

PROGRAM MAINTENANCE DIVISION STANDARD OPERATING PROCEDURE	TITLE: APPEALS, COMPLAINTS AND DISPUTE POLICY	NUMBER: CMC 15.3.1.7 REV. 0 17 July 2005
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1.0 PURPOSE

This procedure is intended to provide fair notice and hearing when an appeal, complaint or dispute is filed against The American Society for Nondestructive Testing (ASNT) related to any activity involving the certification of any individual in accordance with any ASNT offered program.

2.0 SCOPE

This procedure shall be applied and used under the direct supervision of the Certification Management Council (CMC) Chairman. The CMC Administrative Body (CMC-AB) shall implement this procedure when addressing complaints, disputes, or appeals of findings or sanctions against ASNT certificate holders.

3.0 RESPONSIBILITIES

- 3.1 The Chairman of the CMC is responsible for the implementation of this procedure, and coordination with the CMC-AB and IRRSP Ethics Subcommittee Chairman.
- 3.2 ASNT’s Technical Services Manager is responsible for communication between the individual(s) of the complaint and the CMC-AB.

4.0 REFERENCES

- 4.1 ASNT –CP-IRRSP-1A, latest edition.
- 4.2 CMC 15.3.1.2, Ethics Violations, latest revision.

5.0 DEFINITIONS

- 5.1 The term "Ethics Committee" refers to either the IRRSP Ethics Subcommittee or the CMC Ethics Committee.
- 5.2 “Sanction” means a revocation or suspension of a Certificate or a written reprimand of the holder of a Certificate.
- 5.3 “Certificate” means the document issued by ASNT pursuant to the actions of the Certification Management Council in accordance with the rules and procedures heretofore published by ASNT.
- 5.4 “Complainant” is the party filing the dispute.
- 5.5 "Respondent" is the certified individual.

6.0 GENERAL

- 6.1 This procedure shall be published and made available for public guidance. The CMC Administrative Body (CMC-AB) may adopt changes to this procedure. Changes will be made available for public guidance in an expeditious manner. If requested, a copy of this procedure will be furnished at any time, free of charge.
- 6.2 The CMC-AB may publish in Materials Evaluation, the results of adjudication’s resulting in revocation of a Certificate. The CMC-AB may publish the result of lesser sanctions

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imposed if it is determined that such publication is necessary and appropriate for the protection of the public or the integrity of ASNT's Certification programs.

- 6.3** Any publication or release of authorized information, on sanctions imposed shall include only the nature of the sanction, the sanction imposed, and a summary of the record as deemed appropriate by the CMC-AB. Names of individuals affected maybe released after obtaining legal opinion. Responses to inquires for current certification status shall only confirm or deny that the Certification is current at the time of the inquiry.
- 6.4** ASNT will provide information regarding Certification to any authorized Audit Agency during their in-house assessment. ASNT however, will not provide specific copied personnel records to Auditors.

7.0 APPEALS, COMPLAINTS AND DISPUTES

- 7.1** Any person who has reason to believe that an action taken by either the ASNT Certification Management Council or IRRSP Ethics Subcommittee will have an adverse or detrimental effect on their certification or their Nondestructive Testing (NDT) employment may submit a written appeal or complaint the ASNT Technical Services Manager. Such written appeals/complaint shall be substantially in the form set out in Appendix A, and shall contain the name(s) and address(es) of the person filing the appeal/complaint and a clear and concise description of the alleged complaint/violation and a statement indicating the interest of the person(s) filing the allegation/complaint.
 - 7.1.1** Upon receipt of the allegation/complaint, the Technical Services Manager shall notify the CMC Chairman so that a join preliminary determination of the merit of the stated Complaint can be considered.
 - 7.1.2** If the complaint is determined to be significant, i.e., would require full CMC-AB in-put and /or possible program document revision, the Technical Service Manager by direction of the CMC Chairman shall forward the allegation/complaint and other pertinent information to the CMC-AB with a copy to CMC Chairman.
 - 7.1.3** If the appeal or complaint is determined to be a major program problem, the CMC-AB along with the Technical Services Manager shall call for a telecon meeting to discuss corrective action as necessary.
- 7.2** Upon receipt of *an* appeal, complaint or dispute from a certified individual or a concerned regulatory body the Technical Services Manager shall verify the currency of the certification and identify the certification number and the expiration date on the report. He shall then forward the report to the CMC Chairman along with a completed allegation/complaint form. The Technical Services Manager shall forward to CMC-AB a copy of the allegation/complaint, as applicable, and shall advise the Respondent that an answer shall be provided within the time limit specified in Section 8.0.
- 7.3** After the CMC-AB members have reviewed the documents submitted to them, the CMC-AB may, upon majority vote, dismiss the appeal/complaint in whole or in part for insufficiency. Such CMC-AB action may be taken at a meeting or by mailed letter ballot addressed to the ASNT Technical Services Manager. Dismissal for insufficiency shall be subject to the right of the ASNT Technical Services Manager to amend or supplement the allegation/complaint unless the CMC-AB expressly votes for final dismissal without right to amend or supplement. Following the CMC-AB action, the ASNT Technical Services Manager shall give notice of the CMC-AB's action to the interested parties in writing.

