

NASW Procedures for Professional Review

Revised



Sixth Edition

NASW Procedures for Professional Review

Revised

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The NASW Procedures for Professional Review

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PREFACE

Procedures delineate the steps that guide the National Association of Social Workers' (NASW's) professional review process approved by the NASW Board of Directors. NASW has established a peer review process that permits two methods (mediation or adjudication) of reviewing grievances pertaining to professional conduct. The basis of a peer review is that the conduct of professional social workers will be reviewed by other qualified professional social workers. Chapters 1 and 2 describe the introductory steps and the rules of confidentiality that are common to both adjudication and mediation. Chapter 3 describes steps taken to address nonparticipation of all parties involved in the professional review process. Chapters 4 and 5 outline the steps involved in accepting a grievance

for review and determining whether a grievance will be settled through mediation or adjudication. Chapters 6 through 9 describe the procedures that guide mediation and adjudication. Chapter 10 outlines guidelines for selecting, monitoring, and implementing corrective actions and sanctions. Chapters 11 and 12 describe the policies for appeals and the closing of cases. A reference guide for timeframes and a glossary with definitions of terms used (which readers are encouraged to review before reading the Procedures) follow the chapters. Appendices contain NASW Delegate Assembly policy statements, a description of the Ethics Committee, and forms to be used in the professional review process.



INTRODUCTION

PURPOSE OF PROFESSIONAL REVIEW

The National Association of Social Workers (NASW) promotes the quality and effectiveness of social work practice. This mission encompasses the maintenance of ethical conduct with respect to race, ethnicity, national origin, color, gender identity or expression, sexual orientation, age, marital status, political belief, religion, immigration status, and mental or physical disability.

To fulfill this part of its mission, NASW has the responsibility of reviewing and resolving complaints of alleged violations of the NASW Code of Ethics. The NASW Procedures for Professional Review describes the procedures that NASW uses in considering such complaints. NASW's professional review involves an examination of professional behavior by members of NASW. This is a peer review process that seeks to uphold the standards of social work practice. It also affords a means of redress for aggrieved persons.

This process is designed to correct and improve social work practice as needed. It is not intended to serve as an opportunity for parties to prepare for litigation. Parties pledge confidentiality, thus providing an environment in which the parties can present their positions with an emphasis on resolution and restoration. Although on occasion the process may result in financial remuneration, it is not designed to create an avenue for assessing monetary damages.

NASW has the responsibility to conduct its peer review process in a fair and just manner. NASW fulfills this responsibility within the guidelines for due process that the courts have established for peer review proceedings.¹

1. NASW's peer review procedure is discussed at length in *Swatch v. Treat*, 41 Mass. App. Ct. 559, 671 N.E. 2d 1004 (1996). See also, *Ayash v. Dana Farber Cancer Institute*, 8 Mass L. Rptr. 216, 1998 WL 77854 (Mass Super Ct., Feb. 19, 1998); *Shapiro v. Butterfield & NASW*, 921 S.W. 2d 649, 109 Mo. App. E.D., May 7, 1996; *Quinones v. NASW*, 2000 WL 744146 (S.D. NY, June 6, 2000)

To meet this responsibility, the NASW Board of Directors has adopted these procedures, and the association has implemented them. NASW's Procedures for Professional Review outlines the steps in NASW's peer review process. This peer review process offers two avenues of redress: mediation and adjudication.

AUTHORITY

NASW's professional review is a collaborative process between individual state chapters and the national Office of Ethics and Professional Review (OEPR). Together, they are responsible for implementing NASW's Bylaws responsibilities for monitoring compliance with the NASW Code of Ethics. In particular, the Bylaws state: "The Board of Directors shall create a standing Ethics Committee with the responsibility of hearing and determining complaints filed in accordance with the policy approved by the Delegate Assembly and with the further responsibility of making recommendations to the Board of Directors for the improvement of such procedures and for the development of new procedures." (See Appendix 1 for the policy statements of the Delegate Assembly and Appendix 2 for a description of the Ethics Committees.)

The Office of Ethics and Professional Review provides ethics and professional review education and training, administers the professional review process, offers consultation regarding social work ethics to members, and provides information about members who have been sanctioned through the NASW professional review process. The OEPR is part of the NASW national office. The staff coordinates with and provides administrative support for the national and chapter ethics committees.

The National Ethics Committee (NEC) is responsible for educating NASW membership and the larger professional community about standards of ethical professional practice. The committee along with OEPR staff, oversees chapter professional review activity, develops policy and procedure for professional review, offers interpretations of procedures, and provides technical assistance and training.

The committee hears complaints that are designated as national cases against members who are alleged to have violated the Code of Ethics and is authorized to conduct adjudications and mediations with NASW members. The NEC hears appeals of chapter cases and oversees the development of ethics education training and programs. The NEC is composed of volunteer NASW social work members from across the United States.

The Chapter Ethics Committee (CEC) processes complaints of alleged violations of the NASW Code of Ethics, by chapter members. It is responsible for providing education and training to NASW members in coordination with the NEC and OEPR. The CEC is composed of volunteer NASW members from across the relevant state.

FULL DISCLOSURE

NASW expects all parties within a professional review process to provide and fully disclose any and all facts and information that are material and necessary to the issues or allegations at hand, so long as doing so does not violate any applicable laws. Full disclosure is required whether parties are involved in mediation or adjudication. Both procedures review and assess the same information/documentation. Failure to fully disclose on the part of the Complainant may result in closure of the case. Failure to fully disclose on the part of the Respondent may result in additional corrective actions or consequences against the Respondent.

GOALS OF PROFESSIONAL REVIEW

The goals of the NASW professional review process are:

- To protect clients, consumers, agencies, colleagues, and the public from practices that violate the NASW Code of Ethics
- To provide Complainants and Respondents with a fair and confidential process to review allegations of misconduct
- To safeguard the integrity of the social work profession

NASW's actions are intended to be constructive, corrective, and educational rather than punitive. In cases of ethics violations, NASW recognizes the importance of appropriate corrective and educative resolutions that not only will serve as redress for a violation, but also will enhance the quality and effectiveness of the member's future practice.

In cases of serious misconduct, NASW may impose sanctions, including, but not limited to, termination of membership in NASW or removal of NASW-issued credentials, notification to state regulatory boards, and/or publication of findings. In order to protect the public, NASW may also make recommendations to social work accreditation and licensing boards regarding interruption, restriction, or preclusion of practice.

REQUEST FOR PROFESSIONAL REVIEW

This chapter identifies those who may submit a Request for Professional Review (RPR) to the National Ethics Committee (NEC), details the procedures for filing an RPR, describes special requirements for child custody and child welfare matters and self-reporting, specifies the NEC's responsibility for management of the professional review process, and delineates the procedures for acknowledgment of the RPR.

The NEC has primary administrative responsibility in all professional review matters. Therefore, the Office of Ethics and Professional Review (OEPR) administers all matters related to decisions regarding RPRs.

A. WHO MAY FILE AN RPR

The following parties may submit an RPR in the event of an alleged violation of the NASW Code of Ethics:

1. An individual who has engaged in a professional social work relationship with an NASW member and was directly affected, personally or professionally, by the alleged violation of the NASW Code of Ethics; or an individual who has direct knowledge of the alleged violation stated in the RPR (including self-referred individuals).
2. A group of individuals in an agency or organization who have direct knowledge of an NASW member's professional conduct within a professional social work relationship or setting.
3. An individual acting on behalf of another person as long as that person is either mentally or physically incapacitated, or is a minor child, and the person filing has proper standing to bring such an action on behalf of either the incapacitated adult or minor child (e.g., a legally appointed guardian).
4. An NASW member who has concerns that his or her own actions in a situation may have violated the NASW Code of Ethics.

5. Any person wishing to file a complaint must be able to fully participate in the professional review process and be able to adhere to the timeframes established in the Procedures manual. Therefore, a person who is incarcerated or otherwise institutionalized may not be able to file because that person may not be able to fully participate in the professional review process and adhere to the established timeframes.

B. HOW TO FILE AN RPR

1. The steps for submitting an RPR are as follows:
 - a. RPR forms may be obtained from NASW's OEPR and are contained in these Procedures (see Appendix 3). They are also available online at www.socialworkers.org/nasw/ethics/ProceduresManual.pdf
 - b. After receiving an inquiry about filing an RPR, the OEPR will offer a consultant to the Complainant and to the Respondent in order to provide assistance in the professional review process. The parties are not required to accept the assistance of a consultant.
 - c. The Complainant must send the original RPR, supporting statement (no more than three pages, double spaced, 12-point font, 1-inch margins), and the Confidentiality Pledge/Statement of Understanding to the chairperson of the NEC at the OEPR. If an RPR is not submitted in the appropriate format, the OEPR may return it to the Complainant for revision.
2. The Complainant must describe, in the supporting statement, the alleged violation of the NASW Code of Ethics. Specific standards from the NASW Code of Ethics must be cited (www.socialworkers.org/pubs/code/code.asp). The statement is limited to three pages and must include:

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- a. a list and detailed description of sources of evidence to be used that will support the allegation, including witnesses, documentation, etc.
 - b. a summary of any other actions taken to correct the matter
 - c. the status of any legal actions under way related to this matter.
3. Individuals filing RPRs are responsible for complying with the time limits for filing as stated in these Procedures. Submissions must be legible. (Time limits and specific criteria are described in Chapter 4.)

C. RPR REQUIREMENTS FOR CHILD CUSTODY AND CHILD WELFARE MATTERS

RPRs involving child custody or child welfare matters often present complex issues that require additional information for review. Such cases will continue to be reviewed for acceptance by the NEC Intake Subcommittee in spite of their complexity, as there may be important ethical issues to be considered and addressed.

In these cases, a valid RPR must address specific violations of the NASW Code of Ethics and not simply the Complainant's disagreement with the Respondent's evaluations, opinions, or recommendations to the court. The guidelines for the submission of an RPR that involves child custody or child welfare matters are outlined as follows:

1. Only the person who is legally responsible for the child at the time the RPR is filed may serve as the Complainant.
2. At the time of filing, the Complainant must provide documentation that establishes legal custody (or guardianship) and standing to file an RPR. This must include signed copies of court orders, agreements, divorce decrees, separation agreements, child protection orders, or other relevant legal documentation. Parents with joint or shared custody each have standing to file an RPR.
3. The Complainant must have pursued appropriate remedies within the venue in which the Respondent's actions occurred before the NEC Intake Subcommittee

will review the RPR. For example, if the complaint arose from actions taken related to a court case, the court complaint or grievance process should be used before an RPR is filed, if such avenues for remedy are available.

4. The Complainant must provide documentation that other appropriate remedies for the complaint have been pursued within the venue in which the Complainant's action occurred and that there is no other action related to this complaint that is active or pending in another venue.
5. In the event that a related legal complaint or administrative action is active or pending, the RPR will be placed in pending status until the reviews in other venues are concluded.
6. The Respondent should document how he or she was retained: Was the Respondent employed as an agent of the court or hired by one or both of the parties to the child custody case?
7. The parties must provide all documentation requested by the Intake Subcommittee before the matter is reviewed. The Intake Subcommittee may defer consideration of the matter until any outstanding information is provided. All documents must contain the appropriate signatures or seals.

D. SELF-REPORTING

Self-reporting is a process by which NASW members report possible unethical conduct in which they have engaged. Such conduct may have been found to have been a violation of an ethics code, professional misconduct, unprofessional conduct, incompetence, or negligence in any state or country.

1. It is in a member's best interest to self-report a possible ethics violation in order to ensure that he or she is adhering to the NASW Code of Ethics, which is a requirement of NASW membership. Self-reporting also demonstrates the member's good faith effort in seeking NASW's review and recommendations on ethical practice.
2. When a chapter becomes aware of a substantiated criminal or social work licensure violation by a social

worker member based on information available in the public domain that has resulted in an action less than a felony or revocation of a social work license, the chapter will forward the information to the national office for review. The NASW national office will notify the member, in writing, of the information received from the public domain, provide a recommendation that the member self-report, and provide notice that failure to self-report within 30 days will result in automatic suspension of NASW membership. Such a suspension will not require a review by the NEC or NASW Executive Committee. Suspension of membership will be facilitated by the Office of Ethics and Professional Review and processed by Membership Services.

National office notification assures that a member whose violation or conviction has become public knowledge (with the exception of license revocations and felonies) will be afforded an opportunity for review before automatic sanctions are implemented by NASW.

Self-reporting is not the process for members who wish to request an ethics consultation regarding an ethical dilemma or who have questions regarding standards of practice. For information on ethics consultation, go to www.socialworkers.org/pubs/code/code.asp

3. An NASW Self-Reporting RPR form may be obtained from the following sources:
 - Appendix 3 of this publication
 - NASW dedicated Web page (www.socialworkers.org/nasw/ethics/default.asp)
4. A completed Self-Reporting RPR (with attachments) will be scheduled for review by the NEC at its next regularly scheduled meeting. The NEC will make a recommendation on the RPR within sixty (60) days. The NEC will provide the affiliated chapter(s) with pertinent communications regarding such cases and the final NEC recommendation.

E. LOCATION OF THE ADJUDICATION OR MEDIATION SESSIONS

1. Whenever possible, hearings and mediation sessions will be held in the state where the violations under review were alleged to have occurred.
2. If the parties have moved from the area where the violations occurred, it will be their responsibility to make arrangements to attend the hearings or mediation sessions.

F. ACKNOWLEDGMENT OF THE RPR

RPRs will be acknowledged by the OEPR in a timely fashion:

1. Within ten (10) days of receipt of the RPR, the OEPR shall write to the Complainant to acknowledge receipt.
2. Within ten (10) days of receipt of the RPR, the OEPR will notify the Complainant of any incorrect submissions. The Complainant will have 30 days from receipt of notice in which to submit corrections to the OEPR. Should the Complainant fail to comply with instruction from the OEPR, the OEPR will close the case.
3. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Respondent of the RPR. Included with the notification to the Respondent will be the link to the online version of these Procedures, the applicable edition of the *NASW Code of Ethics*, the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant. The OEPR will also send the Respondent a Confidentiality Pledge/Statement of Understanding form to sign and return within ten (10) days.
4. Within ten (10) days of receipt of the RPR, the OEPR shall notify the chapter in which the alleged violations occurred of the RPR. The notification to the chapter will include a copy of the RPR, its supporting

statement, and the Confidentiality Pledge/Statement of Understanding forms signed by the Complainant.

5. Within ten (10) days of receipt of notification of the RPR (see Chapter 2), the Respondent must sign and submit the Confidentiality Pledge/Statement of Understanding to the OEPR. Failure to do so may result in additional action.
6. Within ten (10) days of receipt of the Respondent's signed Confidentiality Pledge/Statement of Understanding, the NEC shall send a copy to the chapter and to the Complainant.
7. Within fourteen (14) days of receipt of the notification of the RPR, the Respondent will have an opportunity to submit a statement and any documents that are pertinent to the criteria for acceptance of the RPR. The

statement and other submissions by the Respondent must not address the merits of the case, but must show reasons that the criteria for acceptance have not been met. The Respondent's statement to the RPR should not exceed three (3) pages (double-spaced, 12-point font, 1-inch margins), excluding supporting documents. Only documents relevant to the criteria for acceptance (see Chapter 4) of the RPR will be considered for this phase of the proceedings and distributed to the other parties.

8. Within ten (10) days of receipt of the Respondent's response to the RPR, a copy of the Respondent's response (including supporting documents pertinent to the criteria for acceptance of the RPR) shall be forwarded to the NEC and to the Complainant.

CONFIDENTIALITY

This chapter is designed to define the responsibilities pertaining to confidentiality of all parties in the professional review process. It also details specific exceptions to confidentiality, the consequences of breaches of confidentiality, and the use of confidential information during the professional review process.

All parties involved in the professional review process are required to maintain strict standards regarding confidentiality.

