

## **Grievance Procedures**

**Purpose** —The Grievance Procedures of the American Academy of Adoption Attorneys exist to enforce the Academy Code of Ethics and Bylaws, and to discipline any member of the Academy found to have committed Misconduct.

### **ARTICLE I. JURISDICTION**

All members of the Academy are subject to these Grievance Procedures.

### **ARTICLE II. DEFINITIONS**

A. The following definitions shall apply:

1. *Academy* — means the American Academy of Adoption Attorneys.
2. *Board of Trustees* — means the governing Board of the American Academy of Adoption Attorneys.
3. *Chair* — means the Chair of the Grievance Board, who shall be the President- Elect.
4. *Grievance* — means a written document alleging Misconduct and providing sufficient written notice to the Respondent of the charges against him or her on the prescribed Academy Grievance Form.
5. *Grievant* — means any person, group of persons, organization, or entity filing a Grievance.
6. *Investigative Panel* — means three (3) members of the Grievance Board, chosen by the Chair or his or her designee, to hear Grievances.
7. *Investigative Report* — means a written document signed by the Chair setting forth the name and background of the member under investigation or statement of the nature of Misconduct alleged, a recital of all facts and evidence presented pertaining to the allegations or statement of the scope of the investigation conducted, recommended findings of fact, recommended findings of Misconduct, if any, and a recommendation as to further action.
8. *Misconduct* — means acts or omissions as set forth in Paragraph IV of these Grievance Procedures, a violation of the Academy Code of Ethics or a violation of the Academy Bylaws.
9. *Respondent* — means any member against whom a Grievance is filed.
10. *State* — means the United States, Canada or any state, province or territory, or any other political subdivision within either country in which an attorney is licensed or otherwise authorized to practice law.

### **ARTICLE III. GRIEVANCE BOARD**

A. The Grievance Board shall consist of at least five (5) members, including the Chair, appointed by and serving at the discretion of the Chair, with the consent of the President.

B. A vacancy for any cause shall be promptly filled by appointment in the same manner as described in Article III(A).

C. Grievance Board members shall not participate in any investigation in which a judge, similarly situated, would be required to abstain or recuse himself or herself in accordance with Model Rules of Judicial Conduct as promulgated by the American Bar Association.

D. The Grievance Board shall have the following powers and duties:

1. Consider and investigate any alleged Grievance.

2. Conduct investigations in accordance with these Grievance Procedures, the Code of Ethics and Bylaws of the Academy.

#### **ARTICLE IV. MISCONDUCT**

A. Misconduct means any one or more of the following:

1. Violation of ethical rules or the code of professional responsibility that results in termination or suspension from the practice of law or other disciplinary action in a state in which a member is licensed.
2. Conviction of a felony, or conviction of a misdemeanor involving moral turpitude.
3. Conduct which interferes with the administration of justice or otherwise brings the Academy into serious public disrepute.
4. Conduct which violates these Grievance Procedures, including a failure to comply with the orders or requests in an investigation being conducted by the Grievance Board.
5. Conduct in violation of the Academy Code of Ethics or in violation of the Academy Bylaws.

#### **ARTICLE V. INVESTIGATIONS**

A. A Grievance shall be filed with the Chair by a Grievant. The Chair may instigate and file a Grievance upon the receipt of presumptively reliable information concerning possible Misconduct of a member. The Chair shall obtain the consent of at least two members of the Grievance Board prior to filing a Grievance on the initiative of the Chair. The Chair shall forward a copy of the Grievance to the President within five (5) business days of the filing.

B. The Chair has the discretion to determine whether or not a Grievance warrants an investigation, or may be appropriate for Discipline By Consent. Where Discipline By Consent is considered, the Chair may contact the Respondent and negotiate a level of discipline consistent with the subject matter of the Grievance with the approval of the Board of Trustees. The Chair shall submit the proposed discipline to the President within twenty (20) days of the receipt of a Grievance for approval or rejection by the Board of Trustees.

C. The Chair shall decide within twenty (20) days of the receipt of a Grievance whether it warrants investigation. Immediately upon that decision, the Chair shall notify the Respondent and request a response, and shall advise the Respondent that the Grievance and the response will be referred to an Investigative Panel of the Grievance Board.

D. The Respondent shall have thirty (30) days to submit to the Chair a written response.

E. The Investigative Panel shall be selected by the Chair during this thirty (30) day period.

F. Preponderance of the evidence is the standard for the Investigative Panel and the Board of Trustees for a finding of a violation of these Grievance Procedures.

G. The Investigative Panel shall make such inquiries as it deems advisable and may receive and consider all evidence it considers reliable, regardless of the admissibility of such evidence under the Rules of Evidence.