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8.0 COMMENCEMENT OF HEARING ACTIONS

- 8.1** Unless the ASNT CMC-AB has dismissed an allegation/complaint for insufficiency, pursuant to paragraph 7.3, within one (1) month of receipt of the appeal/complaint, the ASNT Technical Services Manager shall set a date for a hearing by the CMC-AB and shall notify the Complainant, Respondent, and the CMC-AB. The notice shall set forth the time and place of the hearing, with due regard for the convenience of the interested parties and their representatives; shall provide the Respondent with a date at least forty-five (45) days in advance of the date set for hearing. Mailing of the notice of hearing shall be by certified mail, return receipt requested (restricted delivery).
- 8.2** The ASNT Technical Services Manager may postpone, or change the time and/or date of, a hearing at the request, for good cause, of either the interested parties or the ASNT IRRSP Ethics Subcommittee. Notice of a change shall be promptly given to the Complainant, Respondent, and the Ethics Subcommittee. Notice must be given by certified mail, with return receipt requested. Should notice not be received by the interested parties or the Ethics Subcommittee, within one (1) week prior to the originally scheduled hearing date, no such change may be made without consent of the interested parties and the Ethics Subcommittee, except for extraordinary cause.

9.0 PREHEARING PROCEDURE

- 9.1** The ASNT Technical Services Manager or the CMC Chairman may conduct a pre-hearing conference/telecon with the interested parties and record any agreements as to issues, admission of facts, or any stipulations. The pre-hearing conference may be conducted in person, by telephone, or by mail as deemed expedient and appropriate by the CMC Chairman /ASNT Technical Services Manager.
- 9.2** A written report of the pre-hearing conference will be provided to the interested parties and the CMC-AB prior to the hearing date. The pre-hearing conference may be waived at the request of, or with the consent of, the interested parties.
- 9.3** Should the pre-hearing conference result in a proposed ruling, with or without sanction, which would dispose of the appeal/complaint in a manner that is satisfactory to the interested parties, the ASNT Technical Services Manager shall submit the proposed ruling, in writing, to the CMC-AB for its concurrence. Proposed rulings shall be signed by the interested parties and shall not constitute a waiver of any claim or defense, or be binding on the interested parties until approved by the CMC-AB. The CMC-AB, by a majority vote, may approve or disapprove the proposed ruling. Approved proposed rulings constitute final adjudication. Disapproved proposed rulings shall result in a hearing before the CMC-AB, select Hearing Panel.
- 9.4** Should all the interested parties agree to adjudication of the formal appeal/complaint based on written records (such as affidavits, admissions, stipulations, or other documents that they specify), the ASNT Technical Services Manager shall submit documents to the CMC-AB for its consideration and ruling. Such documentation shall be accompanied with a request, signed by both parties, for adjudication without hearing. The CMC-AB may deny requests for adjudication without hearing if it determines that the public interest and/or rights of the interested parties require a hearing. Should the CMC-AB agree to the request, it shall adjudicate the formal complaint without a hearing and issue a ruling based on the agreed upon documentation.