A. RESPONSIBILITIES

1. Confidentiality requirements are described in the Confidentiality Pledge/Statement of Understanding form (see Appendix 3).
2. The confidentiality requirement pertains to, but is not necessarily limited to, the following persons: Complainant, Respondent, consultants, witnesses, and NASW staff and appointees.
3. The confidentiality requirement also pertains to all documents and proceedings, including information that the Request for Professional Review (RPR) has been filed, the substance and content of the RPR, adjudication, hearings, mediation sessions, the Final Report, appeals, associated discussions, correspondence, and outcomes.
4. All communications about the professional review process and outcomes must be restricted to the Complainant, Respondent, witnesses, consultants, and NASW staff and appointees with defined responsibilities. All chapter and national volunteers and staff involved in the professional review process are bound by the principles of confidentiality.
5. Confidentiality restrictions do not apply to a participant's right to confer with legal counsel. However, the participant must advise the legal counsel of the confidentiality requirements of the NASW professional review process. Legal counsel may not participate directly in the professional review process.

B. EXCEPTIONS

Conditions under which exceptions to the confidentiality requirement may occur are limited to the following:

1. **Research purposes.** Research on professional review data must be approved by the National Ethics Committee (NEC) following a review of research proposals from qualified researchers.

NEC-approved researchers may access professional review data for research purposes. Any published findings based on these data must be reported in aggregate form. The researchers will ensure that there is no identifying information in any published reports.

2. **Acquisition of relevant evidence.** In any case where a participant believes that it is necessary to breach confidentiality in order to acquire necessary and relevant evidence, that participant shall make a written request to the NEC panel to seek approval. The chair of the panel will respond to the participant. If it becomes necessary to provide information regarding the proceedings to acquire relevant evidence, parties shall abide by the following guidelines:
 - a. Parties may disclose the fact that professional review is under way.
 - b. Parties must disclose the least amount of information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.
 - c. Parties shall not disclose identities of other parties or any other identifying features.
 - d. The RPR and supporting statement may not be given to witnesses or to any parties not directly involved with the professional review matter.

Any exceptions to these policies require written approval by the NEC.

3. **Disclosure of involvement by the Respondent prior to issuance of the Final Report or conclusion of mediation proceedings.** Respondents may acknowledge their involvement in professional review when required to do so by employers, provider panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as an acknowledgment of the existence of an RPR, a summary of the allegations, an explanation of the status of the proceedings, and a copy of the Respondent's response (if submitted) to the allegations contained in the RPR. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

4. **Disclosure of Hearing Panel conclusions.** Respondents may report the conclusions of a Hearing Panel when required to do so by employers, provider panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as the following sections of the Final Report: the Summary of the Complaint and the Summary of Findings, Conclusions, and Recommendations. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

5. **Disclosure of Hearing Panel conclusions to consultants and/or witnesses.** The Complainant or Respondent may inform consultants and/or witnesses who testified on his or her behalf of the Conclusions and Recommendations. Consultants and/or witnesses are expected to keep this information confidential.

6. **Mediation agreements.** A mediation agreement may include the Complainant and Respondent's permission to release specific information to specific individuals or agencies. The parties may not release the information to individuals or agencies that are not listed in the mediation agreement. Further, the parties may not release any other information to the individuals or agencies listed in the mediation agreement.

7. **Applicable state or federal law.** Information regarding professional review proceedings may be released to appropriate authorities when such disclosure is required by state or federal law or regulation.

C. ALLEGED BREACHES OF CONFIDENTIALITY

Either participant may inform the NEC if he or she believes information is being revealed unnecessarily. The NEC will then take whatever action it deems appropriate to remedy the concern.

A breach of confidentiality may result in a letter of warning, a termination of proceedings, or the voiding of the case. Parties may not appeal a decision by the NEC to terminate proceedings.

1. A breach of confidentiality by a Respondent may result in a new RPR filed against the Respondent under sections 1.07a, 1.07b, 2.02, 5.01a, or 5.01b of the *NASW Code of Ethics*.

2. If the NEC determines that the Complainant has breached confidentiality, the NEC may demand that all confidential materials be immediately removed from the sources to whom they were given or made unavailable for use by any other source. The requirements of the demand must be accomplished within ten (10) days of the Complainant's receipt of the demand letter. Proof of the actions taken to withdraw documents or have them sealed must be sent to the NEC. If such proof is not delivered to the NEC within thirty (30) days of the date of the demand letter, the NEC may take action to terminate or void the professional review process.

D. USE OF CONFIDENTIAL INFORMATION DURING THE PROFESSIONAL REVIEW PROCESS

1. **Complainant's agreement to release confidential documents.** By engaging in this process the Complainant agrees that he or she is:

- Authorizing the release of his or her confidential information for use in the professional review proceedings.

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- Authorizing the release of confidential information about the Complainant or the issues raised in the RPR that is in the custody of the Respondent.
 - Permitting the Respondent to use and disclose confidential information contained in confidential clinical notes to prepare a response to the RPR and participate fully in the professional review process.
2. **Full disclosure.** By engaging in this process the Complainant agrees to provide any and all facts and information that is material and necessary to the issues or allegations at hand so long as the provision of such facts and information would not violate any applicable laws. Complainant understands that it is his or her responsibility to obtain any additional consent necessary for the release of confidential information.
3. **Documents submitted as evidence by either participant.** With the exception of confidential treatment records as noted in item 1, all other confidential documents submitted as evidence must be accompanied by a signed permission form permitting the participant to release this information to the NEC for the purposes of professional review.
4. **Discussion of pertinent confidential records.** The Complainant's RPR represents permission for the Hearing Panel or the Mediator, Respondent, and consultants to discuss confidential records approved for consideration at the hearing or mediation session for the Respondent's defense. With the exception of confidential treatment records as noted in item 1, all other documents submitted as evidence still must be accompanied by written permission to release information.

NONPARTICIPATION IN THE PROFESSIONAL REVIEW PROCESS

This chapter describes the procedures to be followed in the event of a failure to act in the professional review process by the National Ethics Committee (NEC), or in the event of the nonparticipation in the process of the Complainant and/or the Respondent. This chapter also deals with resignation from NASW by a Respondent and withdrawal of a complaint.

A. CHAPTER PARTICIPATION

Members of a Chapter Ethics Committee (CEC) will be invited to participate in Intake Subcommittee meetings and adjudication hearings for alleged breaches of the NASW Code of Ethics that occurred in their location. If CEC members are not able to participate, the Intake Subcommittee meetings and adjudication hearings may proceed without their participation.

B. FAILURE OF NEC TO ACT

If NEC fails to take timely action, the Executive Committee of the NASW Board of Directors may assume jurisdiction. Any party who has concerns regarding the timeliness of NEC actions should document those concerns in a letter to the Executive Committee and the Office of Ethics and Professional Review (OEPR).

C. COMPLAINANT'S FAILURE TO PARTICIPATE IN THE PROFESSIONAL REVIEW PROCESS

1. **Adjudication.** If a Complainant refuses to participate in a hearing or fails to appear without providing adequate and documented reason, the hearing will not be held. However, the Respondent may then request that a hearing be reinstated, in which case the NEC may decide to proceed against the wishes of the Complainant. Otherwise the case is closed and the Complainant who refuses to participate forfeits the right to appeal.

2. **Mediation.** If a Complainant refuses to participate in a scheduled mediation session or fails to appear without providing adequate and documented reason, mediation will not be conducted. The Mediator will report the Complainant's refusal or failure to participate in mediation to the NEC. Upon reviewing the matter, the NEC Intake Subcommittee will decide whether to close the case or refer the complaint to adjudication.

D. RESPONDENT'S FAILURE TO PARTICIPATE IN THE PROFESSIONAL REVIEW PROCESS

NASW members are required to cooperate in the implementation of the NASW Code of Ethics and to abide by any disciplinary rulings based on it. Failure to participate in the professional review process may, in itself, result in additional action being taken. A subcommittee of the NEC or Complainant may file a RPR based on the Respondent's refusal to participate.

If the Respondent cannot be located, the OEPR will document efforts made to locate him or her. The OEPR will submit the case to the NEC Intake Subcommittee to determine whether to close the case.

1. **Adjudication.** If a Respondent refuses to participate in the proceedings or fails to appear at the hearing without providing adequate and documented reason, the Respondent shall lose the right to appeal. The NEC will decide whether a hearing will go forward in the absence of a Respondent. The report will note the difficulties occasioned by the Respondent's lack of cooperation.

2. **Mediation.** If a Respondent refuses to participate in a scheduled mediation session or fails to appear without adequate and documented reason, mediation will not be conducted. The Mediator will report the Respondent's refusal or failure to participate in mediation to the NEC. Upon reviewing the matter, the NEC Intake Subcommittee will decide whether to close the case or to refer the case to adjudication.

E. RESIGNATION FROM NASW BY RESPONDENT

If a Respondent resigns from NASW at any time after receipt of the RPR, NASW shall continue with the professional review process. If a report is issued, it shall note the circumstances of the Respondent's resignation.

F. WITHDRAWAL OF THE COMPLAINT

1. If a Complainant does not take required action subsequent to acceptance of a complaint, the NEC shall notify the Complainant that the proceedings may be terminated and offer the Complainant the opportunity to withdraw the complaint.
2. A Complainant may request withdrawal of the complaint at any time during the process; however, termination of the process cannot take effect without approval of both the NEC and the Respondent.
3. If a Complainant does not take required action subsequent to acceptance of a complaint, the NEC shall notify the Complainant that the proceedings may be terminated and offer the Complainant the opportunity to withdraw the complaint.
4. If the Complainant requests a withdrawal prior to acceptance and the NEC or Respondent is not in agreement with the request to withdraw, the matter will be reviewed by the Intake Subcommittee using the information originally submitted. If accepted, the NEC will proceed with adjudication based on available evidence. The Complainant will have no right to appeal.
5. If the Complainant in a matter referred to mediation requests withdrawal of the complaint, mediation will not continue.
6. If the Respondent agrees to the Complainant's request to withdraw the complaint, the process will be terminated and the case closed unless the NEC decides to continue the process without the parties.
7. If the Respondent does not agree with the decision of the NEC to terminate the process in response to a Complainant's request to withdraw the complaint, the NEC may proceed with adjudication based on available evidence. The Complainant will have no right to appeal.
8. If both the Complainant and the Respondent agree to the withdrawal of the complaint, the NEC may decide to proceed with adjudication. The Hearing Panel may complete the process based on the evidence provided by the Complainant and the Respondent. Neither the Complainant nor the Respondent shall have the right to appeal the outcome of the hearing.
9. If both the Complainant and the Respondent agree to the withdrawal of the complaint, and the NEC decides to terminate the proceedings and close the case, the decision to do so will be noted in the file. All parties will receive copies of this decision.
10. If the Complainant requests a withdrawal prior to acceptance and the NEC or Respondent is not in agreement with the request to terminate, the matter will be reviewed by the NEC Intake Subcommittee using the information originally submitted. If accepted, the NEC will proceed with adjudication based on available evidence. The Complainant will have no right to appeal.
11. If the Complainant in a matter referred to mediation requests withdrawal of the complaint, mediation will not continue.
12. If the Respondent agrees to the Complainant's request to withdraw the complaint, the process will be terminated and the case closed unless the NEC decides to continue the process without the parties.
13. If the Respondent does not agree to the decision of the NEC to terminate the process in response to a Complainant's request to withdraw the complaint, the NEC will proceed with adjudication based on available evidence. The Complainant will have no right to appeal.

14. If both the Complainant and the Respondent agree to the withdrawal of the complaint, the NEC may decide to proceed with adjudication. The Hearing Panel may complete the process based on the evidence provided by the Complainant and the Respondent. Neither the Complainant nor the Respondent shall have the right to appeal the outcome of the hearing.

15. If both the Complainant and the Respondent agree to the withdrawal of the complaint, and the NEC decides to terminate the proceedings and close the case, the decision to do so will be noted in the file. All parties will receive copies of this decision.

ACCEPTING OR REJECTING THE RPR

This chapter deals with issues pertaining to the following: specific criteria for acceptance or rejection of a Request for Professional Review (RPR), definition of the scope of the proceedings for an accepted RPR, and special circumstances pertaining to a specific RPR.

The National Ethics Committee (NEC) Intake Subcommittee makes decisions to accept or reject the RPR, sets the scope, and refers the complaint to mediation or adjudication.

A. CRITERIA FOR ACCEPTANCE

An RPR may be submitted in the event of an alleged violation of the NASW Code of Ethics by a member of NASW if the case meets the following criteria:

1. Phase One: Are the initial requirements met?
 - a. The Respondent was a member of NASW at the time of the alleged violation.
 - b. The Complainant alleges specific misconduct that is addressed by the NASW Code of Ethics.
 - c. The Complainant was engaged in a professional social work relationship with the NASW member and was directly affected, personally or professionally, by the alleged violation of the NASW Code of Ethics, or the Complainant has direct knowledge of the alleged violation stated in the RPR. Self-referred RPRs are exempt from this requirement.
 - d. The alleged unethical conduct occurred no more than one (1) year before the date on which the RPR was filed. (See item D.7.) The one-year time limitation does not apply to NASW members who self-report a violation.
 - e. The Complainant signed and agreed to abide by the Confidentiality Pledge/Statement of Understanding form, and it is included with the RPR.
 - f. The Complainant is willing to testify and is legally willing and able to furnish additional information upon request.
2. Phase Two: Does the complaint rise to the level of an ethical violation requiring consideration by NASW's professional review process?

B. REJECTION OF AN RPR

The Intake Subcommittee shall reject an RPR that does not meet all the required criteria.

C. DEFINITION OF THE SCOPE OF THE PROFESSIONAL REVIEW

The Intake Subcommittee will define the scope of the proceedings by listing the sections of the *NASW Code of Ethics* to be reviewed by NASW. The Intake Subcommittee may extend the scope beyond the ethical standards listed in the RPR if the facts in the RPR suggest that additional standards in the Code may have been violated. Any such changes shall be based on careful review of the substance of the allegations.

D. SPECIAL CIRCUMSTANCES

1. **More than one RPR against the same Respondent.** If more than one RPR is filed against the same Respondent or is related to the same situation, the Intake Subcommittee shall determine which RPR to consider first or whether the matters can be consolidated into one proceeding while protecting the rights to due process and confidentiality for all parties involved.
2. **Issues reviewed in alternate forum.** Professional review will proceed unless the same issues are being reviewed in another forum (e.g., state licensing board hearing or criminal prosecution). If professional review is postponed until the issues have been determined in the other forum, the Intake Subcommittee chairperson shall provide the parties with a written explanation of

the reasons for postponing the process. Postponing the professional review process allows the Chapter Ethics Committee (CEC) (or NEC in national cases) to consider information received from other review processes. Information received from other reviews may be used to determine the outcome of a professional review matter. The CEC/NEC will determine the impact of this information.

3. Incorrect submission or additional information required.

After the review of an RPR, it may be determined that the RPR has been executed incorrectly or that additional information is required. In these cases, the RPR may be returned to the Complainant either for revision or for further information. In such circumstances, the NEC may extend the time limit of forty-five (45) days between the filing of an RPR and the screening by the Intake Subcommittee.

4. Deferred acceptance of an RPR. The Intake Subcommittee, upon its review, may defer acceptance of an RPR if additional information or clarification of the information received is necessary. The Intake Subcommittee may set a specific deadline by which additional materials must be received.

5. Failure by Complainant to comply with conditions.

The CEC (or the NEC in national cases) may, at its own discretion, recommend termination of the proceedings at any stage if the Complainant fails to comply with these Procedures.

6. Matters to be settled in NASW-sponsored mediation.

During mediation, parties must address the issues identified by the Intake Subcommittee as the scope of the proceedings. The parties may, by mutual consent, address issues in addition to the scope determined by the Intake Subcommittee, provided that those issues are related to the original complaint.

7. Time limits waiver. If the Complainant submits a time limits waiver, the NEC will review the request and determine whether the waiver should be granted. An approved time limits waiver may extend the time limit for submitting an RPR for up to one (1) additional year from the time that the alleged unethical conduct occurred.

8. Complaints against those administering or conducting professional review. No one administering or conducting professional review may be named as a Respondent under the NASW Procedures for Professional Review as a result of a decision, action, or exercise of discretion arising from the conduct of the professional review process. Thus, the parties in the professional review may not file an RPR against members of the NASW Board of Directors, NEC, CEC, Chapter Board of Directors, or NASW staff or appointees because of their conduct of the professional review process. Concerns regarding misconduct by these people may be dealt with as follows:

- a. A complaint (in the form of a letter) about an individual employed by NASW must be directed to the person's administrative superior. The complaint will be reviewed according to pertinent guidelines for review of staff conduct.
- b. A complaint about an appointee (such as a consultant, monitor, committee member, or Mediator) must be directed to the national president in conjunction with the NEC chairperson. The president will review the complaint and determine the appropriate action.

