

## **Section 5: Codes of Ethics and Enforcement**

Date Revised: Full text adopted 11/2/2002 by Governing Council as part of comprehensive revision. Subsequent language changes are noted following the amended sections.

### **5.1 Institute of Real Estate Management Code of Professional Ethics**

#### 5.1.1 Introduction

The purpose of this Code of Professional Ethics is to establish and maintain public confidence in the honesty, integrity, professionalism, and ability of the professional real estate manager. The Institute of Real Estate Management and its Members intend that this Code and performance pursuant to its provisions will be beneficial to the general public and will contribute to the continued development of a mutually beneficial relationship among CERTIFIED PROPERTY MANAGER® Members, CPM® Candidates, ACCREDITED RESIDENTIAL MANAGER® Members, ACCREDITED COMMERCIAL MANAGER Members, Associate Members and other Members, national and international professional real estate associations and organizations, clients, employers, and the public.

The Institute of Real Estate Management, as the professional society of real estate management, seeks to work closely with all other segments of the real estate industry to protect and enhance the interests of the public. To this end, Members of the Institute have adopted and, as a condition of membership, subscribe to this Code of Professional Ethics.

#### 5.1.2 IREM Member Pledge

I pledge myself to the advancement of professional real estate management through the mutual efforts of Members of the Institute of Real Estate Management and by any other proper means available to me.

I pledge myself to maintain the highest moral and ethical standards consistent with the objectives and higher purpose of the Institute.

I pledge myself to seek and maintain an equitable, honorable, and cooperative association with fellow Members of the Institute and with all others who may become a part of my business and professional life. I recognize and support the need to preserve and encourage fair and equitable practices and competition among all who are engaged in the profession of real estate management.

I pledge myself to place honesty, integrity, and industriousness above all else and to pursue my gainful efforts with diligent study and ongoing education so that my services shall be beneficial to the general public and my obligations to my clients shall always be maintained at the highest possible level.

I pledge myself to comply with the principles and declarations of the Institute of Real Estate Management as set forth in its Bylaws, Statement of Policies, and this Code of Professional Ethics.

5.1.3 Articles of the Code.

Article 1. Loyalty to Client, Firm, and/or Employer. A CERTIFIED PROPERTY MANAGER<sup>®</sup>, CPM<sup>®</sup> Candidate, ACCREDITED RESIDENTIAL MANAGER<sup>®</sup>, ACCREDITED COMMERCIAL MANAGER or ASSOCIATE MEMBER (hereinafter referred to as MEMBER) shall at all times exercise loyalty to the interests of the client and the employer or firm with whom the MEMBER is affiliated. A MEMBER shall be diligent in the maintenance and protection of the interests and property of the employer and of the client. A MEMBER shall not engage in any activity that could be reasonably construed as contrary to the interests of the client or employer. If an activity would result in a conflict between the interests of the firm or employer and the interests of the client, then the interests of the client shall take precedence.

Article 2. Confidentiality. A MEMBER shall not disclose to a third party any confidential or proprietary information which would be injurious or damaging to a client concerning the client's business or personal affairs without the client's prior written consent, unless such disclosure is required or compelled by applicable laws and regulations.

Article 3. Accounting and Reporting. Pursuant to the terms of the management agreement, a MEMBER shall use reasonable efforts to provide accurate, auditable financial and business records and documentation concerning each asset managed for the client, which records shall be available for inspection at all reasonable times by the client. A MEMBER shall furnish to the client, at mutually agreed upon intervals, regular reports concerning the client's assets under management. A MEMBER shall not exaggerate, misrepresent, or conceal material facts concerning the client's assets or any related transaction.

Article 4. Protection of Funds. A MEMBER shall at all times serve as a fiduciary for the client and shall not commingle personal or company funds with the funds of a client or use one client's funds for the benefit of another client, but shall keep the client's funds in a fiduciary account in an insured financial institution or as otherwise directed in writing by the client. A MEMBER shall at all times exert due diligence for the maintenance and protection of the client's funds against all reasonably foreseeable contingencies and losses.

Article 5. Relations with Other Members of the Profession. A MEMBER shall not make, authorize or otherwise encourage any false or misleading comments concerning the practices of Members of the Institute of Real Estate Management. A MEMBER shall truthfully represent material facts in their professional activities. A MEMBER shall not exaggerate or misrepresent the services offered as compared with the services offered by other real estate managers. Nothing in this Code, however, shall restrict legal and reasonable business competition by and among real estate managers.

Article 6 Contracts. Any written contract between a MEMBER and a client shall be in clear and understandable terms, and shall set forth the specific terms agreed upon between the parties, including a general description of the services to be provided by and the responsibilities of the MEMBER.

Article 7. Conflict of Interest. A MEMBER shall not represent personal or business interests divergent from or conflicting with those of the client or employer and shall not accept, directly or indirectly, any rebate, fee, commission, discount, or other benefit, monetary or otherwise, which could reasonably be seen as a conflict with the interests of the client, employer or firm, unless the client or employer is first notified in writing of the activity or potential conflict of interest, and consents in writing to such representation.

Article 8. Managing the Assets of the Client. A MEMBER shall exercise due diligence in the maintenance and management of the client's assets and shall make all reasonable efforts to protect it against all reasonably foreseeable contingencies and losses.

Article 9. Duty to Former Clients and Former Firms or Employers. All obligations and duties of a MEMBER to clients, firms, and employers as specified in this Code shall also apply to relationships with former clients and former firms and employers. A MEMBER shall act in a professional manner when, for whatever reason, relationships are terminated between a MEMBER and a client and firm or employer. Nothing in this section, however, shall be construed to cause a MEMBER to breach obligations and duties to current clients and firm or employer.

Article 10. Compliance with Laws and Regulations. A MEMBER shall at all times conduct business and personal activities with knowledge of and in compliance with all applicable laws and regulations.

Article 11. Equal Opportunity. A MEMBER shall not deny equal employment opportunity or equal professional services to any person for reasons of race, color, religion, sex, familial status, national origin, age, sexual orientation, gender identity, or handicap and shall comply with all applicable laws and regulations regarding equal opportunity.  
(GC, 04/2014)

Article 12. Duty to Tenants and Others. A MEMBER shall competently manage the property of the client with due regard for the rights, responsibilities, and benefits of the tenants or residents and others lawfully on the property. A MEMBER shall not engage in any conduct that is in conscious disregard for the safety and health of those persons lawfully on the premises of the client's property.

Article 13. Duty to Report Violations. Each MEMBER has a responsibility to provide the Institute of Real Estate Management with any significant factual information that reasonably suggests that another MEMBER may have violated this Code of Professional Ethics. Such information must be presented as outlined in the Institute of Real Estate Management's Bylaws and Statement of Policies.

Article 14. Enforcement. The interpretation of compliance with this Code is the responsibility of the Ethics and Discipline Committee of the Institute of Real Estate Management. Any violation by a MEMBER of the obligations of this Code and any disciplinary action for violation of any portion of this Code shall be determined and carried out in accordance with and pursuant to the terms of the Bylaws and Statement of Policies of the Institute of Real Estate Management. The

result of such disciplinary action shall be final and binding upon the affected MEMBER and without recourse to the Institute, its officers, Governing Councillors, Members, employees, or agents.

(GC, 04/2006)

## **5.2 ACCREDITED MANAGEMENT ORGANIZATION® (AMO®) Code of Professional Ethics** (Effective January 1, 2012)

### 5.2.1 Introduction

The purpose of this Code of Ethics is to establish and maintain public confidence in the honesty, integrity, professionalism, and ability of the professional real estate management organization. The Institute of Real Estate Management (IREM®) and its members intend that this Code and performance pursuant to its provisions will be beneficial to the general public and will contribute to the continued development of a mutually beneficial relationship among ACCREDITED MANAGEMENT ORGANIZATION® (AMO®) Firms (AMO® Firms), and other members, national and international professional real estate associations and organizations, clients, employers and the public.

The Institute of Real Estate Management, as the professional society of real estate management, seeks to work closely with all other segments of the real estate industry to protect and enhance the interests of the public. To this end, AMO® Firms of the Institute have adopted and, as a condition of membership, subscribe to the AMO® Code of Professional Ethics and the IREM® Code of Professional Ethics.

