement Rejection Determination.** Within thirty (30) days of the mailing of a complaint rejection letter, the complainant may appeal to the Ethics Review Committee by stating in writing: the procedural errors possibly made by the Compliance and Ethics Manager 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. The Ethics Review Committee will consider and decide any charge rejection appeal at the next scheduled meeting, and such decision cannot be appealed.
- 5. Ethics Complaint Acceptance.** The Compliance Services Manager will determine whether the charge(s) and available proof support a formal Ethics Complaint, and upon such determination, will refer the charge(s) to the Ethics Review Committee. Upon a determination that an Ethics Charge Statement is appropriate, the Ethics Review Committee, or designee 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" and sent via USPS Certified Mail.
- 6. Ethics Complaint Response.** Within thirty (30) days of the mailing date of an Ethics Complaint Notice, the respondent must submit a response to the Ethics Review Committee. 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 Ethics Review Committee in considering the Ethics Complaint fairly.
- 7. Response Deficiencies.** The Compliance Services Manager may require the respondent to supplement or expand a response.
- 8. Optional Reply to Ethics Complaint Response.** The Compliance Services Manager will forward a copy of the Ethics Complaint Response to the complainant within approximately ten (10) days following the receipt of the Response via USPS Certified Mail. 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 Ethics Review Committee concerning the Ethics Complaint Response.

- 9. Optional Response to Complainant Reply.** If an optional Reply to the Ethics Complaint Response is submitted by the complainant, the Compliance Services Manager will forward a copy of the Reply to the respondent within approximately ten (10) days following the receipt of the Reply. This information will be sent to the respondent via USPS certified mail. 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 Review Committee concerning the complainant's Reply to the Ethics Complaint Response.

C. 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 stop representing himself or herself as certified or otherwise endorsed by ISA until further notice, in addition to any other directives issued by ISA.
- 2. Involuntary Suspension of Certification.** If a respondent fails to agree to and sign a Voluntary Temporary Suspension Agreement, the Compliance Services Manager, Ethics Review Committee, or ISA 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 Compliance Services Manager, Ethics Review Committee, or the Credentialing Council 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. A respondent who fails to comply with a temporary or preliminary order may be subject to discipline under these procedures. Preliminary and temporary orders are not subject to appeal.

D. ETHICS REVIEW COMMITTEE COMPLAINT HEARINGS.

- 1. **Ethics Review Committee.** ISA will appoint seven (7) credential holders in good standing to serve as the Ethics Review Committee to investigate and resolve each ethics complaint matter. The Ethics Review Committee will be composed of both Certified Arborists and Board Certified Master Arborists (BCMAs). The Ethics Review Committee 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 and time for each ethics case will be scheduled by the Ethics Review Committee in consultation with ISA Compliance Services Manager, and both parties will be notified in writing. Each party may attend the hearing via telephone conference where all participants will be able to hear each other.
- 3. **Participation of Legal Representatives.** ISA legal counsel will be present at an Ethics Complaint Hearing, legal counsel shall have the privilege of the floor and may conduct the hearing with the Ethics Review Committee. 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 legal counsel. No formal legal rules of evidence, cross-examination, oath, and other procedures will apply to hearings. The candidate or credential holder, or a legal representative, will be permitted to ask questions of witnesses at the discretion of the Ethics Review Committee. Objections relating to relevance of information and other

procedural issues will be decided by the Ethics Review Committee and these decisions are not subject to appeal.

- 4. Record of the Hearing.** A written, or other record of the hearing will be made by the Ethics Review Committee, the Compliance Services Manager, or designee, 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. ISA will bear other general costs of conducting the hearing, including costs associated with the activities of ISA 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 Ethics Review Committee. The Ethics Review Committee 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 Ethics Review Committee.
- 7. Ethics Review Committee Decision and Order.** A Decision and Order will be prepared by the Ethics Review Committee with the assistance of ISA Legal Council and the Compliance Services Manager 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 (if applicable) and other directives issued by the Committee. Copies of the Ethics Review Committee 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.

ISA considers all materials prepared by it or provided by it as confidential information pursuant to Section A7 of the Ethics Case Procedures. Paragraph H4 of the Ethics Case Procedures does provide that once a case is closed, a final decision may be published if requested by a party, but any publication is within the discretion of the Ethics Review Committee no other information is authorized to be made public. The procedures do not provide for the distribution of the transcript of the hearing (which is provided to ISA at ISA's sole expense) to any

party to the proceedings and is maintained as confidential in ISA files. As a result, ISA does not provide copies of hearing transcripts.