9. RPRs regarding NASW staff or appointees. Alleged violations of the NASW Code of Ethics by NASW staff or appointees regarding conduct not associated with professional review responsibility will be addressed in accordance with these Procedures. RPRs regarding NASW staff or appointees are automatically processed as national cases.

10. Attempts to obstruct proceedings. The following actions may be taken in response to a party's action to threaten or intimidate the other party, or otherwise obstruct professional review:

- a. A participant who believes that the Respondent engaged in obstructive or threatening behavior may file an RPR on the basis of the Respondent's alleged misconduct.
- b. The Hearing Panel or the Mediator may suspend, terminate, or recommend to the NEC that the proceedings be voided in the event of a Complainant's obstructive or threatening behavior.

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- c. The Hearing Panel or the Mediator may alter, suspend, or terminate proceedings as needed in response to participant misconduct.

E. PERSONAL SAFETY

1. Any party who has personal safety concerns should forward this information directly to the NEC, which will determine the appropriate actions. The report of personal safety concerns should be provided in writing, with appropriate documentation, unless urgent safety concerns must be addressed right away and circumstances warrant a review based on a verbal report.

F. NO APPEALS

Neither the Complainant nor the Respondent may appeal the NEC Intake Subcommittee's decision to accept or reject an RPR or to close a case.

NOTE: Please refer to Chapters 6 and 8 for premeditation and/or preadjudication activities.

G. CLOSING CASES PRIOR TO INTAKE

The Office of Ethics and Professional Review will close cases prior to intake in the following circumstances:

1. The Complainant withdraws his or her consent.
2. The complaint is not submitted in the appropriate format and the Complainant refuses to resubmit in the appropriate format in a timely manner.
3. The Respondent was not a member of NASW at the time of the alleged violation.

REFERRAL TO ADJUDICATION OR MEDIATION

This chapter addresses the criteria considered when selecting the appropriate venue for review of a Request for Professional Review (RPR). As part of the peer review process, it is the responsibility of the National Ethics Committee (NEC) Intake Subcommittee to determine whether professional review will be conducted through adjudication or mediation. The decision to send the matter to mediation or adjudication cannot be appealed.

A. REFERRALS TO ADJUDICATION

1. If the Intake Subcommittee's approved scope of the proceedings includes any of the following citations from the *NASW Code of Ethics*, the matter will be referred to adjudication.
 - 1.09 Sexual Relationships
 - 1.10 Physical Contact
 - 1.11 Sexual Harassment
 - 2.07 Sexual Relationships
 - 2.08 Sexual Harassment
2. If a matter involves a Respondent who has previously participated in professional review with NASW, the Intake Subcommittee may refer the case to adjudication, regardless of the current alleged code violations.

B. REFERRALS TO MEDIATION

1. If the approved scope of the proceedings includes any of the following citations from the *NASW Code of Ethics*, the matter may be referred to mediation.
 - 1.03 Informed Consent
 - 1.04 Competence
 - 1.05 Cultural Competence and Social Diversity

- 1.08 Access to Records
- 1.12 Derogatory Language
- 1.13 Payment for Services
- 1.14 Clients Who Lack Decision-Making Capacity
- 1.15 Interruption of Services
- 1.16 Termination of Services
- 2.01 Respect
- 2.02 Confidentiality
- 2.03 Interdisciplinary Collaboration
- 2.04 Disputes Involving Colleagues
- 2.05 Consultation
- 2.06 Referral for Services
- 3.01(a), (b), or (d) Supervision and Consultation
- 3.02 Education and Training
- 3.03 Performance Evaluation
- 3.06 Client Transfer
- 3.07 Administration
- 3.08 Continuing Education and Staff Development
- 3.09 Commitments to Employers
- 3.10 Labor-Management Disputes
- 4.01 Competence
- 4.02 Discrimination

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- 4.08 Acknowledging Credit
 - 5.01(a), (b), or (c) Integrity of the Profession
 - 5.02 Evaluation and Research
 - 6.01 Social Welfare
 - 6.02 Public Participation
 - 6.03 Public Emergencies
 - 6.04 Social and Political Action
2. Although all matters under section B will generally be referred to mediation, mediation may not be the appropriate venue under certain circumstances. The following will be considered when making this determination:
- a. the severity, quantity, and/or repetitive nature of the allegations (for example, multiple complaints against the same Respondent, previous complaints)
 - b. issues related to safety or security of the parties that cannot be addressed through adjustments to the mediation process
 - c. the availability of resources through NASW and the Office of Ethics and Professional Review for processing the case.
3. Exception: Any approved scope that includes *Code* sections listed in section A.1 will be referred to adjudication.

C. MATTERS THAT MAY BE REFERRED TO ADJUDICATION OR MEDIATION

1. If the approved scope of the proceedings includes any of the following citations, the matter may be referred to either adjudication or mediation at the discretion of the NEC Intake Subcommittee:
- 1.01 Commitment to Clients
 - 1.02 Self-Determination
 - 1.06 Conflicts of Interest
 - 1.07 Privacy and Confidentiality
 - 2.09 Impairment of Colleagues
 - 2.10 Incompetence of Colleagues
 - 2.11 Unethical Conduct of Colleagues
 - 3.01(c) Supervision and Consultation
 - 3.04 Client Records
 - 3.05 Billing
 - 4.03 Private Conduct
 - 4.04 Dishonesty, Fraud, and Deception
 - 4.05 Impairment
 - 4.06 Misrepresentation
 - 4.07 Solicitations
 - 5.01(e) Integrity of the Profession

PREMEDIATION

This chapter outlines premediation activities for the Office of Ethics and Professional Review (OEPR), the National Ethics Committee (NEC), the chapter in which the violation allegedly occurred, the Complainant and the Respondent, and the Mediator. This chapter also provides guidelines to be followed in the event that mediation following a RPR is terminated.

The OEPR will offer consultants to both the Complainant and the Respondent. For the Complainant, the consultant's role is to help him or her identify each alleged violation. For the Respondent, the consultant may assist him or her in formulating a written statement in response to the complaint. For both the Complainant and the Respondent, the consultant will assist in interpreting and using these Procedures. The consultant's role is also to provide guidance, information, and support throughout the mediation process.

In keeping with the *NASW Code of Ethics* and the *NASW Standards of Practice for Social Work Mediators*, no one who has either a professional or personal interest in the case may serve as a consultant, a Mediator, or an NASW Representative for that case.

The responsibility for managing the mediation process rests with the OEPR.

A. OEPR ACTIVITIES FOLLOWING RECEIPT OF THE RPR

1. Within ten (10) days of receipt of the RPR, the OEPR shall write to the Complainant to acknowledge receipt of the RPR.
2. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Respondent of the RPR.
3. The notification to the Respondent will include a copy of these Procedures, the applicable edition of the *NASW Code of Ethics*, the RPR, its supporting statement, and the Confidentiality Pledge/Statement of

Understanding signed by the Complainant. It will also include a copy of the Confidentiality Pledge/Statement of Understanding to be signed by the Respondent.

4. Within ten (10) days of receipt of the Respondent's signed Confidentiality Pledge/Statement of Understanding, the OEPR shall send a copy to the Complainant.
5. Within fourteen (14) days of receipt of the notification of the RPR, the Respondent will have an opportunity to submit any documents that are pertinent to the criteria for acceptance of the RPR. Submissions by the Respondent must not address the "merits of the case," but must set forth the reasons that the "criteria for acceptance" have not been met. The response to the RPR should not exceed two (2) pages, excluding supporting documents related to the acceptance criteria. (If the case is accepted for review, then the Respondent will be able to make additional submissions regarding the merits of the case.)
6. The Intake Subcommittee shall first evaluate whether it is necessary to classify a complaint as pending because of concurrent or anticipated legal actions, other ongoing dispute resolution processes, or in-process grievance procedures. Proceedings may be postponed only if the scope of the proceedings and the matter being considered in another venue have similar issues (see Chapter 4). The Intake Subcommittee may also review postponements on a periodic basis to determine whether to proceed with the professional review process in light of delays in completing the other proceedings.

Such legal action, other dispute resolution processes, or grievance procedures include, but are not limited to, civil lawsuits, criminal prosecutions, arbitrations, union and organizational grievances, and complaints before government regulatory bodies (for example, state licensing boards or the National Labor Relations Board).

B. NEC ACTIVITIES FOLLOWING ACCEPTANCE OR REJECTION OF THE RPR

1. Within forty-five (45) days of receipt of the properly prepared RPR, the Complainant and the Respondent must be notified by the NEC, in writing, of
 - a. the acceptance or rejection of the RPR
 - b. the scope of the proceedings
 - c. a decision to refer the matter to mediation.

C. NEC ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. Within forty-five (45) days of the Intake Subcommittee's acceptance of the RPR and the referral of the case to mediation, the NEC will:
 - a. appoint the Mediator for the case
 - b. appoint the NASW Representative for the case
 - c. send a copy of the properly prepared RPR and Respondent's comments and submissions to the Mediator and NASW Representative
 - d. schedule the mediation session.
2. In no fewer than forty-five (45) days in advance of the mediation session, the NEC shall notify all parties, in writing, of
 - a. the date, time, place, and other arrangements for the session
 - b. the name(s) of the Mediator(s)
 - c. the name of the individual responsible for representing NASW in the mediation session
 - d. the names of professional review consultants.

D. COMPLAINANT'S AND RESPONDENT'S ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. **Complainant's and Respondent's submissions.** After the RPR is accepted, the Respondent may submit a written statement to the NEC outlining his or her view of the alleged misconduct as set forth in the complaint. The Complainant also has the opportunity to submit additional documentation. All submissions should be received by the OEPR at least thirty (30) days before the mediation session to enable the OEPR to prepare for mediation. The OEPR will send a copy of all submissions to the Complainant, the Respondent, the NASW Representative, and the Mediator.
2. **Challenge of NASW participants.** Both the Complainant and the Respondent shall have the right to challenge the participation of the Mediator or NASW Representative if they believe either of these individuals have a conflict of interest or bias with respect to the matter to be reviewed.
 - a. Such a challenge must be submitted in writing to the NEC and set forth the reason(s) on which it is based. The Mediator and/or the NASW Representative will be advised of any such challenges and will be provided the opportunity to relinquish their role in the mediation.
 - b. The NEC has final authority concerning whether to disqualify a Mediator or NASW Representative.
 - c. Any challenge by the Complainant or Respondent must be made within twenty (20) days of receipt of the names of the Mediator and the NASW Representative.

E. MEDIATOR'S ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

The Mediator may contact the NEC, the NASW Representative, and consultants prior to the mediation session for the purposes of preparing them for their roles in the mediation.

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1. Prior to mediation, the Mediator may contact the NASW representative or the consultants in order to
 - a. describe the mediation process and the Mediator's role and to review confidentiality requirements
 - b. clarify the roles of the parties, the consultants, and the NASW Representative
 - c. clarify associated paperwork, including the signing of the agreement to mediate
 - d. clarify the scope of issues for the mediation.
 - e. explain that the Mediator will not have any direct contact with the Respondent or Complainant prior to the mediation.

MEDIATION

This chapter outlines the steps in the mediation process, the role of the Mediator, the role of the NASW Representative, the format of the mediation session(s), the purpose and suggested content of the mediated agreement, final disposition of related documents, and the prohibitions against any type of taping or recording of the mediation session(s).

Mediation is a collaborative problem-solving process in which a neutral third party guides a discussion intended to help the parties in the dispute define the issues, obtain relevant information, and generate reasonable options for resolution. As part of the process, a Mediator approved by NASW will aid the parties both in reaching a mutually acceptable resolution and in drafting a written version of that agreement, as previously noted (see Chapter 1, B.1.b), and consultants may be appointed for each party to assist them in understanding the procedures and in preparing for mediation. Parties may choose to have the consultants present at the mediation for technical support purposes. The consultants cannot speak during the joint mediation sessions. Each party may consult with his or her consultant during breaks or caucuses in the mediation process.

Mediation is a conflict resolution process that is valued both as an element of social work practice and as a way to resolve grievances related to ethical violations. Because mediation is a conflict resolution process in which the parties themselves decide on the outcome, NASW does not determine whether specific violations of the NASW Code of Ethics have or have not occurred.

The following procedures for mediation are based on the *NASW Standards of Practice for Social Work Mediators*.

A. STEPS IN THE MEDIATION PROCESS

1. The Mediator(s) and the NASW Representative are appointed by the National Ethics Committee (NEC).
2. A mediation session is scheduled. At the beginning of the first mediation session, the Mediator will have the Complainant, Respondent, and NASW Representative sign the NASW Professional Mediation Agreement, which specifies ground rules for the process (see Appendix 3).
3. If more than one (1) mediation session is necessary, the Mediator will be responsible for scheduling all subsequent sessions to ensure that all parties and the NASW Representative will be present.
4. If the parties reach an agreement, the Mediator will draft and review the agreement with the Complainant, Respondent, their consultants, and the NASW Representative. The Mediator will ask the parties to sign the agreement at this mediation session. (If the parties do not reach agreement, see Part I below.)
5. The NASW Representative indicates, in the signed mediation agreement, whether or not the mediation agreement addresses NASW's responsibility to protect clients, consumers, agencies, colleagues, and the public (see NASW Representative's role, below).
6. The mediation agreement shall be implemented, by the parties, according to its provisions.
7. A copy of the mediation agreement is filed with NASW's Office of Ethics and Professional Review (OEPR). Access to this agreement will be limited and will be allowed only for purposes related to research and consultation approved by the NEC. Identifying information will be removed from any shared data.

B. THE MEDIATOR

1. **Appointment.** Once the Request for Professional Review (RPR) has been accepted for review and it has been determined that the case will go to mediation, the NEC will appoint a Mediator. To be approved by NASW, the Mediator must meet the required standards for mediators in professional review cases as described in the *NASW Standards of Practice for Social Work Mediators*.

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2. **RPR materials.** The OEPR will provide the Mediator(s) with a copy of the Complainant’s RPR, the Respondent’s comments and submissions, and the contact information for the consultants.
 3. **Role.** The Mediator is a neutral third party, trained both in generic mediation and in mediation for social workers acting in the NASW professional review process.
 - a. The Mediator assists the disputing parties to communicate their concerns, clarify issues, obtain relevant information, and generate reasonable options for resolution. The Mediator is responsible for guiding the mediation process, but not for deciding the outcome. The Mediator helps the parties work toward a mutually acceptable agreement to resolve concerns that stem from the allegations raised in the RPR.
 - b. The Mediator also serves as a moderator of the disputants’ discussions so that all parties are given the opportunity to express opinions and points of view, and no party is allowed to use coercion, deceit, or other questionable practices to bring about a particular resolution of the issues.
 3. **Role.** The NASW Representative’s role is to ensure that any resolution reached through mediation is consistent with the NASW Code of Ethics (see also E.8).
 - a. The NASW Representative is expected to ensure that the mediation session(s) adequately address issues related to the alleged Code violations accepted by the Intake Subcommittee for the mediation process. Thus, the NASW Representative may contribute to any final agreement.

Any actions of the NASW Representative pertaining to the mediation of a professional review matter must be consistent with the NASW Code of Ethics.

D. THE MEDIATION SESSION(S)

1. The format of the mediation session(s) allows the Complainant and the Respondent to describe the issue(s), state their perceived interests, and work toward a mutually acceptable resolution of the matter. In addition, the format allows the NASW Representative to help the Mediator and parties ensure that the outcome is consistent with the NASW Code of Ethics.
2. The consultants appointed for the Complainant and the Respondent may attend the mediation session(s), but they may not participate directly. Upon permission of the NEC, a support person may accompany each party to the location where mediation will be held. Support persons must remain outside the mediation session. Furthermore, although each party may retain his or her own attorney to be properly counseled about his or her legal interests, rights, and obligations, such legal Representatives may not attend or participate in the mediation session(s).

C. THE NASW REPRESENTATIVE

1. **Appointment.** The *NASW Code of Ethics* states that there are specific “ethical standards relevant to the professional activities of all social workers.” These standards concern social workers’ ethical responsibilities to clients, to colleagues, in practice settings, to other professionals, to the social work profession, and to the broader society. As a consequence, NASW has a vested interest in the outcome of professional review as the case relates to these areas. Therefore, once the RPR has been accepted for mediation, a member of the NEC will be appointed by the committee to attend mediation as the NASW Representative. This Representative must be an NASW member with professional review experience.
2. **RPR materials.** The OEPR will provide the NASW Representative with a copy of the Complainant’s RPR and the Respondent’s comments and submissions.