### 5.2.2 The AMO® Firm Pledge

To advance professional real estate management through the mutual efforts of AMO® Firms of the Institute of Real Estate Management and by any other proper means available.

To maintain the highest moral and ethical standards consistent with the objectives and higher purpose of the Institute.

To comply with the principles and declarations of the Institute of Real Estate Management as set forth in its Bylaws, Statement of Policies, the AMO® Code of Professional Ethics and the IREM® Code of Professional Ethics.

### 5.2.3 Articles of the AMO Code

#### Article 1. Services to Client

In accordance with the management agreement, an AMO® Firm shall make, or cause to be made, regular physical inspections of the clients' properties and shall keep its clients informed as to the condition of the properties. An AMO® Firm shall competently manage the properties of its clients with due regard for the rights, responsibilities and benefits of the tenants, residents and others lawfully on the property. An AMO® Firm shall not engage in any conduct that is in

conscious disregard for the safety and health of those persons lawfully on the premises of the client's property.

#### Article 2. Contractual Duties

An AMO<sup>®</sup> Firm shall perform its contractual duties and maintain company, property, and client records in accordance with all applicable regulatory guidelines, contractual obligations, client objectives and company policies. It shall not act beyond its contractual scope of authority as an agent without documented client approval.

#### Article 3. Accounting

An AMO<sup>®</sup> Firm shall establish and adhere to sound internal financial controls for handling all company funds and client funds. It shall maintain, and update as needed, an accounting system that complies with accepted accounting procedures, client directives and obligations, applicable laws and regulations and supports company operations.

#### Article 4. Reporting

Pursuant to the terms of the management agreement, an AMO<sup>®</sup> Firm shall use reasonable efforts to provide accurate, auditable financial and business records and documentation concerning each asset managed for the client, which records shall be available for inspection by the client at all reasonable times. An AMO<sup>®</sup> Firm shall furnish to the client, at mutually agreed upon intervals, regular reports concerning the client's assets under management. An AMO<sup>®</sup> Firm shall not exaggerate, misrepresent, or conceal material facts concerning the client's assets or any related transaction.

#### Article 5. Fiduciary Responsibility

An AMO<sup>®</sup> Firm shall at all times serve as a fiduciary for the client and shall not commingle personal or company funds with the funds of a client or use one client's funds for the benefit of another client, but shall keep the client's funds in a fiduciary account in an insured financial institution or as otherwise directed in writing by the client. An AMO<sup>®</sup> Firm shall at all times exert due diligence for the maintenance and protection of the client's funds against all reasonably foreseeable contingencies and losses.

#### Article 6. Relations with Other Organizations in the Profession

An AMO<sup>®</sup> Firm shall not make, authorize or otherwise encourage any false or misleading comments concerning the practices of members of the Institute of Real Estate Management and other real estate management professionals. An AMO<sup>®</sup> Firm shall truthfully represent material facts in their professional activities. An AMO<sup>®</sup> Firm shall not exaggerate or misrepresent the services offered as compared with the services offered by other real estate management companies. Nothing in this Code, however, shall restrict legal and reasonable business competition by and among real estate management companies.

#### Article 7. Conflict of Interest

An AMO<sup>®</sup> Firm shall not represent personal or business interests divergent from or conflicting with those of the client and shall not accept, directly or indirectly, any material rebates, gifts, fees, commissions, discounts, or other benefits, monetary or otherwise, which could reasonably

be seen as a conflict with the interests of the client, employer, or firm, and which are not disclosed to the client.

Article 8. Disclosure

An AMO® Firm shall not disclose to a third party any confidential or proprietary information without the client's prior written consent **except when** disclosure is required or compelled by applicable laws and regulations.

Article 9. Compliance with Laws and Regulations

An AMO® Firm shall be established in compliance with all applicable laws and regulations. An AMO® Firm and its employees shall at all times conduct business activities with knowledge of and in compliance with all applicable laws and regulations.

Article 10. Equal Opportunity

An AMO® Firm shall not deny equal employment opportunity or equal professional services to any person for reasons or race, color, religion, sex, familial status, national origin, age, sexual orientation, gender identity, or handicap and shall comply with all applicable laws and regulations regarding equal opportunity.  
(GC, 04/2014)

Article 11. Enforcement

The interpretation of compliance with this Code is the responsibility of the ethics boards of the Institute of Real Estate Management. Any violation by an AMO® Firm of the obligations of this Code and any disciplinary action for violation of any portion of this Code shall be determined and carried out in accordance with and pursuant to the terms of the Bylaws and Statement of Policies of the Institute of Real Estate Management. The result of such disciplinary action shall be final and binding upon the affected AMO® Firm and without recourse to the Institute, its officers, Governing Councillors, members, employees, or agents.  
(GC, 04/2011)

## 5.5 Ethics Monitoring and Enforcement

The following definitions and concepts shall apply throughout this Section 5.5.  
(EC, 11/2005)

### 5.5.1 Definitions

“Member” shall be defined as CPM Members, CPM Candidate Members, ARM Members, ACoM Members, Associate Members, Student Members, Academic Members and AMO Members.

(EC, 10/2008)

"Committee" shall be defined as the ethics and discipline committee.

(GC, 11/2002)

"Committee Chair" shall be defined as the chair of the ethics and discipline committee

(EC, 11/2005)

"Board Chair" shall be defined as the chair of the ethics inquiry board, ethics hearing and discipline board, or ethics appeal board, as the case may be.

(EC, 10/2008)

"Administrative Secretary" shall be defined as the staff administrator, who administers the business of the ethics and discipline committee.

(GC, 11/2002)

"Complainant(s)" shall be defined as the individual(s) who or entity(ies) which files a complaint with the ethics inquiry board or shall be the ethics inquiry board acting through its chair (or the chair's designee) in cases where the board initiates a complaint or otherwise determines to proceed as complainant.

(EC, 10/2008)

"Respondent(s)" shall be defined as the individual(s) or entity(ies) against whom a complaint is filed or who is otherwise alleged to have violated the IREM Code of Professional Ethics, its bylaws, or its policies.

(GC, 04/2006)

"Party (Parties)" shall be defined as the complainant(s) and the respondent(s) in an ethics proceeding. "Outside party (parties)" shall be defined as the complainant(s) other than the ethics inquiry board, which shall include anyone, member or nonmember, other than the board itself.

(EC, 10/2008)

“Appellee” shall be defined as the party in a cause against whom an appeal is taken; that is, the party who has an interest adverse to modifying or reversing the judgment.

## IREM SOP· II-Membership, 5-Codes of Ethics and Enforcement

“Appellant” shall be defined as the party who appeals the decision of the hearing board.  
(EC, 11/2005)

"Unethical Conduct" is defined as conduct that violates the IREM Code of Professional Ethics and/or ACCREDITED MANAGEMENT ORGANIZATION (AMO) Code of Professional Ethics.  
(GC, 04/2006)  
(GC, 10/2011)

"Improper Conduct" is defined as conduct that violates the bylaws or policies of the Institute.  
(GC, 11/2002)

"Code of Ethics" shall be defined as the IREM Code of Professional Ethics and/or the ACCREDITED MANAGEMENT ORGANIZATION (AMO) Code of Professional Ethics.  
(GC, 04/2006)  
(GC, 10/2011)

"Original Complaint" shall be defined as the initial complaint received by the ethics inquiry board from an outside party.

"Formal Complaint" shall be defined as the final form of a complaint from an outside party or the complaint filed by the ethics inquiry board.  
(EC, 10/2008)

"Investigation" shall be defined as review by the appropriate board which may on its own motion conduct additional inquiry.  
(GC, 11/2002)

"Notify" shall be defined as the administrative secretary forwarding correspondence via registered or certified mail or traceable delivery to parties, which may include, but is not limited to copies of the original complaint; formal complaint (if modified from the original complaint); notice of institution of investigation; notice of hearing; findings and conclusions of hearing; and notice of discipline.

"Written Communication" shall be defined as that communication which is forwarded to the ethics inquiry board or board chair or administrative secretary in writing or by facsimile. E-mail documentation is not acceptable.  
(EC, 10/2008)

"Majority Vote" shall be defined as more than one-half of the votes cast, excluding blanks and abstentions.