H. From the date of its appointment, the Investigative Panel shall complete the investigation and submit its report to the Chair within sixty (60) days, regardless of whether a response is timely received from the Respondent.

I. Upon receipt, the Chair shall forward the Investigative Report and investigative documentation to the

President.

J. In exigent circumstances, the Chair may lengthen or shorten the time periods in these Grievance Procedures with the consent of the President and notice to the Respondent.

K. All notices shall be by certified U.S. Mail or by some other carrier which requires a signature upon receipt, unless otherwise provided herein.

#### **ARTICLE VI. BOARD OF TRUSTEES**

A. Upon receipt of an Investigative Report, the President shall submit to the Respondent a copy of the Investigative Report within five (5) business days.

B. The Investigative Report and all investigative documentation shall be considered by the Board of Trustees at the next regular or special meeting of the Board of Trustees to decide what, if any, violation occurred, and if so, what discipline will be imposed for such violation, in accordance with Article VII (A) of these Grievance Procedures. The Respondent shall be entitled to make a statement before the Board, in writing or in person, when the Investigative Report is considered. A vote of two-thirds of the Board of Trustees, present and voting, shall be required to determine whether there has been a violation. A vote of two-thirds of the Board of Trustees, present and voting, shall be required to impose any discipline on a Respondent.

C. The Board of Trustees shall discuss and render its final decision in executive session and shall provide a written decision to the Respondent within five (5) business days.

#### **ARTICLE VII. DISCIPLINE**

A. The Board of Trustees may impose one of the following levels of discipline on a Respondent if a Grievance results in a finding of Misconduct:

1. *Termination of Membership*;

2. *Suspension from Membership* for an indefinite period of time subject to reinstatement upon application and approval by the Board of Trustees;

3. *Temporary Suspension from Membership* for a definite period of time for such a period as deemed by the Board of Trustees;

4. *Public Reprimand* admonishing a member for Misconduct by name and directing the member to cease and desist from such Misconduct in the future; or

5. *Private Reprimand* admonishing a member for Misconduct without identifying the member by name and directing the member to cease and desist from such Misconduct in the future.

B. A member who has been found guilty of a felony, or a misdemeanor involving moral turpitude, or terminated or suspended from the practice of law from a state in which a member is licensed, shall have his or her membership terminated, unless substantial mitigating circumstances exist.

C. Should the Board of Trustees determine that no Misconduct has occurred, it may order a *Dismissal of the Grievance* or issue a *Letter of Caution* advising a member that the conduct complained of does not constitute Misconduct, but that the conduct complained of should be avoided in the future.

#### **ARTICLE VIII. RESIGNATION**

A Respondent may resign from membership by delivering to the President of the Academy a statement signed by the Respondent stating that he or she is resigning from the Academy. Notice of the resignation shall be communicated to the membership and public in the same manner as Article XI.

#### **ARTICLE IX. GRIEVANCE PROCEDURES TO BE LIBERALLY CONSTRUED**

A. Time limitations are administrative. Failure of a Respondent to observe time limits may result in additional grounds for a Grievance.

B. No investigation or procedure shall be held invalid by reason of any non-prejudicial irregularity. These Grievance Procedures shall be liberally construed for the protection of the public, the Academy, and its members.

#### **ARTICLE X. IMMUNITY AND CONFIDENTIALITY**

A. Grievances submitted to the Academy, testimony taken, Investigative Reports, affidavits or other documents presented with respect to these Grievance Procedures shall be confidential. The Respondent shall only be entitled to a copy of the Grievance and Investigative Report.

B. Members of the Academy shall be immune from suit relating to any conduct in the course of their official duties or responsibilities as Academy Members, Trustees, Investigative Panel or Grievance Board.

#### **ARTICLE XI. PUBLICATION OF DECISION**

A. The Board of Trustees, through the President of the Academy, shall submit its decision for publication in the Academy Newsletter and provide other communication to the entire membership and public, except where the decision is to order a Dismissal or issue a Letter of Caution.

B. The decision shall include a disclosure of the Respondent's name, except where the discipline is a Private Reprimand, summary of the pertinent facts, findings of Misconduct and the discipline imposed. Identifying information or the identities of the Grievants and other non-Academy persons, including adoptees and prospective adoptees, shall not appear in the decision. No decision shall be published where a Dismissal is ordered or a Letter of Caution is issued, except such action shall be communicated to the Grievant.

#### **ARTICLE XII. COMMUNICATION WITH GRIEVANT**

The Chair shall provide the Grievant with periodic updates about the progress of the Grievance under these Grievance Procedures, including final disposition.

#### **ARTICLE XIII. AMENDMENTS**

Any changes or amendments to the AAAA Grievance Procedures shall be made in the same manner as set forth in Article XI of the Bylaws of the American Academy of Adoption Attorneys.