E. THE MEDIATION AGREEMENT

The NASW Professional Mediation Agreement is a signed document specifying the terms of the agreement reached by the Complainant and the Respondent. In addition, the agreement should be signed by the NASW Representative with regard to whether or not the outcome is consistent with the NASW Code of Ethics. When appropriate, the agreement should specify any actions necessary to correct the behavior of the individual social worker and any actions necessary to prevent future harm to others.

Although individual agreements may contain additional items, suggested contents of the written mediation agreement include the following:

1. Specific actions required of the Complainant and Respondent to address issues raised and resolved in mediation. For the Respondent in professional review, these are referred to as corrective actions.

Suggested questions to guide consideration of corrective actions for the Respondent could include, but are not limited to, the following:

- a. What, if any, training, supervision, or consultation will be required? How and where will this be obtained?
 - b. Will there be private censure by NASW?
 - c. Will there be restitution or financial compensation by the Respondent to an individual, group, or organization harmed by the Respondent's unethical behavior?
 - d. Will there be correction of a client record?
 - e. Will an NASW member be appointed to monitor any corrective actions? The appointment of such a monitor is strongly recommended. The mediation agreement should include provisions for notifying the NEC of the need to appoint a monitor and details regarding any information to be given to the monitor.
2. Conditions under which there will be a return to mediation, for example, if it appears that one party has failed to comply with the signed mediation agreement.

The purposes of returning to mediation include clarifying whether there has been noncompliance or a difference in interpretation of the terms of the agreement.

3. Conditions and reasons for referring the grievance to adjudication, for example, if a participant fails to attend the scheduled mediation without sufficient notice to the Mediator and NEC.

4. Specific actions to be taken (other than, or in addition to, a return to mediation) in the event of any party's noncompliance with the terms of the agreement. In professional review, consequences for noncompliance by the Respondent are known as contingent sanctions.

Any sanctions requiring implementation by NASW must first be approved by the national Executive Committee. The mediation agreement should include provisions for requesting approval from the national Executive Committee.

The Mediator may use the following questions to guide the participants' consideration of consequences for noncompliance by the Respondent (contingent sanctions):

- a. Will there be a recommendation for further review by the NEC for violating the agreement and therefore the professional review process?
 - b. Will there be a recommendation for suspension from membership in NASW?
 - c. Will there be a recommendation for suspension of NASW-issued credentials (including forfeiture of dues or fees paid)?
 - d. Will there be notification to state regulatory boards of the mediated corrective actions and sanctions?
 - e. Will there be removal from the Register of Clinical Social Workers?
 - f. Will there be notification to credentialing bodies, societies, and specialized practice groups in which the individual may hold membership, of the mediated corrective actions and sanctions?
5. Specific identification of all individuals or entities that will receive a copy of the mediation agreement.

The Mediator will send the OEPR a copy of the final agreement. Access to this agreement will be limited to purposes related to NEC-approved research and consultation. Researchers will remove any identifying information from any published reports.

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6. Specific language that clearly indicates that each party agrees to the terms of the mediation agreement.
 7. Signatures of both the Complainant and Respondent, signifying that they are agreeing to the terms contained in the mediation agreement and the dates of the signatures.
 8. Signature of the NASW Representative indicating that the mediation agreement, in his or her opinion, adequately addresses NASW's responsibility to protect clients, consumers, agencies, colleagues, and the public from practices that violate the NASW Code of Ethics.

F. ACTIVITIES FOLLOWING THE NASW REPRESENTATIVE'S INDICATION OF CONCERN REGARDING THE MEDIATION AGREEMENT

1. In the event that the NASW Representative believes that the mediation agreement does not adequately address NASW's responsibility, the Representative will provide the NEC Intake Subcommittee with a written explanation of his or her concerns. Such action by the NASW Representative will in no way preclude the parties from implementing their mediation agreement, unless doing so would be a further violation of the NASW Code of Ethics.
2. After receiving notification of the NASW Representative's belief that the mediation agreement does not adequately address NASW's responsibility, the NEC Intake Subcommittee may decide that the matter should be returned to mediation, sent to adjudication, or closed. If the matter is returned to mediation, the original Complainant, the original Respondent, and the original NASW Representative will be directed to resume sessions with the original Mediator. The purpose of these additional mediation sessions shall be to consider those practices that may violate the NASW Code of Ethics and were not, in the opinion of the NASW Representative, adequately addressed in the previously mediated agreement.
3. If either or both of the parties refuse to return to mediation or if the NEC Intake Subcommittee decides not to send the matter back to mediation, the NEC Intake Subcommittee may then decide to refer the

matter to adjudication. Both the Complainant and the Respondent shall have the right to appeal the outcome of the hearing under these conditions in accordance with the normal adjudication procedures.

4. In the event that the Complainant and the Respondent refuse to participate in adjudication, the Hearing Panel may conduct the adjudication hearing based on the materials originally provided by the Complainant and Respondent. Guidelines regarding nonparticipation in adjudication will apply (see Chapter 3).
5. If either or both of the parties refuse to return to mediation or if the NEC Intake Subcommittee decides not to send the matter back to mediation or to proceed with adjudication, the Intake Subcommittee will decide whether or not to terminate the process and close the case. In the event that the Intake Subcommittee decides to close the case, the decision to do so will be noted in the file, and all parties will receive copies of this decision.

G. DISPOSITION OF INFORMATION AND DOCUMENTS

1. A copy of the agreement to mediate and a copy of the mediation agreement will be filed with the OEPR. Access to the mediation agreement will be limited and will be allowed only for purposes related to NEC-approved research and consultation. No identifying information will be included in any published research or reports.
2. No additional information from the mediation process will be forwarded to the NEC, unless the mediation agreement specifically directs that certain additional information should be shared with the NEC.
3. At the time the final mediation agreement is signed, all documents and duplicates (except the agreement to mediate and the mediation agreement) related to the mediation process will be returned to the parties who provided the documents.
4. The Mediator will notify the NEC that an agreement has been reached and whether or not the case can be closed.

H. RECORDING OR TRANSMISSION OF THE ADJUDICATION HEARING

Neither party may record the adjudication hearing or transmit the hearing by video camera, audio recorder, computer, or any other electronic devices. Telephone calls, texting, or similar transmissions of information during the hearing are prohibited. The Hearing Panel and NEC, in their sole discretion, may arrange for video or teleconferencing of all or parts of the hearing to facilitate communication when hearing panelists, the parties, witnesses, or other participants need to be in different locations. Any video or teleconferencing will not be recorded or saved by the Hearing Panel or any other participants in the hearing process.

I. TERMINATION OF MEDIATION WHEN NO AGREEMENT HAS BEEN REACHED

If mediation is discontinued for any reason (before, during, or after the first mediation session), the Mediator(s) will notify the NEC. The NEC Intake Subcommittee will review the matter and decide whether to close the case or refer the complaint to adjudication (see Chapter 3).

1. The Mediator may determine either that mediation should not commence or that it should be discontinued. In either situation, mediation can be terminated once the parties have been notified. Furthermore, termination shall be confirmed in writing, stating the reasons for such action. Reasons for terminating mediation may include concerns about safety, lack of cooperation of the Complainant or Respondent, or other reasons as determined by the Mediator.
2. If the Complainant, Respondent, or the Mediator(s) decide to terminate the mediation, the Mediator will notify the chairperson of the NEC. The NEC Intake Subcommittee will then inform both the Complainant and the Respondent whether the case will be closed or referred to adjudication.
3. If either the Complainant or the Respondent decides to withdraw from mediation at any time, the Mediator will use best efforts to discuss this decision in the presence of both parties, the consultants, and the NASW Representative.

PREADJUDICATION ACTIVITIES

This chapter outlines preadjudication activities for the following: the Office of Ethics and Professional Review (OEPR), the National Ethics Committee (NEC), the Complainant, the Respondent, and the Hearing Panel.

A. OEPR ACTIVITIES FOLLOWING FIRST CONTACT WITH POTENTIAL COMPLAINANT

Once contacted by a potential Complainant, the OEPR will offer a consultant to the Complainant to provide assistance in the professional review process. The consultant's role for assisting the Complainant includes helping him or her appropriately identify alleged violations from the NASW Code of Ethics, complete the forms required for the RPR, and assist in interpreting and implementing these Procedures.

B. OEPR ACTIVITIES FOLLOWING RECEIPT OF THE RPR

1. Within ten (10) days of receipt of the RPR, the OEPR shall write to the Complainant to acknowledge receipt.
2. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Respondent of the RPR. The notification to the Respondent will include a copy of these Procedures, the applicable *NASW Code of Ethics*, the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant. It will also include a copy of the Confidentiality Pledge/Statement of Understanding to be signed by the Respondent. The OEPR will offer a consultant to the Respondent to help the Respondent formulate a written statement pertaining to the criteria for acceptance of the RPR, and to assist in interpreting and complying with these procedures.
3. The OEPR shall refer the RPR to the NEC Intake Subcommittee for review.

C. NEC ACTIVITIES FOLLOWING ACCEPTANCE OR REJECTION OF THE RPR

1. The NEC Intake Subcommittee shall first evaluate whether it is necessary to postpone the professional review process because of concurrent or anticipated legal actions or other ongoing dispute resolution processes. Proceedings may be postponed only if the scope of the proceedings and the matter being considered in another venue overlap (see Chapter 4). Such legal action or other dispute resolution processes include, but are not limited to, civil lawsuits, criminal investigations or proceedings, arbitrations, and complaints in government regulatory bodies (for example, state licensing boards).
2. As soon as possible, but within forty-five (45) days of receipt of the properly prepared RPR, the Complainant and the Respondent will be notified by the NEC, in writing, of the acceptance or rejection of the RPR. If the RPR is accepted, then the NEC will also advise the parties about
 - a. the scope of the proceedings
 - b. the decision to refer the matter to adjudication
 - c. any decision to hold a prehearing conference and its time
 - d. the address and telephone number for OEPR staff responsible for scheduling and administering the hearing.
3. Within forty-five (45) days of the NEC Intake Subcommittee's acceptance of the RPR and the referral of the case to adjudication, the chairperson of the NEC will
 - a. appoint the Hearing Panel chairperson and members (no person who has a personal or

professional conflict of interest in the case may serve on a Hearing Panel)

- b. schedule the hearing.
4. Within forty-five (45) days of the decision to accept the RPR, the NEC shall notify all parties, in writing, of
- a. the date, time, place, and other arrangements for the hearing and the names of the hearing panelists
 - b. the right to present witnesses or other evidence.

C. COMPLAINANT’S AND RESPONDENT’S ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. **Identification of evidence.** Both parties may introduce evidence that will help establish facts pertaining to the allegations in the RPR.
- a. **Documents.** At least thirty (30) days before the hearing, each party will submit a list of documentary evidence accompanied by required releases to the OEPR to ensure that the other party receives a copy of the submitted documents.

When submitting documentary evidence, parties must provide legible copies in the number required by the Hearing Panel.

- b. **Witnesses.** At least thirty (30) days before the hearing, each party will submit a list of witnesses to the OEPR. The OEPR will send a list of proposed witnesses to the Hearing Panel chairperson and to the other party. The Hearing Panel shall review the proposed list of witnesses to ensure each witness has direct knowledge of the facts pertinent to the specific NASW Code of Ethics violations in the complaint being reviewed. Character witnesses or evidence will not be heard.
- c. Parties shall be notified, in writing, of the approved witnesses and documents at least fourteen (14) days before the hearing.

2. **Challenge of NASW participants.** Both the Complainant and the Respondent have the right to challenge the participation of any member of the Hearing Panel if they believe the member has a conflict of interest or bias with respect to the matter to be reviewed.

- a. Such a challenge, stating reasons, shall be submitted in writing to the NEC chairperson. The NEC chairperson shall inform the hearing panelist of the challenge and provide an opportunity for his or her voluntary disqualification from the Hearing Panel.
- b. The NEC Chairperson has final authority to disqualify a Hearing Panel member.
- c. Any challenge by either participant of a member of the Hearing Panel must be made within twenty (20) days of receipt of the names of the hearing panelists.

3. **Written testimony in lieu of oral testimony.** If the Complainant or Respondent is unable to appear for reasons acceptable to the NEC, the committee may accept written statements in lieu of oral testimony. The party submitting the written testimony must send two (2) copies of the statement to the NEC at least fourteen (14) days in advance of the hearing. The NEC will forward one copy of the statement to the other party.

D. HEARING PREPARATION

1. The NEC shall assign preparatory duties to the Hearing Panel Chairperson. These preparatory duties may include, but are not limited to
- a. reviewing the issues to be adjudicated
 - b. clarifying the procedures for the conduct of the hearing
 - c. identifying the evidence to be reviewed at the hearing, as related to the alleged violations of the NASW Code of Ethics, accepted for review by the NEC Intake Subcommittee (this may include information not originally submitted by either party, but requested by the Hearing Panel)

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- d. informing parties of the appropriate role of consultants
 - e. establishing the ground rules, which may include:
 - i. who may be present
 - ii. which witnesses may appear, and in what order
 - iii. the timing associated with the process.
1. The NEC may assign the NEC chairperson, the Hearing Panel chairperson, or other appointees to ascertain

whether the matter can be resolved without a hearing by asking each party to state a desired outcome and by exploring whether another more appropriate form of redress or resolution can be pursued. If the matter is settled without a hearing, a report of the effort must be filed with the EPR, listing the parties and summarizing the agreement.

ADJUDICATION

This chapter is designed to clarify the procedures that apply to adjudication in professional review cases. The following areas are addressed: the conduct of the hearing, those who may attend the hearing and guidelines for their attendance, and the prohibition of recording or transmitting the hearing by video, audio, computer, telephone, or any other electronic device.

NASW has established a peer review process that permits two (2) methods of reviewing grievances pertaining to professional conduct: mediation (see Chapter 7) or adjudication. When a Request for Professional Review (RPR) is referred for adjudication, a hearing is held to determine if the social worker's action was indeed a violation of the applicable standards of the NASW Code of Ethics. Following the hearing, the Hearing Panel issues a report of its conclusions and makes any appropriate recommendations.

A. THE ADJUDICATION HEARING

The purpose of an adjudication hearing is to determine the facts and decide whether such facts constitute a violation of the NASW Code of Ethics.

1. The hearing should be completed within seventy-two (72) days of acceptance of the RPR, unless the Chapter Ethics Committee (CEC) or the National Ethics Committee (NEC) decides to defer the matter pending the conclusion of actions in other forums.
2. The NEC will assign all Hearing Panel duties.
3. The Hearing Panel shall consist of three or more individuals who must be members of NASW. This panel will have the responsibility not only to question the Complainant, the Respondent, and their witnesses, but also to examine documentary evidence in the course of the hearing. The Complainant and the Respondent shall be notified of, and requested to be present at, each adjudication session.
4. The hearing format must allow the Complainant and the Respondent to state their positions, ask questions, answer questions posed by the Hearing Panel, and make closing statements. All questions from the Complainant or Respondent are directed through the Hearing Panel chairperson, who will ensure that the questions are relevant, clear, and fair, before the parties or witnesses will respond. The following is the sequence for the hearing:
 - a. **Introduction.** Hearing Panel chairperson introduces panelists and parties and explains the purpose of the hearing, as well as the procedures. The chairperson allows panelists and parties an opportunity to ask any questions regarding clarification of the procedures.
 - b. **Clarification.**
 - i. Complainant gives statement of allegations.
 - ii. Panel asks questions of Complainant for clarification.
 - iii. Respondent asks questions of Complainant for clarification.
 - iv. Respondent gives statement of response to allegations (refutation).
 - v. Panel asks questions of Respondent for clarification.
 - vi. Complainant asks questions of Respondent for clarification.
 - c. **Responses.**
 - i. Complainant gives response to refutation.
 - ii. Respondent gives statement of rebuttal.
 - d. **Witnesses for the Complainant.** Each witness for the Complainant provides his or her testimony.

After each witness provides testimony, the Respondent has an opportunity to ask questions of the witness for the purpose of clarification.

Members of the Hearing Panel may then ask their questions of each witness.