"Final Disposition" shall be defined as when disciplinary action becomes effective either as the result of a finding by the appeal board or the period of time during which an appeal may be filed having expired or when a matter is dismissed with no disciplinary action imposed.  
(GC, 11/2002)



## IREM SOP· II-Membership, 5-Codes of Ethics and Enforcement

“CERTIFIED PROPERTY MANAGER (CPM) Members” shall be defined as stated in the National IREM Bylaws, Article III, Section 1.

“ACCREDITED RESIDENTIAL MANAGER (ARM) Members” shall be defined as stated in the National IREM Bylaws, Article III, Section 2.

“ACCREDITED COMMERCIAL MANAGER Members” shall be defined as stated in the National IREM Bylaws, Article III, Section 2.

“CPM Candidate Members” shall be defined as stated in the National IREM Bylaws, Article III, Section 2.

“Associate Members” shall be defined as stated in the National IREM Bylaws, Article III, Section 2.

“ACCREDITED MANAGEMENT ORGANIZATION (AMO)” shall be defined as stated in the National IREM Bylaws, Article XI.

“Applicant” shall refer to an individual who has signified a desire to become a member and at the time of signing the application is bound by the relevant ethics code.  
(EC, 10, 2008)

### 5.5.2 Concepts

**Burden of Proof:** In any hearing or other proceeding convened to consider alleged violations of the codes of ethics or other membership duties, the burden of showing that a violation occurred is on complainant(s) unless otherwise specified in these policies.

**Standard of Proof (Hearings):** The standard of proof by which alleged violations of membership duties, including those imposed by the codes of ethics, are determined as “clear, strong and convincing” proof. “Clear, strong and convincing” is defined as that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.

**Standard of Proof (Appeals):** Appeals of hearing panel decisions based on alleged misapplication or misinterpretation of ethical or other membership duties shall be determined based on the correctness of the hearing panel’s decision.

Appeals of hearing panels decisions based on alleged procedural deficiencies or failures of due process shall be determined based on whether the effect of the deficiency or failure was to deny the appellant a fair hearing.

**Probable Cause:** Grounds sufficient to cause a reasonably prudent person to believe allegations to be true.  
(EC, 11/2005)

Show Cause Hearing: A proceeding under which a party is administratively suspended or terminated by the ethics inquiry board for cause. As stipulated in Section 6 of the national IREM bylaws.

(EC, 10/2008)

“Any membership or status may be suspended or terminated for cause. Sufficient cause for such suspension or termination of membership or status shall be a violation of the bylaws, policies, Code of Ethics, professional pledge of the Institute, or any lawful rule or practice duly adopted by the Institute, or any other conduct prejudicial to the best interests of the Institute or as provided in Section 6.02 of these bylaws.” In a show cause hearing, the party is afforded the opportunity to appear before the hearing board to demonstrate why any contemplated action (including denial of membership or other status) should not be taken.

### 5.5.3 Duties of Membership

Among the duties of membership in the Institute are:

(GC, 11/2002)

(a) To abide by the appropriate membership pledge and/or Code(s) of Professional Ethics of the Institute as applicable to the membership, or holding of designations or certifications in the Institute.

(EC, 10/2008)

(b) To abide by the bylaws of the Institute and its policies.

### 5.5.4 Oversight of Institute Ethics Activity

Oversight of Institute ethics activity rests with the ethics and discipline committee. Refer to Article I for specific duties and composition. Enforcement of the codes of ethics rests with the three boards that comprise the ethics and discipline committee. These boards are:

(GC, 11/2002)

(a) Ethics Inquiry Board, which provides initial review of allegations

(EC, 10/2008)

(b) Ethics Hearing and Discipline Board, which conducts hearings and, in the event of a finding of any violation, determines the appropriate disciplinary action to be taken

(GC, 11/2002)

(c) Ethics Appeal Board, which hears appeals of any case in which the decision by the ethics hearing and discipline board was adverse to the respondent or outside party complainant as requested by that party.

(EC, 11/2005)

### 5.5.5 Initial Review of Allegations

(a) The ethics inquiry board provides the initial review of all allegations of possible unethical or improper conduct to determine whether there is reasonable cause to believe that such conduct may have occurred. To this end, the board of ethical inquiry shall:

(1) Review any allegations of unethical or improper conduct of a CPM Member, chapter, candidate, applicant for candidacy, ACCREDITED RESIDENTIAL MANAGER (ARM), ARM Applicant, AMO member, Associate Member, or others subject to the jurisdiction of the Institute.

(EC, 10/2008)

(2) Review allegations of failure of any Member or applicant under contract to the Institute to comply with the provisions of that contract.

(GC, 10/2011)

(3) If reasonable cause is found, either as a result of a complaint filed by an outside party or an investigation by the ethics inquiry board itself, in which case the ethics inquiry board would prepare the complaint and act as complainant, that unethical or improper conduct may have occurred, the case shall be forwarded to the ethics hearing and discipline board for hearing, except that, where the ethics inquiry board rejects an application for cause, or suspends or terminates a membership or status for cause under Section 5.5.4(a), a formal complaint shall be issued and the case shall be forwarded to the ethics hearing and discipline board for hearing only if the applicant or member requests a "show cause" hearing. In such cases, the Chair of the ethics inquiry board (or the Chair's designee) shall appear at the hearing on behalf of the board.

(4) The ethics inquiry board may, in accordance with the provisions of this section, reject an application for status with the Institute or suspend or terminate the membership or status of any member or holder of status for cause, subject to the right to request a "show cause" hearing before the ethics hearing and discipline board.

(a) Upon the presentation to the ethics inquiry board of sufficient evidence, the board may:

(EC, 10/2008)

(1) Reject an application for status with the Institute for probable cause if the applicant's integrity and character have been challenged and the allegations have been determined to be valid, relevant, and actionable; or

(GC, 11/2002)

(GC, 10/2011)

(2) Suspend any membership or status for cause if the member has been formally charged by legal authorities with having committed a criminal offense arising out of property management and/or related real estate activities; or

(GC, 10/2011)

(3) Terminate any membership or status for cause if the member has been convicted of any crime arising out of property management and/or related real estate activities; or committed an act or failed to act, resulting in the loss of one's legal right to engage in real estate activities; (EC, 10/2008)

(4) Provided, however, that upon a showing to the ethics hearing and discipline board of cause as to why the application should not be rejected or the membership or status should not be suspended or terminated, such application, membership, or status may be retained. (GC, 11/2002)

(b) The ethics inquiry board and the ethics hearing and discipline board each shall have the exclusive authority to determine the type of evidence to be presented to it pursuant to Section 5.5.4.1.5, to determine whether sufficient evidence or cause within the meaning of this section has been presented to it, and to establish such other procedures as may be necessary to carry out their respective functions under this section. (EC, 10/2008)

(c) In cases where a member has been formally charged by legal authorities with having committed a criminal offense or convicted of any crime arising out of property management and/or related real estate activities, or committed an act or failed to act, resulting in the loss of one's legal right to engage in real estate activities, the chair may act on behalf of the ethics inquiry board to initiate proceedings under Sections 5.5.4 (a)(5)(a)(2) and 5.5.4.(a)(5)(a)(3).

(d) Upon a finding that sufficient evidence warranting rejection, suspension, or termination under this section exists, the board of ethical inquiry shall notify the applicant, member, or holder of status of its determination, the basis for its determination, and the disciplinary action (i.e. rejection, suspension or termination) to be taken.

(e) Upon receipt of this notification, the respondent shall have thirty (30) days in which to advise the ethics inquiry board that the respondent requests a "show cause" hearing. Thereafter, the ethics hearing and discipline board may, if special circumstances exist, accept a late filing from the respondent.

(f) If the respondent requests a "show cause" hearing, the ethics inquiry board shall issue a formal complaint and the case shall be forwarded to the ethics hearing and discipline board for hearing. In such cases, the Chair of the ethics inquiry board (or the Chair's designee) shall appear at the hearing on behalf of the board.