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. A recommendation to the Compliance Services Manager that the credential holder or candidate be ineligible for certification or recertification/renewal, and that any application of the respondent for ISA certification be denied;
- 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 must define based on the severity of the case. The Ethics Review Committee will determine
 - i. Whether the recertification/renewal period is put on hold during suspension
 - ii. Whether the credential holder may recertify during the suspension if his/her recertification/renewal period ends during the suspension; in all cases, the credential holder is required to have enough CEUs to qualify for recertification/renewal and to pay the recertification/renewal fee
 - iii. Whether the credential holder may earn CEUs during the suspension
- g. Revocation of certification, including any directives.

E. ISA DECISION APPEAL PROCESS.

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

Compliance Services Manager 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 ISA. 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 Ethics Review Committee decision;
- b. **Contrary to the Information Presented.** The Ethics Review Committee decision is contrary to the most substantial information provided in the record;
- c. **Procedural Error.** The Ethics Review Committee misapplied a procedure contained in these rules and prejudiced the respondent; or,
- d. **Misapplication of the Ethics Code.** The ERC Ethics Review Committee 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, ISA will consider only arguments that were presented to the Ethics Review Committee 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 Compliance Services Manager, or designee which contains the following information and material: the ethics case name, case number, and the date that the Ethics Review Committee 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 Ethics Review Committee; and, copies of any material supporting the appeal.
4. **Appeal Deficiencies.** ISA may require the respondent to clarify, supplement, or amend an appeal submission.
5. **Appeal Rejection.** If the ISA Compliance Services Manager 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 Compliance Services Manager 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 ISA concerning the appeal.
- 7. Optional Response to Complainant Reply.** If an optional reply to the appeal is submitted by the complainant, the Compliance Services Manager 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 Compliance Services Manager concerning the complainant's reply to the appeal.

F. ISA APPEAL HEARINGS.

- 1. ISA Appeals Committee.** ISA will appoint The Appeals Committee Members to serve as the Council to resolve each ethics appeal, including a Chair, who will preside over each Appeal Hearing. The members of the Appeals Committee will be comprised of new members that did not preside over the original ethics hearing. This Appeals Committee 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 Appeals Committee will schedule a date on which to conduct an appeal hearing, and the parties will be notified of the date in writing. The Appeals Committee 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 Appeals Committee.** Either party may request the opportunity to appear before the ISA Appeals Committee 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 Appeals Committee is approved, the appearance may be limited in any manner. Denials of requests to appear before the Appeals Committee are not subject to appeal.

- 4. Appeals Committee Decision and Order.** Following the conclusion of an Appeal Hearing, the Appeals Committee 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 Ethics Review Committee Decision and Order; a summary of any relevant procedural or factual findings made by the Appeals Committee; the Appeals Committee's ruling(s) and decisions with respect to the matters under appeal; and, the Appeals Committee's final Order affirming, reversing, amending or otherwise modifying any portion of the Ethics Review Committee Decision and Order, including any final disciplinary action or sanction issued by the committee. Copies of the ISA Appeals Committee Decision Orders shall be sent to both parties. The parties will also be notified that the final decision may be published consistent with the requirements of these procedures.

G. 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 ISA 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 ISA will be considered final.
- 3. Referral and Notification Action.** The ISA Compliance Services Manager 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 ISA, 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 Compliance Services Manager 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 Compliance Services Manager may release or publish a notification of a final Ethics Case Decision and Order following the issuance of an adverse Ethics Review Committee or ISA ruling. Any party or interested individual may request publication of any final decision, consistent with these procedures. However, the Ethics Review Committee or ISA may deny such requests, and such decisions cannot be appealed.

H. 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 a letter to ISA Compliance Services Manager requesting to reapply for certification. This letter shall 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 request to reapply for certification; and, copies of any relevant documentary or other material supporting the this letter.
- 2. Suspension Orders/Reinstatement Requests.** After the expiration of a final suspension order issued under these procedures, a respondent may submit to ISA a letter requesting reinstatement. This letter shall 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 this reinstatement request; and, copies of any relevant documentary or other material supporting this request.
- 3. Probation Orders/Reinstatement or Referral.** Following the expiration of a final probation order under these procedures, ISA 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, ISA 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, ISA will issue any appropriate action consistent with these Procedures.

- 4. ISA Reapplication Requests and Reinstatement Request Decisions.** Following the submission of a complete reapplication request or reinstatement request, ISA Compliance Services Manager will schedule and conduct a hearing to review and rule on the request. Each request will be considered by a quorum of the Appeals Committee. During these deliberations, the Appeals Committee will review the information presented by the respondent and any other relevant information. The Appeals Committee will then determine the outcome of the appeal by majority vote in closed session. The Appeals Committee will prepare and issue a final Decision and Order indicating whether the request is granted, denied, or continued to a later date, and if appropriate, any conditions of certification or recertification/renewal. Copies of the Appeals Committee 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 request pursuant to this Section, one (1) year or more after the issuance of the ISA Appeals Committee Decision and Order.