- e. **Witnesses for the Respondent.** Each witness for the Respondent provides his or her testimony.

After each witness provides testimony, the Complainant has an opportunity to ask questions of the witness for the purpose of clarification.

Members of the Hearing Panel may then ask their questions of each witness.

- f. **Final questions.** Panel asks final questions of Complainant and of Respondent.
 - g. **Complainant gives closing statement.**
 - h. **Respondent gives closing statement.**
 - i. **Chairperson gives closing statement** regarding action to be taken.
5. The Hearing Panel may request additional information or documentation at any time from either the Complainant or the Respondent. All such materials must be shown to the other party, and the other party is given an opportunity to respond to the information or documentation.
 6. The Hearing Panel must determine what documentation is pertinent and necessary and may limit the quantity of material that it will consider.

B. ATTENDANCE AT THE HEARING

1. The following people will participate in the hearing, as directed by the Hearing Panel chairperson: Complainant, Respondent, and Hearing Panel members. Each witness is only present during the time that the witness is testifying and answering questions.
2. The following may attend the hearing, but may not participate directly in the proceedings: the Complainant's consultant, the Respondent's consultant, and alternate Hearing Panel members. Support persons as permitted by the Hearing Panel chairperson must remain outside the hearing room, but may meet with

the Complainant or Respondent during breaks in the hearing. If the Complainant or Respondent requires a technical aid because of a disability, then that person must be approved prior to the hearing by the Hearing Panel chairperson, and must sign a confidentiality agreement.

3. If the Complainant or the Respondent is unable to appear for reasons acceptable to the Hearing Panel, the committee may accept written statements in lieu of oral testimony. The party submitting the written testimony must send the statement to the Hearing Panel and the other party at least fourteen (14) days in advance of the hearing. The Hearing Panel chairperson must approve exceptions to this timeframe.
4. Although each party may retain his or her own attorney to be properly counseled about his or her legal interests, rights, and obligations, such legal representatives may not attend the hearing that is held as part of the professional review process.
5. The following guidelines apply to those in attendance at the hearing:
 - a. A consultant, in attendance at a hearing, may have only an indirect role, conferring with the participant whom he or she advises during caucuses. The consultant may not participate directly, in any way, in the process unless specifically requested by the Hearing Panel chairperson.
 - b. The Complainant and the Respondent shall present only information that is relevant to the complaint and that has been obtained in accordance with these Procedures (see Chapter 8).
 - c. Approved witnesses may provide oral testimony.

C. RECORDING OR TRANSMISSION OF THE ADJUDICATION HEARING

Neither party may record the adjudication hearing or transmit the hearing by video camera, audio recorder, computer, or any other electronic device. Telephone calls, texting, or similar transmissions of information during the hearing are prohibited. The Hearing Panel and NEC, at their sole discretion, may arrange for video or

teleconferencing of all or parts of the hearing to facilitate communication when hearing panelists, the parties, witnesses, or other participants need to be in different locations. Any video or teleconferencing will not be recorded or saved by the Hearing Panel or any other participants in the hearing process.

D. REPORT OF THE ADJUDICATION HEARING

1. After the completion of the adjudication hearing, the Hearing Panel will draft its report, which will include the following items:
 - a. a summary of the complaint
 - b. a summary of the panel's findings, its conclusions regarding whether or not a violation of the NASW Code of Ethics was found, and its recommendations for corrective actions and/or sanctions
 - c. a chronology of submissions and NEC/Office of Ethics and Professional Review (OEPR) activities, including the complaint; statement of the scope of the hearing; prehearing conferences (if any); the date, time, and place of the hearing; and the identification of the parties in the hearing
 - d. the position of the Complainant and a summary of evidence and his or her witnesses' testimony
 - e. the position of the Respondent and a summary of evidence and his or her witnesses' testimony
 - f. the findings of fact, which are detailed listings of the facts related to each alleged violation (the findings must include references to the oral or documentary evidence on which the findings are based)
 - g. the detailed conclusions of the Hearing Panel and its reasoning as to whether each allegation included in the scope of the hearing represents a violation of the NASW Code of Ethics
 - h. the Hearing Panel's detailed recommendations and timetable for corrective actions and sanctions (if any)

- i. an appendix that lists and includes documents submitted and those considered as evidence.
2. If the Hearing Panel finds that the Respondent's conduct has not violated the NASW Code of Ethics, no corrective actions or sanctions will be imposed.
3. If the Panel finds the Respondent's conduct to have been a violation of the NASW Code of Ethics, it shall make recommendations for corrective actions and sanctions as appropriate (see Chapter 10).
4. The report must be signed and dated by the Hearing Panel chairperson and the NEC chairperson.

E. REVIEW OF DRAFT REPORT BY THE OEPR

1. The Hearing Panel chairperson shall submit the report to the OEPR for technical review. This technical review is to ensure that recommendations are in keeping with adjudication precedent and that the report is consistent in format. The report must be submitted for review within twenty-one (21) days of the conclusion of the hearing.
2. Within fourteen (14) days of receipt of the report, the OEPR will complete its review and return the report to the Hearing Panel for revisions and approval.

F. REVIEW BY THE NEC

1. The NEC has the responsibility to review and release the Report within fifty (50) days of the conclusion of the hearing.
 - a. Confidentiality should be maintained at all times.
 - b. When the NEC reviews the report, the Hearing Panel chairperson may be present at the meeting to discuss the Report.
 - c. No NEC member or appointee who has a personal or professional conflict of interest with the Complainant or Respondent may participate in the review.
 - d. If the NEC does not agree with the findings or conclusions of the report, it may send the report

back to the Hearing Panel for reconsideration, with an explanation of the committee's reasons for its disagreement.

- e. If the Hearing Panel, after reconsideration, does not revise the report findings, the report shall stand. Under no circumstances may the NEC reverse the Hearing Panel's findings and conclusions.
 - f. If the NEC does not agree with the recommendations of the Hearing Panel, they may modify those recommendations, but may not increase their severity. When differences arise among the NEC members, the majority opinion shall prevail.
2. Within thirty (30) days of receipt of the Report, the NEC must complete its review (and any revisions) of the report. The NEC must notify parties of a legitimate delay in a scheduled review.

G. DISTRIBUTION AND USE OF THE REPORT

1. Copies of the approved and confidential Final Report (including appendices) and information about appealing the decisions shall be sent by certified mail (with return receipt requested) to the parties within eighty (80) days of the hearing.
2. A copy of the confidential Final Report (without appendices) shall be sent to the members of the Hearing Panel who heard the case.
3. The Complainant or the Respondent may share a copy of the Final Report with his or her consultant. In addition, the Complainant or the Respondent may inform his or her witnesses of the conclusions and recommendations, but not other information presented at the adjudication hearing or in the Final Report. Witnesses shall not receive a copy of the Final Report.

For purposes that relate to his or her professional standing as described in Chapters 2 and 10, the Respondent may use only the following sections of the

Final Report: the Summary of the Complaint and the Summary of Findings, Conclusions, and Recommendations. All identifying information pertaining to the Complainant must be removed before these sections of the Final Report are released. Otherwise, the Respondent or Complainant is not authorized to use, refer to, or distribute the Final Report or its contents.

H. IMPLEMENTATION OF THE FINAL REPORT RECOMMENDATIONS

Once all the appeal opportunities (see Chapter 11) have been exhausted, the report is considered **FINAL**. When the report is final, the NEC shall implement its recommendations.

1. **Corrective action.** When a Final Report requires corrective action, the NEC shall appoint a monitor who will be responsible for monitoring and reporting on the Respondent's compliance with recommendations. The monitor shall provide a quarterly report to the NEC.
2. **Sanctions.** Following approval by the national Executive Committee
 - a. The OEPR is responsible for implementing sanctions, such as communicating with appropriate NASW personnel, state licensing boards, or other professional bodies regarding the Complainant's membership, credentials, certification, licensing, and professional listings.
 - b. The OEPR shall prepare and submit text for publication in the *NASW News* and/or the chapter newsletter.

I. AUTHORIZATION TO PUBLISH THE FINAL REPORT

1. The Final Report may be distributed to the Complainant, the Respondent, their consultants, the Hearing Panel, and the NEC. Further access to the Final Report, and/or to information about its contents, is restricted to the following circumstances:

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- a. when authorization is granted by the national Executive Committee after the advice of legal counsel
 - b. as allowed under the exceptions noted in Chapter 2

- c. in response to applicable state law.
- 2. The national Executive Committee shall decide in what manner, if at all, such publication or distribution shall be made and shall designate that task to the OEPR.

CORRECTIVE ACTIONS & SANCTIONS

This chapter provides guidance in making recommendations for appropriate corrective actions and/or sanctions, ensuring timely implementation of the recommendations, and monitoring and reporting on compliance or noncompliance with corrective actions and/or sanctions. Further, it addresses the removal of sanctions and the determination of an NASW member's fitness to return to practice.

Recommendations for corrective actions and/or sanctions in professional review come from the finding of a violation(s) of the NASW Code of Ethics through adjudication or as the result of a mediation agreement. The guiding principle in formulating recommendations for corrective actions is that they are educational, corrective, and appropriate to the situation; therefore, such recommendations are to focus on actions, activities, and events that are designed to educate, remediate, and/or prevent further ethics violations. Sanctions can be imposed in two ways:

1. All corrective actions are accompanied by contingent sanctions that are to be implemented in the event that there is a failure to comply with the corrective actions.
2. In some situations of ethical violations (as described below), corrective actions are deemed not to be appropriate, and the recommendation is for sanctions only.

The Office of Ethics and Professional Review (OEPR) must review all recommendations for corrective actions and sanctions for technical clarity prior to final National Ethics Committee (NEC) approval. In addition, the national Executive Committee must approve any proposed sanctions.

A. GUIDANCE FOR THE DECISION-MAKING PROCESS

1. The following two sets of questions should be used to guide the decision-making process regarding recommendations for corrective actions and sanctions:

- a. Will the corrective action(s) result in the Respondent being more aware of and more compliant with appropriate ethical practice principles than he or she was before the violation?
 - b. What is the rationale for the specific corrective action(s) in relation to the ethics violations identified in the adjudication or mediation report? What is the rationale for the sanction(s)?
2. Recommendations for any corrective actions and/or sanctions should be fair and proportional to the infraction. The rationale for recommendations, as well as a specific timeframe for initiation and completion, must be articulated and included in the report containing the recommendations.
 3. Because most corrective actions and/or sanctions recommended in a Hearing Panel report or in a mediation report are implemented through the OEPR, consideration should be given to the resources available to the OEPR that would be required to implement them. Such necessary resources may include (but are not limited to) the availability of volunteers to monitor corrective actions, the availability of individuals to provide consultation, and the availability of appropriate training and/or continuing education events.
 4. The NEC should be able to respond to the following questions as they review their final recommendations for corrective action(s) and sanction(s):
 - a. Is there a clear rationale for the specific recommendations? For example:
 - Does the corrective action provide an opportunity for the Respondent to learn about and to remediate her or his ethical misconduct?
 - Does the sanction provide appropriate consequences based on the Respondent's ethical misconduct?

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- Are the recommendations fair and proportional to the Respondent's ethical misconduct?
 - b. Is there a clearly stated timeframe for the initiation and completion of the recommendations, and is that timeframe reasonable?

B. RECOMMENDATIONS FOR CORRECTIVE ACTIONS

Corrective actions include both actions intended to correct the behavior of the individual social worker and actions intended to prevent future harm to others. Although the professional review process may result in financial remuneration, the process is not designed to create an avenue for assessing monetary damages.

1. Possible corrective action recommendations may include, but are not limited to, any or all of the following:
 - a. Training, supervision, or consultation, as appropriate.
 - b. Notification of Respondent's supervisor or employer when such notification is necessary in order to provide information needed for supervision recommendations contained in the report.
 - c. Private censure by NASW.
 - d. Restitution or compensation by the Respondent to an individual, group, or organization harmed by the Respondent's unethical behavior.
 - e. Corrections to a client case record.

C. PLAN FOR MONITORING OF CORRECTIVE ACTIONS

1. If recommended corrective actions are to be monitored and/or sanctions implemented—after any necessary approval by the NASW Executive Committee—the NEC shall prepare a plan for monitoring compliance, which is to be forwarded to the OEPR to be retained in the case file.

2. The plan must designate by role or name the person serving as Monitor, who is responsible for overseeing implementation of the plan.
3. The NEC must review the implementation plan at least quarterly. Contacts made, actions taken, and results or review processes should be documented and included in the case file.

D. RESPONSIBILITY FOR MONITORING OF CORRECTIVE ACTIONS

1. The OEPR is responsible for monitoring the Respondent's compliance with recommendations.

E. REPORTING OF MONITORING OF CORRECTIVE ACTIONS

1. The OEPR shall report to the NEC on a quarterly basis regarding the Respondent's compliance or noncompliance with recommendations. A copy of this report shall be sent to the Respondent.

F. RECOMMENDATIONS FOR SANCTIONS

Sanctions are intended to impose disciplinary consequences on the social worker who fails to comply with recommended corrective actions or who has committed the most egregious violations of the NASW Code of Ethics. These sanctions are designed to protect the public and the profession by discouraging similar misconduct from occurring in the future. Sanctions shall be specified in the Final Report as part of the recommendations. Sanctions may be recommended as immediate sanctions, i.e. immediate measures, and/or as a contingent sanction, i.e. a consequence of noncompliance with corrective actions.

Possible sanctions may include, but are not limited to,

1. publication of the adjudication findings, conclusions, and sanctions imposed in the *NASW News* and/or the chapter newsletter
2. suspension of membership or expulsion from membership in NASW

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3. suspension of Academy of Certified Social Worker (ACSW) standing or other NASW-issued credentials, including forfeiture of dues or fees paid
 4. Revocation of ACSW standing or other NASW-issued credentials, including forfeiture of dues or fees paid
 5. Notification to state regulatory boards of adjudication findings, conclusions, and sanctions imposed
 6. Notification to credentialing bodies, societies, and specialized practice groups in which the individual may hold membership, of adjudication findings, conclusions, and sanctions imposed
 7. Letter of censure provided to the Respondent
 8. Notification to Respondent's malpractice insurer of findings and conclusions
 9. Notification to the Disciplinary Action Reporting System (administered by the Association of Social Work Boards) of findings and conclusions.

G. REQUEST FOR IMPLEMENTATION OF SANCTIONS

1. **Immediate sanctions.** The NEC shall request approval by the national Executive Committee to implement immediate sanctions. The OEPR shall forward Final Reports that include immediate sanctions to the NASW Executive Committee for a decision on whether or not to approve the sanctions. Depending on the type of sanction, responsibility for final implementation of sanctions shall rest with the NEC and the OEPR staff.
2. **Contingent sanctions.** Reports may include sanctions that are contingent upon the Respondent's failure to comply with corrective actions. The NEC shall request approval by the national Executive Committee to implement the sanctions if the Respondent has not completed the corrective actions as outlined in the Final Report or if the Respondent's compliance is not satisfactory to the NEC. Depending on the type of sanction, responsibility for final implementation of sanctions shall rest with the NEC and the OEPR staff.

H. REMOVAL OF SANCTIONS

The Executive Committee, representing the national Board of Directors, is the only body that has authority to terminate or lift a sanction.

1. When a sanction involving suspension of membership in NASW has been imposed, the Respondent has the right to reapply for membership in NASW after completion of the required corrective action, or once the specified minimum period of suspension has expired.
 - a. The Respondent shall submit a written request for reinstatement of NASW membership to the chairperson of the NEC, with a copy to the president of the chapter where the corrective action is being monitored.
 - b. When reinstatement of membership is under consideration, the chapter president shall forward the chapter's recommendations in this matter to the chairperson of the NEC.
 - c. The NEC shall decide whether or not to recommend reinstatement by the national Executive Committee. The applicant shall have the right to appeal an adverse recommendation to the Executive Committee of the NASW Board of Directors.
 - d. The national Executive Committee shall decide whether or not to approve reinstatement of the Respondent's NASW membership.
2. When sanctions involve suspension from the ACSW or withdrawal of other NASW credentials or certifications, the Respondent has the right to request the lifting of these sanctions after completion of required corrective action, or once the specified minimum period of suspension has expired.
 - a. The Respondent shall submit a written request for reinstatement in ACSW or restoration of NASW credentials or certifications to the chairperson of the NEC.