(g) If the respondent does not request a "show cause" hearing, the decision of the ethics inquiry board shall become final and binding. Each member, by applying for, becoming, or continuing as a member, agrees not to seek review of the decision of the ethics inquiry board in any court of law or equity.

(h) In the event a decision of the ethics inquiry board becomes final and binding, the ethics inquiry board shall summarize and publish the determination and the respondent's name, except in cases where an application is rejected. When an application is rejected in accordance with

Section 5.5.4 (a)(5)(a)(1) of these regulations, the applicant may reapply only after a period of time determined by the board making the final determination, with the reapplication considered on its merits and under such policies as may then be in effect.

#### 5.5.6 Complaint Procedures

Complaints may be generated either by an outside party or by action initiated by the ethics inquiry board.

(a) Outside Party Complaints. Any person, whether a member of the Institute or not, having reason to believe that a member may be in violation of the Codes of Ethics, bylaws, or policies of the Institute may file a complaint as an outside party with the ethics inquiry board.

(1) Any complaint addressed to the Institute by an outside party shall be deemed to have been filed with the ethics inquiry board.

(2) Any complaint from an outside party will be submitted in writing to the ethics inquiry board of the Institute, in care of the board's administrative secretary. The complaint must be dated and signed by the complainant; must state the facts involved; must include all pertinent documentation then available to support the claim(s); and, if known, should cite appropriate violations of the Code of Ethics and/or breach of the bylaws and policies.

(3) A complaint may be filed at any time, provided, however, that if the complaint is filed one year or more after the facts constituting such matter could or should have been known in the exercise of reasonable diligence, and the delay was not caused by the pendency of administrative agency proceedings or court proceedings relating to the conduct complained of or a lack of jurisdiction by the Institute, the ethics inquiry board may dismiss the complaint upon determining that the delay could have a prejudicial effect upon the respondent.

(4) After a complaint has reached the ethics inquiry board, it may be withdrawn by the complainant only with the approval of the ethics inquiry board.

#### (b) Action Initiated by the Ethics Inquiry Board

(1) Even where a formal, written complaint is not initiated by an outside-party complaint, the ethics inquiry board may investigate the actions of any Member or others subject to the jurisdiction of the Institute when there is good and valid reason to believe that such a person or firm may have violated an Institute code of ethics or bylaws or policies. The ethics inquiry board may issue a complaint and refer it to the chair who personally, or through a designated member of the board of ethical inquiry, shall present the case on behalf of the ethics inquiry board as complainant at a hearing.

(EC, 10/2008)

(2) Investigations shall be conducted in strict confidence, with all written communications, sealed and mailed "Personal and Confidential." Communication shall be handled objectively without any indication of prejudgment.

(c) Preliminary Review of Ethics Matters  
(GC, 11/2002)

(1) Upon receipt of an outside-party complaint or other allegations, the chair of the ethics inquiry board, together with legal counsel, may, as a preliminary measure, review the complaint or allegations and determine if additional information is need to expedite the work of the board.  
(GC, 10/2011)

(2) In the event the preliminary determination by the chair is that an outside-party complaint contains insufficient information on which to base a determination, the chair shall so advise the complainant. The chair may, but shall not be required to, advise the complainant that the file will be closed unless additional information on the matter is received from the complainant or any other party within thirty (30) days of the date appearing on said notice.

(d) Investigation

(1) At the discretion of the ethics inquiry board, the administrative secretary may be directed to open an investigative file and an appropriate investigation shall be conducted into the specific facts or circumstances to whatever extent is necessary and practical in order to clarify, expand, or corroborate the information and allegations before the board for review. In the case of an outside-party complaint, the board chair, Institute legal counsel, or administrative secretary, at the board chair's instruction and acting for the chair, may write, call, or conduct a personal interview with the complainant and, if necessary, request that the complainant file additional documentation in support of the complaint, including, without necessarily being limited to, the names, addresses, and telephone numbers of all persons involved in or who might have knowledge of the circumstances surrounding the complaint. If additional documentation is requested of the complainant, the request must be in writing or confirmed in writing and complainant so notified. The complainant shall have thirty (30) days to respond or to request an extension. If no response is received within said thirty (30) days and if no extension is requested by the complainant, the ethics inquiry board may, at its discretion, terminate the investigation.

(2) As part of the investigation, the board may notify the respondent that an investigation is being undertaken. Upon receipt of this notification, the respondent will have thirty (30) days in which to submit a response to the original complaint or to request an extension. Failure of the respondent to reply on a timely basis or to request an extension will neither prevent the ethics inquiry board from proceeding with its investigation nor prejudice the respondent's case.  
(EC, 10/2008)

(3) Upon conclusion of the investigation, an outside-party complaint may be modified by the board chair based on the investigation and respondent's response. The final form, whether the original or modified complaint, shall then become the formal complaint. If the original complaint is modified, the respondent shall be provided with the formal complaint.  
(GC, 11/2002)

(4) Neither the board chair nor members of the ethics inquiry board should interview the respondent or witnesses personally or by telephone, except on the express instruction of a majority of the voting members of the board.

(EC, 10/2008)

(5) Subsequent to an investigation, the ethics inquiry board, by majority vote, either at a regularly scheduled meeting or an ad hoc meeting or by written communication, shall determine that either: (1) the matter does not constitute an issue involving unethical or improper conduct and that the outside-party complaint should be dismissed, or in the case of action initiated by the ethics inquiry board, that the file should be closed; or (2) there is reasonable cause to conclude that a violation of the Code of Ethics or a breach of the bylaws or policies may have occurred and the outside party complaint in its final form, or a complaint filed by the ethics inquiry board, shall be forwarded to the ethics hearing and discipline board for hearing.

(GC, 10/2011)

(e) Disposition

(EC, 10/2008)

(1) In determining if a potential violation of the Code of Ethics or a breach of the bylaws or policies may have occurred, the ethics inquiry board members shall use common business sense and rely on a thorough understanding of the Code of Ethics, bylaws, and policies. Only those alleged violations for which there is sufficient evidence and documentation should be the subject of a formal complaint.

(GC, 10/2011)

(2) Whenever a determination has been made that a violation of the Code of Ethics or a breach of the bylaws or policies may have occurred, a formal complaint shall be either prepared by the ethics inquiry board as complainant or shall be the final form of an outside-party complaint. In either case, the formal complaint shall state the specific violations charged so that the respondent can adequately prepare a response and/or defense.

(3) Upon making a determination that a violation may have occurred and that a hearing shall be held by the ethics hearing and discipline board, the chair of the ethics hearing and discipline board shall so notify the respondent. The respondent shall receive a copy of the formal complaint, including all supporting documentation and evidence, as issued by the ethics inquiry board; the relevant Code of Ethics, bylaws, and policies relevant to the hearing process; and a request that a response be made.

(4) The respondent shall have thirty (30) days from receipt of the notification of hearing in which to submit a written response. The written response, in addition to addressing the allegations contained in the formal complaint, must advise the ethics hearing and discipline board whether the respondent intends to be present at the hearing. If a response is not filed, it may be assumed that the respondent does not intend to contest the allegations and/or charges. The ethics hearing and discipline board may, if special circumstances exist, use its discretion and accept a late filing from the respondent.

(5) If the respondent to a formal complaint is an IREM instructor, the respondent shall voluntarily request a personal leave of absence from teaching and shall provide evidence of having requested such a leave within 30 days of receiving notification of the complaint.

(EC, 10/2008)

(a) This requirement shall be incorporated into the Institute's instructor agreement as follows: "Upon notification from the ethics inquiry board to an instructor that a complaint against the instructor has been forwarded for hearing, the instructor shall notify the staff vice president of education that he or she wishes to be relieved from teaching assignments for personal reasons. The instructor will have 30 days to provide documentation to the ethics hearing and discipline board demonstrating that this has been done. If the ethics hearing and discipline board does not receive such documentation within the 30 days, it shall notify the staff vice president of education of the breach of agreement, for action to be determined by the staff vice president of education ."

(EC, 10/2008)

(GC, 10/2011)

(b) Any notice of ethics hearing sent to a respondent who is also an IREM instructor shall include notice of this policy.