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10.0 HEARING PANEL

- 10.1** The hearing panel shall consist of at least three (3) members; One (1) full CMC member; One (1) A.B member; and One (1) Technical Services representative, and the CMC Chairman shall appoint a presiding officer. The presiding officer shall control the hearing and may establish any reasonable rules of conduct not provided in this procedure, which are necessary to ensure that a fair and impartial hearing is conducted.
- 10.2** Hearings shall be private, unless the members of the panel unanimously agree that the public interest would best be served if the hearing were open to the public.
- 10.3** The ASNT Board of Directors, through its designated members, staff, or counsel, has the right to participate in any hearing. The committee, through its designated members, staff, or counsel, has the right to participate in any hearing.
- 10.4** When a written appeal/complaint is filed by a member of the committee, that member shall not be a member of the hearing panel, or have a vote in any Ethics Subcommittee, action regarding the allegation/complaint and shall only act in the status of Complainant.
- 10.5** The Respondent shall be afforded reasonable opportunity to defend himself/herself on the merits of the allegation/complaint and shall act only in the status of Respondent.
- 10.6** A record of all testimony, documents, and other evidence submitted or offered at a hearing shall be recorded in a verbatim manner. ASNT will maintain transcripts and exhibits for a period not to exceed three (3) years after the completion of the hearing. Any interested party shall have access to the transcript and to all exhibits, and shall, upon paying the cost for duplication thereof, have the right to copies. Copies of transcripts and all exhibits shall be made available to interested regulatory authorities upon their written request.
- 10.7** The presiding officer may adjourn, continue, or order recesses in any hearing upon the request of any interested party or panel member.
- 10.8** The panel shall adhere to the following with respect to the admission of evidence at a hearing:
 - 10.8.1** It is intended that the panel will permit full development of all relevant issues and will permit evidence to be introduced if it is a type commonly relied upon by reasonably prudent people in the conduct of affairs. For those reasons, and except as otherwise stated in this procedure, the rules of evidence as applied in civil cases need not be strictly followed.
 - 10.8.2** Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
 - 10.8.3** Generally recognized rights of privilege properly invoked by a witness shall be given effect.
 - 10.8.4** When the rights of the interested parties will not be prejudiced and the hearing will be expedited, all or part of the evidence may be received in written form.
 - 10.8.5** Documentary evidence may be introduced in the form of copies or excerpts if the original is not available or is voluminous, provided that upon request of an interested party, and when possible, the interested party shall be given the

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opportunity to compare the copy with the original or to examine the complete document from which the excerpts have been taken.

10.8.6 Notice can be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the panel’s specialized knowledge, but the interested parties shall be given an opportunity to contest any fact notice of that has been so taken.

10.8.7 Objections to evidentiary offers may be made and shall be so noted in the record.

10.9 The presiding officer shall take all reasonable measures to obtain the testimony under oath from all interested parties and witnesses.

10.10 Witnesses shall be subject to cross examination.

10.11 The CMC-AB, at the request of the Respondent, shall issue a ruling dismissing the allegation/complaint, if a hearing is not held and completed within one (1) year from the date of the issuance of a formal complaint, unless the Respondent has requested or consented to the delay.

10.12 The presiding officer shall advise the Respondent of any substantive communications between CMC-AB, the ASNT Technical Services Manager, and the panel concerning this matter between the time a formal complaint is issued and ruling is entered or the complaint is finally adjudicated. If the communication is in writing, a copy shall be provided. If oral, a written summary shall be provided.

11.0 RULING

After the hearing, the panel shall adopt findings of fact and conclusions, and issue a written recommendation to the CMC-AB dismissing the appeal/complaint, imposing sanctions, or taking other action that the panel may determine to be appropriate. The concurrence of a majority of the panel is necessary for the issuance of a ruling. The presiding officer shall deliver the ruling, including findings and conclusions and any dissenting opinion on the part of panel member(s) so desiring, to the ASNT Technical Services Manager. The ASNT Technical Services Manager shall distribute copies thereof to the interested parties, including appropriate regulatory authorities, other than members of the panel.

12.0 APPEALS

12.1 When a ruling imposes sanctions, other than a sanction to which the Respondent has consented, the Respondent may appeal to the CMC to vacate or reduce the sanction. The appeal shall be in writing. The right to appeal shall expire unless exercised within sixty (60) days after service of the ruling on the Respondent. The CMC shall consider the appeal on the basis of the allegation/ complaint, the answer thereto, and the transcript of the hearing. It may, but shall not be required to, order a hearing on the appeal.

12.2 If, in the opinion of the CMC Chairman, a hearing is required, a new panel not comprised of the original hearing panel shall be appointed and a hearing shall be conducted in accordance with section 10.0 of this document. The decision on the appeal is final and no further appeal will be accepted.

13.0 ANCILLARY MATTERS

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- 13.1 Any ASNT employee or agent directly engaged in the performance of advocacy functions before the Ethics Subcommittee shall not participate in, or advise on any decision, recommended decision, or Ethics Subcommittee, review, except as witness or counsel at a hearing.
- 13.2 Any person appearing at a pre-hearing conference, a hearing, or any post-hearing proceeding, has the right to be represented by counsel.

APPENDIX A

CMC/IRRSP APPEAL REPORTING FORM

_____ Name	_____ Date
_____ Address	
_____ Phone	_____ Fax
_____ Email	_____ ASNT File Number

Complaint Information

Body Issuing Violation	Date Action Taken
Violation Reference, Provide specific paragraph(s)	

Describe violation and appeal details (provide your interest in the appeal)

Signature: _____ Date: _____

Use additional sheets or attachments as needed

Return completed form to:
Manager, ASNT Technical Services
1711 Arlingate Lane
Columbus, OH 43228-0518