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- b. The NEC shall decide whether or not to recommend that the national Executive Committee lift these sanctions. The applicant shall have the right to appeal an adverse recommendation to the Executive Committee of the NASW Board of Directors.
 - c. The national Executive Committee shall make the final decision on whether or not to lift these sanctions.
 - d. The OEPR will inform the NEC of the national Executive Committee decision.
3. Upon NASW Executive Committee approval of recommendations to lift sanctions involving NASW membership, credentials, or certifications, the Respondent must undergo a new and complete application process for each. This will include payment of new fees and other steps as required by NASW.

I. DETERMINATION OF FITNESS

If recommendations for corrective action included assessment of fitness to return to practice or verification of participation in supervision, the person seeking reinstatement will be responsible for ensuring that appropriate documentation is submitted to the NEC for review.

1. Determination of fitness to practice may require assessment by a social work supervisor or clinician approved by the NEC. The cost of assessment, if any, shall be borne by the person seeking reinstatement.
2. The NEC will review the terms of the suspension, compliance with recommended corrective action, and fitness for practice. An NEC Representative may meet with the applicant or his supervisor or therapist. If this occurs, the necessary releases must be provided by the person seeking reinstatement.

APPEALS

This chapter deals with procedures for appeals of Hearing Panel decisions. It includes guidelines concerning the form that an appeal must take, the constitution of a National Ethics Committee (NEC) Appeals Panel, decisions on appeals, notification of action on appeals, and issuance of the Final Report on the appeal.

Because all appeals are based solely on written documentation, neither the Complainant nor the Respondent shall have the right to appear before the NEC when appeals are being considered.

A. APPELLATE BODIES

1. Appeals of actions of a Hearing Panel shall be reviewed and acted upon by an Appeals Panel consisting of three (3) members of the NEC who have not been involved in prior proceedings related to the appeal.

B. APPEALS—MEDIATION

1. A decision to send the matter to mediation or adjudication cannot be appealed.
2. A signed mediation settlement cannot be appealed.
3. If the parties do not reach agreement in mediation and the NEC Intake Subcommittee refers the case to adjudication, this decision cannot be appealed.

C. APPEALS—ADJUDICATION

1. A decision of a Hearing Panel to proceed against the wishes of the Complainant and Respondent cannot be appealed.
2. The termination or voiding of the proceedings by a Hearing Panel or NEC cannot be appealed.
3. The decision to send the matter to mediation or adjudication cannot be appealed.
4. The Hearing Panel report can be appealed.

D. GROUNDS FOR APPEAL—ADJUDICATION

One of the following reasons is sufficient grounds for an appeal:

1. Appeals of reports must be based on at least one of the following grounds:
 - a. The Hearing Panel or the NEC departed significantly from this Procedures manual and this departure seriously prejudiced the appellant's rights.
 - b. The findings of fact stated in the report were so inaccurate as to seriously prejudice the appellant's rights.
 - c. The conclusions reached by the panel were inconsistent with the findings of fact.
 - d. New evidence was discovered after the report was issued that would create a strong probability of a different decision at the hearing. Except for the newly discovered evidence, no participant may offer additional evidence in support of his or her position on the appeal.
 - e. The recommendations of the Hearing Panel for corrective actions were inconsistent with, or disproportionate to, the violations found.
 - f. The sanctions imposed by the Hearing Panel were inconsistent with, or disproportional to, the violations found.

E. FILING AN APPEAL

1. An appeal of a Hearing Panel decision must be directed to the chairperson of the NEC at the Office of Ethics and Professional Review (OEPR).
2. All appeals must be in writing, accompanied by the properly prepared NASW Professional Appeal Form

(see Appendix 3). Incomplete submissions will be returned to the sender without being reviewed. Revised appeals must conform to the timeline specified below. The appeal documentation should not exceed three (3) pages (double spaced, 12-point font, 1-inch margins).

3. Appeals must be sent within thirty (30) days of receipt of the decision being appealed. The letter of appeal shall contain the following:
 - a. If the appeal is based on a procedural error, it must cite the error and the reasons for believing that the alleged error influenced, or will influence, the rights of the party filing the appeal and the results of the professional review process.
 - b. If the appeal is based on new evidence, the new evidence must be stated and an explanation given as to why it was not submitted before or at the hearing.
 - c. If the appeal of a report is based on an allegation of inappropriate conclusions or recommendations, the appeal must present supporting reasoning.
 - d. If the appeal of a report is based on alleged serious inaccuracies in the findings of fact, the appeal must specifically state the inaccuracies and the evidence that supports these allegations. The appeal must also state the reasons why these inaccuracies are serious enough to be prejudicial to the outcome of the hearing or to the rights of the person filing the appeal.
 - e. Within ten (10) days of receipt of the appeal, copies shall be sent by the OEPR staff to the Hearing Panel and to the other participant to ensure that they have an opportunity to respond.

F. RESPONSE TO THE APPEAL

1. The original Hearing Panel will be given an opportunity to comment on the appeal prior to the meeting of the appellate body.
2. Within thirty (30) days of receipt of the appeal from one participant, the other participant may submit a written rebuttal. The rebuttal documentation should not exceed three (3) pages (double spaced, 12-point font, 1-inch margins).

3. Within ten (10) days of receipt of the rebuttal, the OEPR staff will send copies to the Hearing Panel and to the participant filing the appeal. The parties will have no further opportunity to comment.
4. After receipt of the final rebuttal, the NEC Appeals Panel shall consider an appeal at a meeting to be held within forty-five (45) days of receiving the final rebuttal. The NEC Appeals Panel may review the entire case record during their deliberations on appeal. However, any actions taken on the appeal may not result in actions or decisions to the detriment of the appellant. After considering the appeal, the NEC Appeals Panel may
 - a. deny the appeal, upholding the original Hearing Panel decision
 - b. uphold the original Hearing Panel decision in its entirety, uphold the decision in part, and do one of, or a combination of, the following:
 - i. request further information from the parties and/or from the original Hearing Panel
 - ii. return the case to the original Hearing Panel for a revision of the report
 - iii. return the case to the original Hearing Panel for a new hearing and a revision of the report.
5. If the NEC Appeals Panel does not find sufficient information in the original Hearing Panel report to process the appeal, it may request that the OEPR request additional information from the Complainant and/or the Respondent. The NEC Appeals Panel will decide how to deal with the additional information, either through
 - a. a new hearing, at which both parties are present
 - b. receiving the new materials as written submissions from the parties and making its decisions based on a review of these documents.

The OEPR will provide the parties with copies of any new materials being considered.

6. If the original Hearing Panel is asked to submit a revised report incorporating the additional information and changing the original conclusions and recommendations, the report should not be revised to the detriment of the participant appealing (assuming

only one participant has appealed). The revised report must be issued within forty-five (45) days of the original Hearing Panel's receipt of the NEC Appeals Panel's decision on the appeal. Both parties have the right to submit an appeal of the revised report to the NEC Appeals Panel (except as noted in Chapter 3). The appeal of a revised report shall follow the same procedures as the appeal of an original report. The NEC Appeal Panel's decision on appeal of the revised report shall be considered final.

G. ISSUANCE OF THE FINAL REPORT

1. The report may be revised in accordance with these Procedures. However, the report shall be considered the Final Report at the conclusion of all appeal opportunities. Once the report is considered final, there are no further opportunities for appeal.
2. When the Final Report is issued, panelists and consultants shall destroy all case documents.

H. NOTIFICATION OF ACTION ON APPEALS

Within thirty (30) days of the action taken by the Appeals Panel, the parties shall be notified of the decision in writing. This correspondence will be sent by certified mail, return receipt requested. Copies of the decision stating the outcome of the appeal process shall be sent to the NEC chairperson, via the OEPR.

I. FINALITY OF DECISIONS ON APPEALS

By using the professional review process, the parties agree that they will accept the decision on the appeal as final and binding. They further agree that they will not pursue judicial review to challenge the final outcome or the process of achieving the outcome, except for the following reasons:

- a. gross misconduct by the Hearing Panel and/or Appeals Panel
- b. serious violation of procedural requirements that negatively affected the outcome that were not addressed by the appeals process
- c. violation of applicable public law or policy.

CLOSING OF CASES

This chapter deals with the criteria for closing and reopening professional review cases. This chapter also includes guidelines for the maintenance of records pertaining to such cases.

Only the Office of Ethics and Professional Review (OEPR) has the authority to close professional review cases.

A. CRITERIA FOR CLOSING CASES PRIOR TO ACCEPTANCE

The OEPR may close a case with or without prejudice, in the following circumstances:

1. Should the Complainant choose not to comply with the terms and conditions set forth in these procedures.
2. Should the Complainant choose not to comply with the instructions of the OEPR.

B. CRITERIA FOR CLOSING MEDIATION CASES

The OEPR shall close a mediation case when

1. A Request for Professional Review (RPR) has been terminated by NASW or withdrawn in accordance with these Procedures
2. There is a record of a signed mediation agreement authorizing case closure, to which there was no objection from the NASW Representative
3. There has been satisfactory completion of a mediation agreement. The OEPR is responsible for determining whether the terms of a mediation agreement have been completed satisfactorily.

C. CRITERIA FOR CLOSING ADJUDICATION CASES

The OEPR shall close an adjudication case when

1. An RPR has been terminated by NASW or withdrawn in accordance with these Procedures
2. A Final Report with no recommendations for corrective action or sanctions has been issued and has not been appealed, or all appeals have been exhausted
3. Recommended corrective actions have been completed, and the OEPR so reports
4. Sanctions have been fully implemented
5. The national Executive Committee has decided to remove sanctions.

D. REOPENING OF CASES

The National Ethics Committee (NEC) shall have the authority to reopen cases based on the grounds that the NEC or the OEPR made procedural errors and discovered these within one (1) year of the date that the case was closed.

A Complainant may not submit a new RPR naming the same Respondent and addressing the same issues once the matter has been closed.

E. MAINTENANCE OF RECORDS

1. In mediation cases, after the parties have been notified that the case has been closed, the OEPR, under the supervision of the NEC, shall maintain copies of all RPRs, the Respondent's response, agreements to mediate, mediation settlement agreements, and all other correspondence and documents related to the mediation, according to current national policy.
2. In adjudication cases, after the parties have been notified that the case has been closed, the OEPR, under the supervision of the NEC, shall maintain copies of all RPRs, the Respondent's response, all hearing reports, and all other correspondence and documents related to adjudication, according to current national policy.



PROFESSIONAL REVIEW TIMEFRAMES

The following timeframes are used as guidelines in the professional review process, including the intake stage, mediation, and adjudication. Certain circumstances may require adjustments to the timeframes. Such circumstances include, but are not limited to, requests for extensions to submit information or appeals, difficulty locating a party, National Ethics Committee (NEC) or NEC Intake Subcommittee requests for additional information, and scheduling conflicts. Parties are expected to comply with all timeframes absent extenuating circumstances. All requests for extensions of time must be sent in writing to the NEC chairperson prior to the deadline.

INTAKE STAGE:

TASK	TIMEFRAME
Complainant submits RPR to OEPR, including signed Confidentiality Pledge/Statement of Understanding	Within one year of date of alleged ethics violation
OEPR acknowledges receipt of RPR to Complainant	Within 10 days of receipt of RPR
OEPR provides Complainant with notice of incomplete or incorrect submissions. Complainant is given 30 days from receipt of notice to complete the submission or correct the submission; OEPR may also provide information on how to obtain a consultant	Within 10 days of receipt of RPR
OEPR notifies Respondent and chapter of RPR	Within 10 days of receipt of correctly submitted RPR
Respondent submits signed Confidentiality Pledge/Statement of Understanding	Within 14 days of receiving notification of RPR
Respondent has opportunity to respond and submit any documents to OEPR that are pertinent to criteria for acceptance	Within 14 days of receiving notification of RPR
OEPR provides Respondent with notice of any incorrect submission or need for additional information	Within 14 days of receiving Respondent's submission of information pertinent to criteria of acceptance
NEC Intake Subcommittee decides to accept or reject the RPR and, if accepted, establishes the venue as mediation or adjudication	Within 45 days of the OEPR receiving the correctly submitted RPR

FOR CASES REFERRED BY INTAKE TO MEDIATION:

NEC chairperson appoints Mediator and NASW Representative	Within 45 days of the decision to accept for mediation
Complainant or Respondent may challenge Mediator or NASW Representative designated to participate in the Mediation	Within 20 days of notification of names for mediation
Complainant and Respondent may each provide written submissions to the Mediator	At least 30 days prior to mediation session or adjudication hearing

Mediator determines whether written submissions are approved, and NEC provides notice of approval of documents to be considered at mediation	At least 14 days prior to mediation
Mediator sends mediation agreement or letter indicating impasse to the NEC	Within 10 days of completion or termination of mediation
NEC assigns a monitor who monitors implementation of the terms of the mediation agreement	As required by the specific terms of the mediation agreement
If mediation reaches an impasse, the case is returned to NEC Intake Subcommittee to determine whether to close the case, return it to mediation, or refer to adjudication	At next NEC Intake Subcommittee meeting (parties will be notified of the decision within 45 days)

FOR CASES REFERRED BY INTAKE TO ADJUDICATION:

NEC chair appoints a Hearing Panel	Within 45 days of the decision to accept for adjudication
NEC provides Complainant and Respondent with notice of adjudication	Within 45 days of the decision to accept for adjudication
Complainant and Respondent may each provide written submissions to the Hearing Panel chair for adjudication hearing	At least 30 days prior to adjudication hearing the NEC sends copies of approved submissions to the other party, as soon as received
Complainant and Respondent each provide NEC with list of witnesses for adjudication hearing	At least 30 days prior to adjudication hearing
Hearing Panel chair provides Complainant and Respondent with notice of approval of witnesses adjudication hearing	At least 14 days prior to adjudication hearing
Witnesses who are unable to attend adjudication hearing submit written evidence to Hearing Panel chair	At least 14 days prior to adjudication hearing
Complainant or Respondent may submit challenge of any adjudication hearing panelist to NEC	Within 20 days of notice of NEC providing names for the Hearing Panel
Hearing Panel chair sends Draft Report to OEPR for technical review	Within 21 days from completion of Hearing Panel
OEPR sends its comments on Draft Report to Hearing Panel chair and the NEC	Within 14 days of receipt of Draft Report from the Hearing Panel chair
The NEC reviews the Draft Report and makes changes as necessary; the NEC provides copies of the Final Report to the Complainant, Respondent, the chapter, and OEPR	Within 14 days of receiving the Draft Report from OEPR

Complainant or Respondent may file an appeal with the NEC	Within 30 days of receiving the Final Report
OEPR provides notice of the appeal to the other party	Within 10 days of receipt of appeal
The other party may file a rebuttal to the appeal	Within 14 days of receipt of appeal
OEPR sends copies of the rebuttal to the other party and to the NEC	Within 10 days of receipt of rebuttal
The NEC makes its decision	Within 30 days after the opportunity for rebuttal to the appeal by the other party
The NEC issues its Final Report to the Complainant, Respondent, chapter, and OEPR	When all levels of appeal have been exhausted

Table Abbreviation Key:

NEC = National Ethics Committee

OEPR = Office of Ethics and Professional Review

RPR = Request for Professional Review



GLOSSARY

Adjudication: for NASW, the process of determining whether a member's behavior(s) have violated the NASW Code of Ethics.

Adjudication Report: see **Final Report**

Agency: an institution established to provide service for others. In the context of the professional review process, an agency is an institution that employs social workers.

Agreement to mediate: a document signed by the participants that specifies ground rules for the process and indicates that parties are consenting to participate in mediation.

Allege: to state details of a situation or action before supplying proof; to make a statement or assertion in relation to purported violations of the NASW Code of Ethics.

Amend: to change.

Appeal: to seek a review of a decision, action, or report of a Hearing Panel.

Appeals Panel: a group of three or more NASW members appointed by the National Ethics Committee to conduct an appeals hearing, make determinations, and issue a report.

Appellant: the person who initiates the appeal.

Breach: failure to comply with the terms of an agreement or intentional violation of the terms of an agreement.

Case record: the NASW file of materials gathered for a professional review process regarding a particular NASW member who is a Respondent in the action.

Censure: a letter sent to the Respondent conveying NASW's determination that the Respondent has violated the NASW Code of Ethics.

Chairperson: a person who presides over a meeting, committee, etc., or heads a board or department.