(GC, 11/2002)

(6) If the respondent to a formal complaint is a contracted speaker for the Institute, the respondent shall withdraw from the speaking engagement. A provision to this effect shall be incorporated into the Institute speaker agreement.

(7) In cases where the ethics inquiry board acts as complainant, the chair of the ethics inquiry board or a member of the ethics inquiry board designated by the chair shall act as complainant and present the case to the ethics hearing and discipline board. If the outcome of the hearing is adverse to the respondent and the respondent appeals the decision, the chair of the ethics inquiry board or member of the ethics inquiry board designated by the chair shall act as complainant and also present the case as complainant to the ethics appeal board. The chair or designated member of the ethics inquiry board, in presenting the case, and acting as complainant, may question witnesses but shall have no vote and shall not be present when the ethics hearing and discipline board discusses and/or votes on the case in executive session at the conclusion of the formal hearing.

(f) Confidentiality. Action taken by the ethics inquiry board other than a final and binding determination under Section 5.5.4(a)(5)(a)(2) and 5.5.4(a)(5)(a)(3) shall remain confidential and shall not be reported to the executive committee of the Institute, the governing council of the Institute, or any other committees of the Institute. As an exception, if an investigation involves a candidate or applicant and the circumstances warrant such advisement, the chair may, after the respondent has been notified, inform the appropriate committee of the pendency of an investigation or hearing. However, no other information or details regarding the case, including the specifics of the allegation, shall be provided to such committee.



(g) Chapters. Chapters shall forward any information concerning possible unethical or improper conduct to the ethics inquiry board for appropriate action.

(h) In cases where the chapter would have standing to file an ethics complaint, the following method of communication shall be put in place.  
(EC, 10/2008)

(1) The chapter president shall designate a representative from the chapter to act as liaison with the ethics boards involved with the matter. The chapter liaison must maintain complete confidentiality concerning the matter and shall be required to sign a statement to this effect. In the event the ethics matter is forwarded for hearing, the chapter liaison shall have the opportunity to be present at the hearing to give testimony.  
(GC, 11/2002)

(2) If the liaison leaves the chapter while the ethics matter is pending, the current chapter president shall designate a replacement liaison that shall be required to sign a confidentiality statement. The original liaison shall continue to be bound to absolute confidentiality including any communication with the replacement liaison. The chair of the appropriate ethics board shall educate the replacement on the salient points of the matter.

(3) The chapter liaison and the chapter have no assigned investigatory authority.  
(GC, 10/2011)

#### 5.5.7 Hearing Procedures

(a) Role of the Ethics Hearing and Discipline Board. The board shall:  
(GC, 11/2002)

(1) Set and hold hearings and, in the event of a finding a violation, determine the appropriate disciplinary action, if any, to be taken in any case forwarded to it by the ethics inquiry board.  
(EC, 10/2008)

(2) Summarize and publish the opinions, findings and actions of the ethics hearing and discipline board in matters brought before it as it deems appropriate.  
(GC, 11/2002)

(b) Power to Take Disciplinary Action. After a hearing, as provided in these policies, and a finding of a violation of one or more of the charges and/or allegations, the ethics hearing and discipline board may take disciplinary action against any member or others subject to the jurisdiction of the Institute for improper or unethical action, and in the case of Institute chapters, improper action:  
(EC, 10/2008)

(1) For violation of the code of ethics, the bylaws, the policies, or other obligation of membership or status.

(2) For being charged with and/or being convicted of any crime arising out of the activity of property management and/or related real estate activities; or commission of an act, resulting in the loss of one's legal right to engage in real estate management activities, in accordance with the bylaws.

(3) For the judgment or finding by any court of competent jurisdiction, of a felony or a crime involving moral turpitude or on the final order of any government official or administrative agency authorized to make such determination of having violated a provision of any federal, state, or local law or regulation involving moral turpitude, sanity, and/or relating in any way directly or indirectly to the method by which the individual or the firm conducts or might conduct business in general or the business of property management.

(c) Nature of Disciplinary Action

(1) Disciplinary action may consist of one or more of the following sanctions:

(a) Letter of censure, with publication of determination.  
(GC, 11/2002)

(1) A letter of censure may be unconditional or may be conditional. If conditional and the condition is not met, the respondent's membership or status may or may not be suspended or terminated.  
(GC, 10/2011)

(2) A letter of censure may or may not include publication of the name of the respondent. In the case of a conditional letter of censure, publication of the name of the respondent may be waived provided the condition is met.

(b) Suspension of membership or status for not more than three (3) years, with publication of the determination and the respondent's name. Suspension includes deprivation of all benefits and incidents of membership or status during the period of suspension, except that the individual or firm must keep current with national and chapter dues and obligations. Suspension shall be imposed as a period of time and not until a date certain. Suspension may be unconditional or conditional. If conditional and the condition is not met, then the respondent may or may not be expelled.

(c) Expulsion from membership or status, with publication of determination and the respondent's name. Reapplication for membership or other status may be made after a period of no less than five (5) years, with the reapplication considered on its merits and under such policies as may then be in effect.  
(GC, 11/2002)

(2) A condition of discipline is a specified action to be taken by respondent. Such specified action may include, but is not limited to: successfully completing Ethics for the Real Estate Manager (ETH800) or another IREM course, writing and receiving a passing grade on a

management plan, performing public service, or any other action determined by the board that is reasonable and relevant to the violation.

(EC, 10/2008)

(3) Any discipline imposed by the ethics hearing and discipline board may be suspended by it and the individual or firm placed on probation.

(4) Even when a finding of unethical or improper conduct is made, the board is not obligated to impose disciplinary action.

(GC, 11/2002)

(5) Any action by any and all of the ethics boards shall not prejudice the allowed time frame for a candidate to complete his or her candidacy requirements.

(EC, 10/2008)

(6) In the event the respondent is an applicant for candidacy and the hearing panel finds the respondent guilty, the board shall advise membership admissions of its finding and its recommended discipline. Membership admissions shall thereupon act accordingly.

(d) Notification of Ethics Hearing and Discipline Board, Date, and Location

(GC, 11/2002)

(1) For each case, a hearing panel shall consist of at least three voting members of the ethics hearing and discipline board, one of which shall be the chair or his or her designee, and may consist of all members of the ethics hearing and discipline board provided that no member of the ethics hearing and discipline board who participated in the review as a member of the ethics inquiry board or who otherwise may have a conflict of interest shall be permitted to serve on the hearing panel and shall immediately disqualify himself or herself from serving. Any ethics hearing and discipline board member who does not serve on the hearing panel shall not attend the hearing or the executive session.

(EC, 10/2008)

(2) At the commencement of each hearing, the chair shall ask each attending member if there is any reason why he or she could not hear the case objectively. If any member indicates that he or she may not hear the case objectively, then that member shall not be a member of the hearing panel and will consequently be excused from that hearing as a panel member. Subsequently, each member of the hearing panel must sign a statement that he or she is not disqualified and knows of no reason that might prevent him or her from rendering an impartial decision.

(3) Upon being presented with the names of the members of the hearing panel, either the complainant or respondent shall have the opportunity to challenge the hearing panel members for cause. This must be done by written request at least ten (10) days before the hearing date stating the grounds alleged as basis for disqualification. The hearing panel itself, subject to a majority vote, may disqualify a member for cause.

(GC, 11/2002)

(4) The date of the hearing shall be established so that at least thirty (30) days' prior written notice shall be given to the parties.

(5) Hearings generally shall be held in conjunction with and at the same location as the Institute's national meetings, or at other times and places as may be determined by the chair.  
(EC, 10/2008)

(6) The administrative secretary shall notify the respondent and the complainant of the date, time, and place of the hearing; hearing panel members; and hearing procedures.

(7) Each party, or his or her representative, shall notify the chair at least ten (10) days in advance of the hearing date whether the individual or his or her representative shall attend the hearing and whether the parties intend to be represented by legal counsel or present witness(es), and, if so, the identities of the witness(es).

(8) Either party may request, in writing, a postponement. Postponement requests may be granted by the chair of the ethics hearing and discipline board if circumstances warrant for good cause shown. The chair may also postpone the hearing for other reasons beyond the control of the Institute.