Chapter: a legal entity of NASW. There are currently 56 NASW chapters, including one for each state and for the District of Columbia, New York City, Puerto Rico, the Virgin Islands, Guam, and an international chapter located in Europe.

Chapter Ethics Committee (CEC): committee composed of volunteer NASW members from across the relevant state appointed by the chapter president. The CEC recommends members to participate on an Intake Subcommittee or a Hearing Panel for cases from its state. The CEC also provides ethics education and training to NASW members in coordination with the National Ethics Committee and Office of Ethics and Professional Review.

Client: an individual, family, group, organization, or community that is served by or uses the services of a social worker or social service agency; an individual, family, group, organization, or community that engages a social worker to provide social work services.

Closed case: the status of a professional review matter once the Office of Ethics and Professional Review has notified the parties of case closure.

Comment: a written statement explaining one's position or illustrating a point in the case.

Complainant: the person who files a Request for Professional Review of an alleged violation.

Complaint: a formal statement alleging misconduct, with specific reference to one or more violations in the NASW Code of Ethics.

Compliance: the act of conforming to the requirements for corrective action set forth in the Final Report (in an adjudicated case) or an act conforming to the terms of a mediated agreement (in a mediated case).

Conclusion: the decisions reached by the Hearing Panel following their deliberations on an adjudicated case.

Confidentiality: the restriction of communications about the case to those involved in the professional review process; the maintenance of privacy for information shared in a confidential relationship (including professional review processes and social worker–client relationships).

Confidentiality Pledge/Statement of Understanding: a promise to maintain strict standards of confidentiality in the professional review process and an agreement to accept final actions on appeal as final and binding (see form in Appendix 3).

Conflict of interest: a situation in which a social worker is serving (or has served) in two or more roles or interests in which the worker’s conduct or decisions may be biased (or may appear to be biased).

Consider: to study for the purpose of determining the issues raised in a professional review process.

Consultant: a member of NASW who is appointed by the Office of Ethics and Professional Review to assist a Complainant or Respondent in preparing for and participating in the professional review process.

Corrective action: a decision of the adjudication Hearing Panel intended to improve practice and prevent any further violations of the NASW Code of Ethics by the Respondent.

Criteria: standards stated in the *NASW Procedures for Professional Review*, indicating the grounds on which complaints may be accepted or rejected for professional review.

Deny: to declare that a statement is untrue; to refute a claim.

Direct knowledge: firsthand knowledge, notice, or information in regard to a particular fact or allegation, which is original and does not depend on indirect information or hearsay. Typically, this information is the result of personal observation or firsthand verbal or written communication with the social worker named in the Request for Professional Review.

Directly affected person: someone who experienced alleged consequences or results that are of a direct and/or personal nature resulting from a professional relationship with the social worker named in the Request for Professional Review. Professional review processes may be initiated by a legal guardian of a minor child, a legal representative of a legally incapacitated or incompetent adult, or the executor of a deceased person’s estate so long as he or she has direct authority and a protectable interest to bring a complaint on behalf of a directly affected person.

Ethics Committee: see **National Ethics Committee and Chapter Ethics Committee**.

Evidence: a submission of information or documentation intended to demonstrate the truth of a matter.

Executive Committee: the group of NASW board members designated in national NASW bylaws to act on behalf of the NASW Board of Directors.

Expulsion: the act of permanently removing the privileges of membership in the NASW.

Final Report: the report of the Hearing Panel in adjudicated cases.

Finding: the hearing panel’s determination of facts related to the alleged violations; the hearing panel’s basis for the determination of whether a violation occurred.

Full disclosure: the provision of any and all facts and information that are material and necessary for resolving the issues or allegations in the professional review process, provided that it would not violate any applicable laws.

Hearing: an adjudication proceeding in which appointed NASW members hear evidence from both parties in a professional review. The purpose of the hearing is to determine the facts and decide whether they constitute a violation of the NASW Code of Ethics.

Hearing Panel: a group of three or more NASW members appointed by the NEC to conduct an adjudication hearing, make determinations, and issue a report. The Chapter Ethics Committee (representing the chapter where the alleged violation took place) may recommend one or two chapter members to participate in the Hearing Panel.

Implement: to carry out corrective actions issued by the adjudication Hearing Panel or the agreements reached through mediation.

Incapacity: an impairment in one's ability to (a) understand information adequately, (b) reason and deliberate sufficiently, or (c) be able to make or communicate responsible decisions or choices. The lack of capacity may be temporary or permanent, and it may result from a variety of conditions, including mental illness, physical injury, age-related limitations, intellectual deficiency, dementias, organic brain syndromes, chronic drug use, and mental intellectual disability.

Intake Subcommittee: the subcommittee delegated by the National Ethics Committee to make decisions to accept or reject the Request for Professional Review, set the scope for the case, and decide whether to refer the case to adjudication or mediation. The Intake Subcommittee for a particular case comprises five members, two of which may be members of the Ethics Committee from the NASW chapter where the alleged violation took place, two to four NEC members, and one additional NEC member who serves as chairperson. If a case is originally referred to mediation but does not settle, the case returns to the Intake Subcommittee to determine whether to adjudicate the case, close it, or refer it back to mediation.

Jurisdiction: the level of authority needed to take action on cases; the power, allocated by the NASW Bylaws or Board of Directors, to a Hearing Panel, Appeals Panel, the National Ethics Committee, Intake Subcommittee, Executive Committee, or other body to make certain types of decisions.

Licensing board actions: disciplinary or corrective measures taken by a licensing board toward a licensee, which could include the revocation or suspension of a license, probation, letter of reprimand or censure, voluntary surrender of a license, monetary penalty, and/or limitation or restriction of a license.

Mediation: a collaborative problem-solving process in which a neutral third party facilitates discussion intended to aid the parties in the dispute to define the issues, review relevant information, generate options to resolve their issues, and build voluntary consensus to resolve their concerns.

Mediation agreement: a signed, written document specifying the terms of the mutually satisfactory agreement reached in mediation by the Complainant and the Respondent, and typically affirmed by the NASW Representative.

Monitor: to observe and track the progress of corrective actions and sanctions (typically conducted by the Office of Ethics and Professional Review).

NASW Code of Ethics: a set of professional values principles, and standards set forth by NASW that guide the conduct of social workers. Every member of NASW signs an agreement when applying for membership to abide by the standards set forth in the published *NASW Code of Ethics*.

NASW Representative: a person appointed by the National Ethics Committee in conjunction with the Office of Ethics and Professional Review who is responsible for ensuring that NASW's interests in professional review are adequately represented in the final mediation agreement.

National Ethics Committee (NEC): a board-established committee, appointed by the NASW president. The NEC is responsible for reviewing complaints against NASW members who are alleged to have violated the NASW Code of Ethics. NEC members participate in Intake Subcommittees and on Hearing Panels and Appeals Panels, and may act as NASW representatives in mediations. The NEC is also responsible for educating NASW membership and the larger professional community on standards of ethical professional practice. The committee, along with Office of Ethics and Professional Review staff, consults with Chapter Ethics Committees, develops policy and procedures for professional review, offers interpretations of procedures, and provides technical assistance and training. The NEC oversees the development of ethics education training and programs. The committee is composed of volunteer NASW members from chapters across the United States.

Notification: the act of communicating facts, information, or allegations to the Complainant and/or Respondent.

Office of Ethics and Professional Review (OEPR): provides ethics and professional review education and training, administers the professional review process, offers ethics consultation to members, and provides information about members who have been sanctioned through the NASW professional review process. The OEPR is part of the NASW national office. The staff coordinates with and provides administrative support for the National Ethics Committee and Chapter Ethics Committees.

Party: the Complainant or Respondent involved in a particular professional review process.

Peer review: a process of examining professional qualifications or conduct by members of one's profession.

Premediation: an informal conflict resolution process conducted by a Hearing Panel chair prior to an adjudication for the purposes of trying to resolve the case (or particular issues within the case) without a full and formal hearing of the issues.

Professional review: the process of determining whether an NASW member's conduct has violated the NASW Code of Ethics.

Professional social work relationship: Either of these:

- A working relationship between a client and a social worker in which the primary goal is the delivery of social work services as described in the NASW Code of Ethics and formal professional responsibilities or obligations in a social work capacity can be reasonably expected
- A working relationship between a social worker and professional colleague such as a supervisor, supervisee, coworker, or member of a multi-professional team
- A collateral person who directly participated in an interaction with a social worker as part of an intervention or helping process for a client.

Procedure: an established method of accomplishing something; the steps in the process of professional review.

Public domain: the property of the society at large and, within specified limits, legally available to all; a matter of public record (i.e., not private or confidential).

Publication: the act of making a public announcement or issuing a written document. The primary purpose of reporting the findings or decision of a professional review process is to protect the public and the profession.

Rebuttal: the act of providing an opposing argument or position.

Recommendation: a statement of advice or guidance; within the NASW professional review process, the provision of corrective action steps in an adjudication report when there are findings of an NASW Code of Ethics violation.

Reinstatement: restoration to a previous position, such as reinstatement of NASW membership.

Relevant [testimony or evidence]: information that relates directly to the alleged ethical violations in a particular case.

Report: a summary issued by the National Ethics Committee that describes the Hearing Panel or Appeals Panel's findings, conclusions, and recommendations.

Respondent: the person against whom a complaint has been filed.

Request for Professional Review (RPR): the act of requesting a peer review of an alleged violation of the NASW Code of Ethics by an NASW member.

Revocation: the cancellation of membership, credentials, services, certifications, etc., offered by NASW.

Sanction: a disciplinary measure or consequence (such as the suspension of membership or the publication of a violation) that the Hearing Panel or National Ethics Committee recommends as a result of a finding of a serious violation of the NASW Code of Ethics, or as a result of failure to comply with corrective action recommendations. The NASW Executive Committee must approve sanctions before they are instituted.

Scope: a list of the specific standards of the NASW Code of Ethics determined by the Intake Subcommittee or the National Ethics Committee to be reviewed through mediation or adjudication. The alleged violations establish the parameters of the mediation or adjudication process.

Self-report: a report by an NASW member to inform the National Ethics Committee that s/he believes s/he has violated a standard of the NASW Code of Ethics.

Settle: to resolve a mediation or adjudication matter without a final judgment by negotiation between the parties.

Support persons: individuals who may accompany a Complainant or Respondent to an adjudication hearing and provide physical or emotional assistance to the Complainant or to Respondent before, during breaks, and after the hearing. Support persons are *not* allowed to be present in the hearing room while the hearing is taking place. The parties should request permission to bring support persons, if desired, prior to the hearing. A Complainant or Respondent may not bring a support person to the hearing location unless the person has been approved by the Hearing Panel chairperson prior to the hearing date. Legal counsel may not serve as a support person.

Supporting statement: a statement that must accompany a Request for Professional Review and include a list and detailed description of materials to be used that will support the allegations; intended sources of evidence (list of witnesses, documentation, etc.); and summary of any other actions taken to correct this matter, including steps within the agency and status of legal action under way related to this matter.

Substantiate: to confirm by providing relevant and persuasive evidence.

Suspension: withdrawal of NASW membership privileges for a specific period of time subject to conditions stated in the adjudication report.

Termination: permanent removal of NASW membership privileges; or, as used in another context, discontinuation of the professional review process.

Testimony: presentation of verbal evidence in a proceeding (documentary or written evidence, if any, must be submitted to the Hearing Panel prior to the hearing, so that the Hearing Committee can determine whether the evidence is admissible).

Uphold: to find in favor of; to declare support for a specific claim.

Venue: the forum in which a Request for Professional Review shall be reviewed; that is, either mediation or adjudication.

Violation: an offense or infringement of the NASW Code of Ethics or other relevant ethical codes, agency policies, or laws.

Void: to terminate or annul a case, with no other action taken on the case.

With or without prejudice: With or without any loss or waiver of rights or privileges.

Witness: an individual who has direct knowledge of facts related to the Request for Professional Review; one who provides testimony.

ETHICS COMMITTEES

A. NATIONAL ETHICS COMMITTEE

1. The National Ethics Committee (referred to as the NEC) is authorized by Article XI of the NASW Bylaws and is charged with implementing NASW policies for professional review in accordance with these Procedures.
2. The NASW Bylaws require that the president shall appoint at least twelve (12) NASW members to the NEC (with staggered three-year terms) and shall designate the chairperson, who shall serve a two-year term. Upon completing a two-year term, the former chair shall serve as past chairperson for two years in an ex officio (nonvoting) capacity.
3. The NEC reports to and is subject to the authority of the NASW Board of Directors.
4. The NEC shall report to the NASW Board of Directors annually.
5. Any decision of the NEC or Intake Subcommittee shall be by majority vote.

B. CHAPTER ETHICS COMMITTEES

1. The composition and size of Chapter Ethics Committees (CECs) are determined in accordance with chapter bylaws and may vary to meet the requirements of the specific chapter involved. The chapter shall decide on the composition of its CEC in accordance with any applicable national standards.
2. The CEC shall reflect the makeup of the membership of the chapter. The elected governing body of the chapter will appoint the CEC. Its roster will include enough members to serve if one or more cannot serve or is disqualified from participating in a specific inquiry. Any decision of the CEC or its Hearing Panel shall be by majority vote.

FORMS FOR USE IN PROFESSIONAL REVIEW

NASW

REQUEST FOR PROFESSIONAL REVIEW (RPR)

ETHICS

One copy of this RPR, together with a one- to three-page summary statement about the issue, should be filed with the National Ethics Committee. A separate RPR is required for each individual listed in the alleged violation.

I, _____, hereby file a request for professional review by the National Association of Social Workers (NASW).

ADDRESS: _____

HOME PHONE: _____ BUSINESS PHONE: _____

CELL PHONE: _____ PREFERRED: _____

RESPONDENT: _____

ADDRESS: _____

HOME PHONE: _____ BUSINESS PHONE: _____ CELL PHONE: _____

Was Respondent an active member of NASW at the time of events to be reviewed? If unsure, please contact the Office of Ethics and Professional Review to confirm membership prior to submission. Yes No

DATE(S) of ALLEGED events to be reviewed: _____

DATA TO BE FURNISHED BY THE COMPLAINANT

The Complainant must provide the following information related to the request in a separate statement to be attached to this required RPR form.

- Confidentiality Pledge/Statement of Understanding Form**
- Statement of issue.** The statement must
 - Be no more than three (3) legible pages, double-spaced, 12-point font
 - Include a description of how the alleged misconduct violated the NASW Code of Ethics (citing specific standards)
 - Include a list and detailed description of materials, evidence, and documentation to be used that will support the allegations
 - Include a list of specific witnesses
 - Provide a summary of any other actions taken to correct this matter, including steps within the agency and the status of any legal actions related to this matter.
- Complainant's agreement to release confidential documents.** By engaging in this process the Complainant agrees that he/she is
 - Authorizing the release of his or her confidential information for use in the professional review proceedings
 - Authorizing the release of confidential information about the Complainant or the issues raised in the RPR that is in the custody of the Respondent
 - Permitting the Respondent to use and disclose confidential information contained in confidential clinical notes to prepare a response to the RPR and participate fully in the Professional Review process.
- Full disclosure.** By engaging in this process the Complainant agrees to provide any and all facts and information that is material and necessary to the issues or allegations at hand, so long as the provision of such facts and information would not violate any applicable laws. Complainant understands that it is his or her responsibility to obtain any additional consents necessary for the release of confidential information.

The information I have provided in this RPR and supporting statement is true and correct, and I am able and willing to assert under oath that this is true.

SIGNATURE: _____ DATE REQUEST FILLED: _____

National Ethics Committee ■ Intake Subcommittee
National Association of Social Workers ■ 750 First Street, NE, Suite 800 ■ Washington, DC 20002

NASW REQUEST FOR PROFESSIONAL REVIEW (RPR) SELF-REPORTING FORM

This form is to be completed by members for self-reporting. If applicable, please attach any relevant documents that outline the findings or any other supporting documentation to this request.

Note: Self-reports may be submitted even if they occur more than one year after the violation.

NAME: _____

ADDRESS: _____

HOME PHONE: _____ BUSINESS PHONE: _____ CELL PHONE: _____

SOURCE OF INFORMATION (for example, licensing board, court, employer, or self report): _____

Please attach any relevant documents.