(e) Hearing Procedures

(1) Copies of the formal complaint and response, if any, shall be presented in advance of the meeting to the members of the ethics hearing and discipline board. No information shall be presented to the members of the ethics hearing and discipline board that is not also presented to the parties to the complaint.  
(GC, 11/2002)

(2) The ethics hearing and discipline board chair or the chair's designee shall preside at the hearing and assure that these administrative procedures are followed and shall prescribe any procedures for the hearing not inconsistent with the provisions herein. The hearing panel shall be the sole judge as to the relevance and admissibility of evidence to be received and the procedures to be followed.  
(EC, 11/2005)

(3) The hearing shall be closed to all except the hearing panel, respondent, outside party complainant, or designee of the ethics inquiry board when acting as complainant on behalf of the ethics inquiry board or when acting on behalf of the complainant, their witnesses and counsel, the appropriate staff vice president, administrative secretary, court reporter, if any, and Institute legal counsel. Witnesses shall be present only when testifying, and when being questioned and cross-examined.  
(EC, 10/2008)  
(GC, 10/2011)

(4) The parties shall have the right to appear, to be represented by legal counsel, and to present witnesses and evidence. Parties, their legal counsel, and any member of the hearing panel may

cross-examine any witness. Witnesses giving oral testimony shall be sworn in by the chair. Documentation not included in the complaint or written response may not be presented to the panel unless it can be demonstrated that the information was discovered or became available after the initial filing. The chair may exclude any questions which are deemed irrelevant, improper or argumentative. At the chair's discretion, time limits may be imposed.

(a) Telephone testimony will be permitted at the discretion of the chair in cases where a party demonstrates that he or she is unable to appear for good cause.

(5) If the hearing panel of the board desires, Institute legal counsel may give assistance by way of counsel or participation in the proceedings of any hearing or by way of counsel at times other than hearings.  
(GC, 11/2002)

(6) The hearing panel may recess the hearing from time to time as its judgment, justice, or expediency requires.  
(GC, 10/2011)

(7) The chair may dismiss any person from the hearing who fails to conduct himself/herself in a manner conducive to a fair and expeditious hearing.  
(GC, 11/2002)

(8) The ethics hearing and discipline board may hire a court reporter to record the hearing or may cause the hearing to be recorded mechanically.  
(EC, 2005)

(9) When any member of the Institute or any interested party receives written notification from the ethics hearing and discipline board to provide testimony as a witness at such hearing, it shall be the member's, or party's duty to provide testimony. Failure/refusal of a member to provide testimony when requested by the ethics hearing and discipline board shall result in possible violation of the Code of Ethics.  
(EC, 2005)  
(GC, 10/2011)

(10) The Institute shall bear the costs of Institute legal counsel for witnesses called by the Institute and, when the hearing is held at a time and place other than in conjunction with the national meetings, for the hearing panel. The respondent and outside party complainant shall be responsible for expenses incurred respectively in their attendance at the hearing, provided, however, that the Institute may provide assistance where it deems such assistance would be in the best interests of the Institute.

(11) Upon the recommendation of the ethics and discipline committee to the executive committee, the Institute may indemnify and defend members against lawsuits arising from their participation in an ethics matter. Such indemnification is to be conditional upon the following:

## IREM SOP· II-Membership, 5-Codes of Ethics and Enforcement

(a) The member is compelled by a board of the ethics and discipline committee to provide written or oral testimony and the testimony given is truthful.

(EC, 10/2008)

(12) To ensure due process, the hearing procedures outlined in this section shall be followed:

(GC, 10/2011)

(a) An opening statement is made by the ethics hearing and discipline board chair, citing the hearing panel's authority to hear the case, explaining the reason for the hearing, and introducing all persons present. The chair presides during the hearing.

(GC, 11/2002)

(b) The reading of the complaint and the response into the record will be waived, provided that panel members state they have read the complaint and the response.

(GC, 10/2011)

(c) The complainant is called upon to state his or her case and present any witnesses that he or she may desire.

(d) Members of the hearing panel and Institute legal counsel shall have the opportunity to question the complainant and his or her witnesses.

(e) The respondent may cross-examine the complainant and his or her witnesses.

(f) The respondent is called upon to state his or her case and present any witnesses that he or she may desire.

(g) Members of the hearing panel and Institute legal counsel shall have the opportunity to question the respondent and his or her witnesses.

(h) The complainant may cross-examine the respondent and his or her witnesses.

(i) Both parties are asked if they wish to make any final statements or rebuttals that they consider necessary to complete the record. The complainant makes the opening summary and the respondent makes the closing summary.

(GC, 11/2002)

(j) Members of the hearing panel and Institute legal counsel shall have a final opportunity to question the parties and to call additional witnesses or request additional information they deem necessary or appropriate.

(GC, 10/2011)

(k) The chair shall adjourn the hearing, dismiss the parties, and recess the ethics hearing and discipline board meeting.

IREM SOP· II-Membership, 5-Codes of Ethics and Enforcement

(l) The chair shall reconvene the hearing panel in executive session to render a decision on the case.

(m) Any person who is not a member of the ethics hearing and discipline board shall not be present at the executive session of the board, except for Institute legal counsel and designated Institute employees.

(n) The chair shall permit each member of the hearing panel to discuss his or her views on the case.

(GC, 11/2002)

(13) The complainant shall have the burden of proving that the alleged violation occurred, as outlined in 5.5 “Standard of Proof.”

(EC, 11/2005)

(14) The failure of any respondent or complainant, either personally, by designated representative or by legal counsel, to be present at the hearing or to meet the requirements of the bylaws or these policies shall be deemed a waiver of any rights granted to any respondent or complainant by the bylaws or these policies. The ethics hearing and discipline board may dispose of the case in any manner it deems appropriate.

(EC, 10/2008)

(15) The ethics hearing and discipline board may waive or modify the procedural requirements of these regulations contained in this Section 5.5.7 as it deems necessary or appropriate to ensure fairness and due process.

(f) Decision of the Hearing Panel of the Ethics Hearing and Discipline Board

(1) The hearing panel shall base its decision only on the evidence, documentation, or testimony that was introduced at the hearing and not on speculations or surmise. The decision must be based on the charges contained in the complaint.

(EC, 11/2005)

(2) The decision of the hearing panel shall be by a majority vote and by secret ballot. Failure of secrecy shall not invalidate the decision. In the event the respondent is found in violation, the ethics hearing and discipline board may, in its discretion, consider, in determining appropriate discipline, all past records in the respondent's Institute files, including previous determinations of violations.

(GC, 11/2002)

(GC, 10/2011)

(3) The hearing panel shall render its written decision no later than thirty (30) days after the conclusion of the hearing. The decision shall contain findings of fact, conclusions, and, if appropriate, a statement of discipline imposed or other action taken by the ethics hearing and discipline board. The decision shall be mailed to the respective parties.

(EC, 11/2005)

(GC, 10/2011)

(4) For members under contract with the Institute:

(a) In the event that the respondent is found guilty of unethical or improper conduct warranting suspension or termination of membership or status and the respondent is under contract to the Institute, such contract shall be suspended immediately pending final disposition of the matter. If discipline of suspension or termination becomes effective, the contract shall likewise be suspended or terminated.

(GC, 11/2002)

(b) In the event that the respondent who is under contract is found guilty of unethical or improper conduct warranting a letter of censure, either published or unpublished, the ethics hearing and discipline board shall communicate this finding to the contracting body for that body's determination of the effect on the contract if any.

(EC, 10/2008)

(c) All Institute contracts shall contain the following language: "I understand that in the event of a finding by IREM's ethics hearing and discipline board that I have engaged in any improper or unethical conduct warranting suspension or termination of my membership or status with the Institute, this contract shall be automatically suspended pending final disposition of the matter, and I shall be required to refrain from contractual duties during such suspension of contract and immediately upon request return any Institute materials then in my possession to the Institute. In the event disciplinary action involving suspension or termination of my membership or status becomes effective, this contract shall be suspended or terminated accordingly."

(GC, 11/2002)

(5) In the event that the respondent is found guilty of unethical or improper conduct warranting suspension or termination of membership or status and the respondent holds an elected or appointed position representing the Institute, including, but not limited to president, president-elect, secretary/treasurer, senior vice president, regional vice president, governing councilor, chapter officer, instructor, management plan grader, proctor, committee or board chair or vice chair, or committee or board member, such position shall be suspended immediately pending final disposition of the matter. Such suspension of position shall not be published and shall be kept confidential to the extent possible with communication on a need to know basis only.

(GC, 10/2011)

(g) Resignation. If a respondent resigns his or her membership or other status at any time during the investigation or proceeding after a complaint has been filed, the complaint shall be dismissed without further action by the ethics inquiry board or the ethics hearing and discipline board. The respondent may reapply for membership or candidacy only after a period of no less than five (5) years have elapsed, provided, however, that upon reapplication, the ethics inquiry board or ethics hearing and discipline board, with whichever board last handled the respondent's case at the time of resignation, shall determine the appropriate action.

(EC, 10/2008)

(GC, 10/2011)



(h) Decision of the Ethics Hearing and Discipline Board. If no appeal is taken by either the respondent or outside party complainant after the ethics hearing and discipline board has rendered a written decision, the decision of the ethics hearing and discipline board becomes final, binding, and effective on the day after any appeal could have been properly filed.  
(GC, 11/2002)

(i) Report of Decision. A report of the decision will be published in the Journal of Property Management and on the IREM website.  
(GC, 10/2011)

(1) If expulsion or revocation of membership is imposed, the report shall disclose, among other things, the name of the member.

(2) If suspension is imposed, the report may disclose, upon vote of the ethics hearing and discipline board, the name of the member.  
(EC, 10/2008)

(3) If a non-published letter of censure is issued, the report to the governing council shall not disclose the identity of the individuals or organizations involved.  
(EC, 10/2005)

(4) If a published letter of censure is issued, the report may disclose the name of the member.  
(EC, 10/2008)

#### 5.5.8 Appeal Procedures

(a) Role of the Ethics Appeal Board. The ethics appeal board shall:

(1) Hear any case in which the decision by the ethics hearing and discipline board was adverse to the respondent or outside party complainant as requested by that party.

(2) Summarize and publish the opinions, findings, and actions of the ethics appeal board in matters brought before it as it deems appropriate.  
(GC, 11/2002)

(b) Final Authority and Procedures. The ethics appeal board shall be the sole judge of all matters that come before it, and may adopt such procedures and rules, not inconsistent with the bylaws of the Institute and these policies, as may be necessary for it to carry out its responsibilities.  
(EC, 10/2008)

(c) Limitation on Appeals. Appeals may be taken to the ethics appeal board only from decisions of the ethics hearing and discipline board adverse to the respondent or outside party complainant.

(d) Specifications of Request for Appeal  
(GC, 11/2002)

(1) Request for Appeal. In the event the ethics hearing and discipline board renders a decision which is adverse to the respondent or outside party complainant, either party may file an appeal with the president of the Institute within fifteen (15) days of receiving the findings and conclusion of the ethics hearing and discipline board.  
(EC, 10/2008)

(2) Content of Appeal. Any request for appeal must be in writing and be signed by the appellant and must state, based on the findings and conclusions of the ethics hearing and discipline board, why the decision of the ethics hearing and discipline board should be reversed, modified, or remanded for further proceedings. Only those arguments advanced before the ethics hearing and discipline board in the written response or during testimony at the hearing shall be permitted to be presented to the ethics appeal board at its hearing except for good cause shown as to why the ethics appeal board should allow additional oral argument.  
(GC, 11/2002)

(a) The chair, or the chair's designee, shall review any request for appeal to ascertain whether such requests meets the criteria for an appeal. This review does not constitute a review of the merits of the appeal. If the chair determines that the appeal is insufficient, the request may be returned to the appellant for further information. The appellant shall have thirty (30) calendar days from the receipt of the chair's notification to provide the information. In the absence of a response, the request for appeal shall be dismissed by the chair.  
(EC, 10/2008)

(3) Granting of Appeal. If a request for appeal is granted, the administrative secretary, on behalf of the chair of the ethics appeal board, shall send a copy to the chair of the ethics hearing and discipline board, legal counsel for the Institute, and to other parties, if any, on a need-to-know basis. The appeal will be docketed and proceed to hearing in accordance with the rules.  
(GC, 10/2011)

(4) Transcript. Upon acceptance of the request for appeal, the official transcript of the hearing before the ethics hearing and discipline board shall be generated and made available to the appellant, the appellee, and the appeal board prior to the appeal hearing. Any party may be allowed to offer corrections to the transcript. The ethics appeal board will be notified of any such requested corrections to the record.  
(GC, 10/2011)

(5) Notification of Appeal. The appellant and appellee shall be notified that an appeal has been scheduled. Notification shall include a copy of the official transcript and the policies relevant to the appeal process. The appellant shall have thirty (30) days from receipt of the notification of appeal hearing in which to submit a written response. The written response, in addition to addressing the findings and conclusions of the ethics hearing and discipline board, must advise the board whether or not the appellant intends to be present at the hearing. In addition, the written response must state, with sufficient specificity and argument, why the decision of the ethics hearing and discipline board should be reversed, modified, or remanded for further proceedings. The appellee shall have thirty (30) days from receipt of the notification of appeal

hearing in which to advise the ethics appeal board whether the appellee intends to be present at the hearing and may submit a statement as to why the decision of the ethics hearing and discipline board should not be reversed or remanded. The ethics appeal board may, if special circumstances exist, use its discretion and accept late filings from the parties. Only those arguments advanced before the ethics hearing and discipline board at the hearing shall be permitted to be presented to the ethics appeal board at its hearing except for good cause shown as to why the ethics appeal board should allow additional oral argument.

(i) Notification of Ethics Appeal Board, Date, and Location

(1) For each appeal case, an appeal hearing panel shall consist of at least three voting members of the ethics appeal board, one of which shall be the chair or his or her designee, and may consist of all members of the ethics appeal board, provided that no member who participated in either the ethics inquiry board review or the ethics hearing and discipline board hearing or who otherwise may have a conflict of interest shall be permitted to serve on the appeal hearing panel and shall immediately disqualify himself or herself from serving. Any ethics appeal board member who does not serve on the appeal hearing panel shall not attend the appeal hearing or the executive session.

(EC, 10/2008)

(2) At the commencement of each appeal hearing, the chair shall ask each attending member if there is any reason why he or she could not hear the case objectively. If any member indicates that he or she may not hear the case objectively, then that member shall not be a member of the appeal hearing panel and will consequently be excused from that appeal hearing as a panel member. Subsequently, each member of the appeal hearing panel must sign a statement that he or she is not disqualified and knows of no reason that might prevent him or her from rendering an impartial decision.

(GC, 11/2002)

(3) Upon being presented with the names of the members of the appeal hearing panel, either the appellee or appellant shall have the opportunity to challenge the appeal hearing panel members for cause. This must be done by written request at least ten (10) days before the appeal hearing date stating the grounds alleged as basis for disqualification. The appeal hearing panel itself, subject to a majority vote, may disqualify a member for cause.

(4) The date of the appeal hearing shall be established so that at least thirty (30) days' prior notice shall be given to the parties.

(5) Appeal hearings generally shall be held in conjunction with and at the same location as the Institute's national meetings or at other times and places as may be determined by the board chair.

(EC, 10/2008)

(6) The administrative secretary shall notify the appellant and appellee of the date, time, and place of the appeal hearing; appeal hearing panel members; and appeal hearing procedures.

(7) Each party, or his or her representative, shall notify the chair at least ten (10) days in advance of the hearing date whether the individual or his or her representative shall attend the hearing.

(8) Either party may request, in writing, a postponement. Postponement requests may be granted by the chair of the ethics appeal board if circumstances warrant for good cause shown. The chair may also postpone the hearing for other reasons beyond the control of the Institute.

(j) Appeal Hearing Procedures  
(GC, 11/2002)

(1) Copies of the notice of appeal, formal complaint, exhibits, if any, findings and conclusions of the Hearing Board, and a written transcript shall be presented in advance of the meeting to the members of the ethics appeal board.