Were you a member of NASW at the time the violation occurred? If unsure, please contact the Office of Ethics and Professional Review to confirm membership prior to submission. Yes No

Please attach a one- to two-page summary of any other proceedings that led to this self-report, including the type of violation(s) and the corresponding section(s) of the NASW Code of Ethics. Include any findings reported in the documentation you will be submitting.

The information and the supporting documentation provided in this RPR are true to the best of my knowledge.

SIGNATURE: _____ DATE REQUEST FILLED: _____

Please forward this form, along with supporting documentation and signed Confidentiality Pledge/Statement of Understanding and a request for a Time Limits Waiver, if applicable, to:

National Ethics Committee
National Association of Social Workers ■ 750 First Street, NE, Suite 800 ■ Washington, DC 20002

NASW PROFESSIONAL REVIEW APPEAL FORM

CASE #: _____ CASE NAME: _____ VS. _____

NAME OF PERSON FILING APPEAL: _____

- 1. Check appropriate box(es) in "Type(s) of Appeal" being filed (see section 1 below)
- 2. Check the boxes that correspond with the "grounds for appeal" (see section 2 below). More than one may be marked.
- 3. Attach required documents as listed below in section 3, which lists the type of documentation that must be submitted in support of appeals on each "grounds for appeal."
- 4. Complete this form with your signature and by noting the case name, number, NASW chapter, and your name.

These materials will be sent by NASW's Office of Ethics and Professional Review to the committee hearing the appeal, other participant(s) directly involved in this review matter, and the National Ethics Committee (NEC) for comments on the appeal. Parties are allowed thirty (30) days from receipt of the appeal to submit a response to the appeal.

For further information, please see Chapter 11 of the *NASW Procedures for Professional Review*.

1. TYPE OF APPEAL
Place a check mark next to the type(s) of appeal you are filing.

- | | |
|--|--|
| <input type="checkbox"/> Report issued by the Chapter or NEC (N/A in mediated cases)
<input type="checkbox"/> Decision of the NEC | <input type="checkbox"/> Decision to proceed against wishes of the
<input type="checkbox"/> Complainant or <input type="checkbox"/> Respondent
<input type="checkbox"/> Chapter denial of Respondent's request to lift sanctions |
|--|--|

2. Grounds for appeal Place a check mark next to the grounds to support and explain your appeal.	3. Required documentation Include documentation listed in this column on which you base your appeal.
<input type="checkbox"/> Significant departure from Procedures that seriously prejudiced the appellant's rights.	<input type="checkbox"/> Citation of error(s) and the reason that these alleged error(s) influenced the rights of the party and the outcome of the case.
<input type="checkbox"/> Findings of fact that cannot reasonably be supported by the evidence provided at the hearing	<input type="checkbox"/> Specific statement of inaccuracies and evidence to support allegations of inaccuracies; and reasons why alleged errors influenced outcome
<input type="checkbox"/> Conclusions were inconsistent with findings of fact	<input type="checkbox"/> Description of inconsistencies and reason for disagreeing with findings or conclusions
<input type="checkbox"/> New evidence that has a significant bearing on the findings and conclusions	<input type="checkbox"/> Attachment of new evidence and explanation as to why it was not submitted previously
<input type="checkbox"/> Recommendations were inappropriate or disproportionate to the violations stated in the report	<input type="checkbox"/> Statement of alleged inappropriate conclusions and explanation of your opinion

By submitting this form, I reaffirm my pledge to keep all professional review proceedings and documents confidential. I understand that the materials I am submitting in support of this appeal will be sent to the other adjudication participant (Complainant or Respondent) in this matter. The information I have provided in this Request for Professional Review and supporting statement is true and correct, and I am able and willing to assert under oath that this is true.

SIGNATURE: _____ DATE REQUEST FILLED: _____

National Ethics Committee
National Association of Social Workers ■ 750 First Street, NE, Suite 800 ■ Washington, DC 20002

NASW PROFESSIONAL REVIEW

CONFIDENTIALITY PLEDGE / STATEMENT OF UNDERSTANDING

All parties involved in the professional review process are required to maintain strict standards regarding confidentiality. This confidentiality requirement pertains to all products and proceedings, including information that the Request for Professional Review (RPR) has been filed, the substance and content of the RPR, the report, hearings, mediation, appeals, discussion-associated correspondence, and outcomes. The restrictions do not apply to a party's right to confer with legal counsel.

ALLEGED BREACHES OF CONFIDENTIALITY

1. The Complainant, Respondent, or a chapter may inform the National Ethics Committee (NEC) that he or she believes confidential information is being revealed unnecessarily. The NEC may then take whatever action it deems appropriate to remedy the concern.
2. If a party breaches confidentiality, the NEC may consider the following remedies: issue letters of warning, terminate the proceedings, or void the process. A decision to terminate proceedings may be appealed by either participant.
 - a. Breaches of confidentiality by a Respondent may result in a new RPR filed against the Respondent under sections 1.07(a) or (b), 2.02, 5.01(a) or (b) of the NASW Code of Ethics.
 - b. If the NEC determines that the Complainant has breached confidentiality, the NEC may demand that, within ten (10) days of the Complainant's receipt of the demand letter, all confidential materials be immediately removed from the sources to whom they were given or made unavailable for use by any other source. Proof of the actions taken to withdraw or have documents sealed must be sent to the NEC. If such proof is not delivered to the NEC within thirty (30) days of the date of the demand letter, the NEC may take action to terminate or void the professional review process.

EXCEPTIONS

Research purposes. Professional review data may be accessed by approved researchers and reported in aggregate form. Research must be approved by the NEC following review of research proposals from qualified researchers. The researchers will ensure that there is no identifying information in any published reports.

Acquiring relevant evidence. If it becomes necessary to provide information regarding the proceedings to acquire relevant evidence, the parties must abide by the following procedures:

1. Parties may disclose the fact that professional review is under way.
2. Parties must disclose the least amount of information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.
3. Parties shall not disclose identities of other participants or any other identifying features.
4. The RPR and supporting statement may not be given to witnesses or any parties not directly involved with the professional review matter.

Disclosure of involvement by Respondent prior to issuance of the Final Report or conclusion of mediation proceedings. Respondents may acknowledge their involvement in professional review when required to do so by employers, provider panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as: acknowledgment of the existence of an RPR, a summary of the allegations, an explanation of the status of the proceedings, and a copy of the Respondent's response (if submitted) to the allegations contained in the RPR. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

Disclosure of Hearing Panel conclusions. Respondents may report the conclusions of a Hearing Panel when required to do so by employers, provider panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as the following sections of the Final Report: the Summary of the Complaint, the Summary of Findings, Conclusions, and Recommendations. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

Disclosure of Hearing Panel conclusions to consultants and/or witnesses. The Complainant or Respondent may inform consultants and/or witnesses who testified on their behalf of the conclusions and recommendations. Consultants and/or witnesses are expected to keep this information confidential.

Mediation agreements: A final mediation agreement may include permission to release specific information. Only the information specified in this agreement may be released. Furthermore, the agreed upon content may be given only to individuals or agencies specifically identified in the final agreement.

Applicable state or federal law. Information regarding professional review proceedings may be released when disclosure is required by state or federal law or regulation.

USE OF CONFIDENTIAL INFORMATION DURING THE PROFESSIONAL REVIEW PROCESS

Complainant's agreement to release confidential documents. By engaging in this process the Complainant agrees that he/she is:

- Authorizing the release of his or her confidential information for use in the professional review proceedings
- Authorizing the release of confidential information about the Complainant or the issues raised in the RPR that is in the custody of the Respondent
- Permitting the Respondent to use and disclose confidential information contained in confidential clinical notes to prepare a response to the RPR and participate fully in the professional review process.

Full disclosure. By engaging in this process the Complainant agrees to provide any and all facts and information that is material and necessary to the issues or allegations at hand so long as the provision of such facts and information would not violate any applicable laws. Complainant understands that it is his or her responsibility to obtain any additional consents necessary for the release of confidential information.

The information I have provided in this RPR and supporting statement is true and correct, and I am able and willing to assert under oath that this is true.

Documents submitted as evidence by either participant. Any confidential documents submitted as evidence must be accompanied by a signed release of information. The Respondent may submit confidential documents pertaining to the Complainant in accordance with the terms of the Confidentiality Pledge/Statement of Understanding.

Discussion of pertinent confidential records. The Complainant's RPR represents permission for the panel, Respondent, and consultants to discuss confidential records approved for consideration at the hearing.

I understand and agree to abide by the statement regarding confidentiality as set forth above and will treat all associated materials and processes confidentially.

NAME (PRINTED): _____

SIGNATURE: _____ DATE REQUEST FILLED: _____

I have read, understand, and agree to abide by the above Confidentiality Pledge/Statement of Understanding.

NAME (PRINTED): _____

SIGNATURE: _____ DATE REQUEST FILLED: _____

National Ethics Committee
National Association of Social Workers ■ 750 First Street, NE, Suite 800 ■ Washington, DC 20002

NASW PROFESSIONAL REVIEW AGREEMENT TO MEDIATE

This is an agreement between _____ and _____ (the parties).

The Mediator(s) for the dispute(s) shall be _____. The NASW Representative shall be _____. The parties have entered into mediation with the intention of reaching a consensual settlement of their dispute. The provisions of this agreement are as follows:

1. The Mediators are impartial NASW members who will assist the parties in reaching their own settlement. They will not make decisions about “right” or “wrong” or tell the parties what to do.
2. The NASW Representative will engage in the process to represent NASW’s interests in protecting the client, social worker, profession, and the public.
3. The Mediators *do not* offer legal advice or provide legal consultation. Each party may retain his or her own attorney in order to be properly counseled about his or her legal interests, rights, and obligations. However, such legal representatives may not attend the mediation session(s).
4. The parties understand that in order for mediation to work, open and honest communications are essential. Accordingly, all written and oral communications, negotiations, and statements made in the course of mediation will be treated as privileged settlement discussions and are absolutely confidential. Therefore:
 - a. The Mediators will *not* reveal anything discussed in mediation without the permission of both parties. The parties understand that mediation data may be accessed by NASW-approved researchers and reported in aggregate form without identification of the parties. The expectation that the Mediator will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person or when applicable laws or regulations require disclosure without a client’s consent.
 - b. The parties agree that they will not at any time before, during, or after mediation call the Mediators or anyone associated with NASW as witnesses in any legal or administrative proceeding related to the issues in this dispute. To the extent that they may have a right to call the Mediators or anyone associated with NASW as witnesses, the parties hereby waive that right.
 - c. The parties agree not to subpoena or demand the production of any records, notes, work product or the like of the Mediators or anyone associated with the NASW professional review process in any legal or administrative proceeding concerning this dispute. To the extent that they may have a right to demand these documents, the parties hereby waive that right.
 - d. The parties agree that this agreement to mediate and any written agreement made and signed by the parties as a result of mediation may *not* be used in other proceedings, unless the parties agree in writing; particular documents may be used in specifically named proceedings.
5. While both parties intend to continue with mediation until a settlement agreement is reached, the parties understand that either or both parties may withdraw from mediation at any time. If one or both parties are considering withdrawal from mediation, they will make best efforts to discuss their concerns with the Mediator prior to making any decision about termination.
6. If the Mediators determine that it is not possible to resolve the issues through mediation, the Mediators will inform the parties that mediation has been terminated.
7. If mediation is terminated, the Mediator(s) will notify the National Ethics Committee (NEC). The NEC Intake Subcommittee may decide to refer the dispute back to mediation, refer the case to adjudication, or close the case.

I have read, understand, and agree to each of the provisions of this document.

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

NASW PROFESSIONAL REVIEW MEDIATION SETTLEMENT AGREEMENT

This Memorandum is to confirm the understanding and agreement between _____ and _____ with regard to _____ (the issue).

This memorandum has been negotiated in the context of NASW's mediation process. All parties are satisfied that all information provided is correct and that the agreement is based on full disclosure.

All parties acknowledge that they have signed this agreement voluntarily, and that they know they have a right to consult their own attorneys prior to signing.

[The middle section of the Mediation Agreement includes the specific terms of the agreement negotiated by the parties, including

- Commitments made by the Complainant
- Commitments made by the Respondent
- Commitments made by both the Complainant and Respondent
- The consequences if a particular party does not fulfill a specified commitment by a particular time (that is, providing provisions for enforcement in order to foster commitment and compliance with the agreement)
- Terms of the agreement, intended to be monitored by the NASW (for instance, the NASW may need to monitor terms related to ensuring that an NASW member is able to provide future services in a competent, ethical manner, as well as terms related to protection of the public).]

NONCOMPLIANCE AND RESOLUTION OF FUTURE DISPUTES

The parties agree that this agreement shall be made part of the NASW professional review file. If NASW determines that there has been noncompliance with the terms of the agreement, NASW will return the case to the National Ethics Committee (NEC) Intake Subcommittee for review. The parties agree that in the event there is a dispute about the interpretation or implementation of this agreement that they are unable to resolve by themselves, they will contact the Office of Ethics and Professional Review to request additional mediation. If the matter cannot be resolved through mediation, the issue will be returned to the NEC Intake Subcommittee for review to consider whether to return the case to adjudication.

MUTUAL RELEASE

We intend for this agreement to be a final settlement of all issues related to this dispute and release each other from any responsibilities related to the dispute, except for those identified in this agreement.

ACKNOWLEDGED:

COMPLAINANT: _____ DATE: _____

RESPONDENT: _____ DATE: _____

WITNESSED:

WITNESS: _____ DATE: _____

WITNESS: _____ DATE: _____

REVIEW BY NASW REPRESENTATIVE

Upon review of this mediated settlement agreement, I am of opinion that it _____ does or _____ does not adequately address NASW's responsibility to protect clients, consumers, agencies, colleagues, and the public from practices that violate the NASW *Code of Ethics*.

NASW REPRESENTATIVE: _____ DATE: _____

(Please note: In the event that the NASW Representative believes that the mediation agreement does not adequately address NASW's responsibility, the Representative will provide the NEC with a written explanation of his or her concerns. Such action by the NASW Representative will in no way preclude the parties from implementing their mediation agreement, unless to do so would be a further violation of the NASW Code of Ethics. The NEC Intake Subcommittee will then determine whether the matter is to be returned to mediation, sent to adjudication, or considered closed.)

NASW PROFESSIONAL REVIEW

COMPLAINANT – TIME LIMITS WAIVER QUESTIONNAIRE

This TIME LIMITS WAIVER questionnaire should be submitted to the national office with the RPR.

Case #: _____ Chapter: _____ Date(s) of alleged violations(s): _____ Today's Date: _____

Printed Name of Person Completing Form (Chapter): _____

Title (If applicable): _____ Signature (required): _____

PLEASE ATTEMPT TO ANSWER ALL QUESTIONS:

1. Do you believe the criteria (see Procedures, Chapter 4, part A) regarding the acceptance of a RPR have been met?

Alleged violation is addressed by Code of Ethics	YES ___	NO ___	If no, please explain: _____
Respondent was member of NASW at time of alleged unethical behavior	YES ___	NO ___	If no, please explain: _____
Alleged unethical behavior came to Complainant's attention no more than one year before RPR date	YES ___	NO ___	If no, please explain: _____
Complainant had a direct professional relationship with the social worker or proper standing to act on behalf of a mentally or physically incapacitated individual	YES ___	NO ___	If no, please explain: _____
Complainant can provide testimony, evidence, or is willing to testify	YES ___	NO ___	If no, please explain: _____
Confidentiality form has been signed	YES ___	NO ___	If no, please explain: _____

2. Has the Respondent been found guilty (by a court or by a regulatory body) of a violation of laws, rules, or regulations that may constitute a violation of the NASW Code of Ethics?

YES ___ NO ___ DON'T KNOW ___ (If yes, when did this judgment or disposition occur and what was it, if known?)

3. Explain the reason the request was not filed within the one-year time limit.

4. Are you alleging personal harm that can be verified?

YES ___ NO ___ (Please explain either answer)

5. Is there evidence available beyond your testimony?

YES ___ NO ___ (If no, please explain)

6. Do the allegations suggest a pattern of repetitive behavior?

YES ___ NO ___ (If yes, please explain)

7. By what date were you aware that the alleged incident might constitute a violation of the NASW Code of Ethics?

8. When did you learn of NASW's professional review system?

9. When did you learn of the availability of a regulatory board review process?

10. Did you pursue any other means of dispute resolution?

YES___ NO___ (If yes, please describe)



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