(2) The ethics appeal board chair (or, if the chair is unable to preside, the chair's designee) shall preside at the appeal hearing and assure that these administrative procedures are followed and shall prescribe any procedures for the hearing not inconsistent with the provisions herein. The appeal hearing panel shall be the sole judge as to the character of the evidence to be received and the procedures to be followed.  
(EC, 11/2005)

(3) The appeal hearing shall be closed to all except the appeal hearing panel, chair of the ethics hearing and discipline board, appellant, appellee, or chair of the ethics inquiry board when acting as complainant or designee of the appellee on behalf of the ethics inquiry board, appellant counsel, appellee's counsel, the appropriate staff vice president, administrative secretary, and Institute legal counsel.  
(EC, 10/2008)  
(GC, 10/2011)

(4) The parties shall have the right to appear, to be represented by legal counsel, and to present evidence which was presented before the ethics hearing and discipline board. Members of the appeal hearing panel may question any party to the appeal. The chair may exclude any questions which are deemed irrelevant or argumentative. At the chair's discretion, time limits may be imposed.

(5) If the appeal hearing panel desires, Institute legal counsel may give assistance by way of counsel or participation in the proceedings of any appeal hearing or by way of counsel at times other than appeal hearings.

(6) The appeal hearing panel may recess the appeal hearing from time to time as its judgment, justice, or expediency requires.

(7) The chair may dismiss any person from the meeting who fails to conduct himself/herself in a manner conducive to a fair and expeditious hearing of the appeal.  
(GC, 11/2002)

(8) When any member of the Institute receives written notification from the ethics appeal board or any interested party to provide testimony as a witness at such hearing, it shall be the member's or party's duty to appear and testify. Failure/refusal of a member to provide testimony when requested by the ethics appeal panel shall result in possible violation of the Code of Ethics. (EC, 11/2005)

(9) The Institute shall bear the costs for Institute legal counsel, for witnesses called by the Institute, and, when the appeal hearing is held at a time and place other than in conjunction with the national meetings for the appeal hearing panel. The appellant and appellee shall be responsible for expenses incurred respectively in their attendance at the appeal hearing, provided, however, that the Institute may provide assistance where it deems such assistance would be in the best interest of the Institute. (EC, 10/2008)

(10) To ensure due process, this hearing outline shall be followed:  
(GC, 11/2002)

(a) An opening statement is made by the ethics appeal board chair, citing the appeal hearing panel's authority to hear the appeal, explaining the reason for the appeal hearing, and introducing all persons present. The chair, or the chair's designee, presides during the hearing. (EC, 11/2005)

(b) The chair of the ethics hearing and discipline board or his or her designee shall proceed first by presenting the official transcript of the case (which may be a written transcript, tape or other recording) or by summarizing the case. If the transcript is presented by tape or other recording, the appeal chair, in his or her discretion, may determine what parts, if any, of the transcript shall be played for or presented to the appeal hearing panel. Any previous corrections to the transcript by either party shall be noted by the ethics appeal board chair. Any party may be heard to correct or add to the summary.

(c) Only those arguments advanced in the written response to the appeal notice shall be permitted to be presented to the appeal hearing panel except for good cause shown as to why the panel should allow additional oral argument. Documentation not included in the written response may not be presented to the panel unless it can be demonstrated that the information was discovered or became available after the initial filing. No written evidential material or oral argument may be presented to the appeal hearing panel unless such evidence was presented in the written response to the ethics hearing and discipline board or during testimony at the hearing.

(d) The appellant is called upon to present his or her case to the appeal hearing panel, stating specifically why the decision should be reversed, remanded or modified.

(e) Members of the appeal hearing panel and Institute legal counsel shall have the opportunity to question the appellant.

(f) The appellee shall then present his or her case to the appeal hearing panel, stating specifically why the decision should not be reversed or modified.

(g) Members of the appeal hearing panel and Institute legal counsel shall have the opportunity to question the appellee.

(GC, 11/2002)

(h) The chair, or chair's designee, of the ethics hearing and discipline board shall summarize the ethics hearing and discipline board's position.

(EC, 11/2005)

(i) Both parties are asked if they wish to make any final statements that they consider necessary to complete the appeal record. The appellee makes the opening summary and the appellant makes the closing summary.

(j) Members of the hearing panel and Institute legal counsel shall have a final opportunity to question the parties and request additional information they deem necessary or appropriate to a full hearing.

(k) The appeal chair shall adjourn the appeal hearing, dismiss the parties, and recess the ethics appeal board meeting.

(l) The appeal chair shall reconvene the appeal hearing panel in executive session to render a decision on the appeal.

(m) Any person who is not a member of the ethics appeal board shall not be present at the executive session of the board, except for Institute legal counsel and designated staff.

(n) The appeal chair shall permit each member of the appeal hearing panel to discuss his or her views on the disposition of the appeal.

(12) The appellant shall have the burden of proving that the decision of the ethics hearing and discipline board should be reversed or modified.

(GC, 11/2002)

(13) The failure of any appellant, either personally, by designated representative, or by legal counsel, to be present at the appeal hearing or to meet the requirements of the bylaws or these regulations shall be deemed a waiver of any rights granted to any appellant by the bylaws or these policies. The ethics appeal board may dispose of the appeal in such case in any manner it deems appropriate.

(14) The ethics appeal board may waive the procedural requirements of these policies contained in this Section 5.5.7 as it deems necessary or appropriate.

(EC, 10/2008)

(g) Decision of the Ethics Appeal Board

(1) The appeal hearing board shall base its decision only on the evidence, documentation, or testimony that was presented at the hearing before the ethics hearing and discipline board, the official transcript of that hearing, and the testimony of the parties at the appeal hearing. The decision must be based on the charges contained in the complaint and reasons cited by appellant for appeal.

(EC, 11/2005)

(2) The decision of the ethics appeal board shall be by a majority vote and by secret ballot. Failure of secrecy shall not invalidate the decision. Such decision may adopt, reject, or modify the recommendation of the ethics hearing and discipline board or request the ethics hearing and discipline board to take other action, including, but not limited to, rehearing the case.

(GC, 10/2011)

(3) The ethics appeal board shall render its written decision no later than forty-five (45) days after the conclusion of the appeal hearing.

(GC, 11/2002)

(h) Effect of Decision of the Ethics Appeal Board. A decision of the appeal hearing panel shall be final and binding. Each member waives the right to seek review of the decision of either the ethics hearing and discipline board or the ethics appeal board in any court of law or equity.

(EC, 10/2008)

(GC, 10/2011)

(i) Resignation. If an appellant (excluding outside parties) resigns his or her membership, or other status at any time between when an appeal is made and the appeal hearing before the ethics appeal board, the decision of the ethics hearing and discipline board shall stand as rendered and the appellant cannot reapply for membership for five (5) years.

(EC, 11/2005)

(j) Report of Decision. After the appeal is concluded and a decision rendered by the ethics appeal board to adopt, modify, reject, or refer the case back to the ethics hearing and discipline board for a rehearing, a report shall be made to the governing council appropriately disclosing the action taken. A report of the decision will be published in the Journal of Property Management and on the IREM website.

(GC, 10/2011)

(1) If expulsion or revocation of membership is imposed, the report shall disclose, among other things, the name of the member.

(2) If suspension is imposed, the report may disclose, upon vote of the ethics hearing and discipline board, the name of the member.

(3) If a non-published letter of censure is issued, the report to the governing council shall not disclose the identity of the member or organizations involved.

(4) If a published letter of censure is issued, the report may disclose the name of the member.

(EC, 10/2008)

(5) If the decision of the ethics appeal board is to reject the finding of the ethics hearing and discipline board, the identity of the individuals or organizations involved may be disclosed in accordance with the rules governing the original decision.

(GC, 11/2002)

(6) If the case is referred back to the ethics hearing and discipline board for a rehearing, the report to the Governing Council shall not disclose the identity of the individuals or organizations involved.

If the basis for rehearing is newly-discovered evidence not available at the time of the hearing, the matter will be referred to the original hearing panel, or a majority of the original hearing panel.

If the basis for rehearing is a failure of due process, the respondent will be given a new hearing before a new hearing panel.

(EC, 11/2005)

(GC, 10/2011)