

## American Institute of Constructors

### Constructor Certification Commission Policy and Procedures No. 5.7

#### Ethical Conduct of Certificants

Policy – Commission certificants are to abide by the American Institute of Constructors Code of Conduct.

Responsibility – Constructor Certification Commission

Reference Commission Documents –Commission Document No. 5 - Certification Certificate; Commission Document No. 27 – Certificant Agreement; Commission Policy No. 1.7 - Appeals

Procedures – The following procedures will be followed to insure that Commission certificants abide by the following American Institute of Constructors (AIC) Constructor Code Of Ethics (“Certificant” is interchangeable with “Constructor” for reference purposes in the AIC Code of Ethics):

- A Constructor shall have full regard to the public interest in fulfilling his or her responsibilities to the employer or client.
  - A Constructor shall not engage in any deceptive practice, or in any practice which creates an unfair advantage for the Constructor or another.
  - A Constructor shall not maliciously or recklessly injure or attempt to injure, whether directly or indirectly, the professional reputation of others.
  - A Constructor shall ensure that when providing a service which includes advice, such advice shall be fair and unbiased.
  - A Constructor shall not divulge to any person, firm, or company, information of a confidential nature acquired during the course of professional activities.
  - A Constructor shall carry out responsibilities in accordance with current professional practice, so far as it lies within his or her power.
  - A Constructor shall keep informed of new thought and development in the construction process appropriate to the type and level of his or her responsibilities and shall support research and the educational processes associated with the construction profession.
1. All Certificants must sign a Certificant Agreement (Commission Document No. 27) agreeing to comply with the AIC.
  2. Complaints may be submitted, in writing, to the Commission Certification Manager or the Commission designated individual by anyone who becomes aware of a potential breach of the AIC Constructor Code of Ethics. Complaints shall consist of the following:
    - a. Certificant’s name and contact information
    - b. Complainant’s name and contact information
    - c. Copies of non-confidential written material supporting the complaint
    - d. Citation of the AIC Code of Ethics section(s) alleged to be violated
    - e. Any other written information supporting the complaint.

3. Upon receipt of the complaint, the Certification Manager will immediately assign it a sequential case number. In addition he/she will review the complaint for relevance and completeness, verify that the person named in the complaint is a current certificant, create a working copy of the entire complaint file by removing names and other identifying information pertaining to the certificant and the Complainant, mark all documents “confidential” and will include information regarding previous sanctions imposed on this certificant, if any, and pass a working copy of the complaint, including all supporting information, to the Commission Chair. In the case that the complaint is against the Commission Chair, the information will be provided to the Commission Vice Chair. For the balance of this procedure it is assumed the complaint is not against the Commission Chair.
4. Complaints against certified Commission members, volunteers or Contractor staff will result in limiting the interaction of the named person or person(s) to only non-sensitive and non-confidential Commission matters until the complaint is resolved pursuant to these procedures.
5. The Commission Chair will review the working copy and if he/she agrees that the materials are complete enough for consideration by the full Commission, he/she will ask the Certification Manager to provide a confidential working copy to all members of the Commission. However, if the Commission Chair does not agree that the materials are complete enough for consideration by the full Commission, he/she will ask the Certification Manager to take appropriate remedial action, such as asking the Complainant to clarify documentation or to provide additional information.
6. When a Complainant’s documentation is distributed to the full Commission, and in no event more than thirty (30) calendar days after the date on which the written complaint is determined to be complete enough for consideration by the full Commission, the Certification Manager will send a letter acknowledging receipt of the complaint to the Complainant stating the following:
  - a. The complaint has been received and provided to the Commission for its consideration.
  - b. The certificant will be informed of the complaint along with the Complainant’s name and contact information.
  - c. Action regarding the complaint will be taken in accordance with the procedures contained in this Policy.
  - d. All Commission deliberations are confidential.
  - e. The Complainant is requested to assist in maintaining impartiality and confidentiality.
  - f. After the final disposition by the Commission and either the conclusion of the certificant’s appeal or the expiration of the certificant’s opportunity to appeal, an appropriate record of the final disposition will be posted on a publicly accessible section of the Commission’s website which is open for examination by the Complainant and the public at any time.
  - g. The Commission appreciates the Complainant’s action which assists in maintaining the integrity and value of the Commission’s credentialing activity.
7. At the same time that the Certification Manager prepares the above letter to the Complainant, he/she will send a notice by registered mail (return receipt requested), or

by any other form of reliable overnight or other delivery in which a record of such delivery is maintained, to the certificant. This letter will state that:

- a. A complaint has been received and passed to the Commission for its consideration.
- b. Action regarding the complaint will be taken in accordance with this Policy.
- c. Deliberations are confidential.
- d. The certificant will be advised by registered mail of the decision of the Commission.
- e. The certificant has a right to a hearing on the complaint.
- f. The certificant has a right to appeal an adverse action in accordance with the Commission's Appeal Policy – Commission Document 1.7.
- g. At the point of final disposition and action, if any, an appropriate record of such will be posted on a publicly accessible section of the Commission website.

This letter also will:

- Provide the name and contact information of the Complainant.
- Ask the certificant to admit to or deny in writing the existence of the breach of the Code of Conduct that has been identified in the complaint.
- Ask the certificant to provide documents, if any, to support his/her denial of the complaint.
- State the address to be used in responding to the Commission via the Certification Manager.
- Request that the certificant to communicate only in writing to the Certification Manager.
- State that names and personally identifying information have been removed from the version of the complaint available to Commission members and, as such, a case number has been assigned by the Certification Manager and the certificant is required to assist in the Commission's efforts to preserve this confidentiality.

Enclosures to this letter will include:

- A full working copy of the complaint.
  - A copy of this Policy.
  - A copy of the Appeals Policy.
  - A statement that the certificant's response to this letter must be in writing and postmarked within sixty (60) calendar days of the date of the notice, and this date should be expressed as a specific due date.
8. When received, a confidential working copy of the certificant's response (the Executive Director will endeavor to remove the certificant's entire name and contact information) will be provided to all Commission members by the Certification Manager.
  9. The Commission will review all of the materials submitted along with the certificant's written response. The Commission may elect to work as a committee of the whole or the Commission may determine that one of its members needs to be assigned to investigate the documents further to analyze, synthesize, reconcile, or otherwise assure that the file on its face appears complete, factual, and consistent. While the Commission may make independent factual investigations, it is not obligated to do so and will

generally make decisions based on the written submissions of the Complainant and the certificant.

10. After the Commission reviews and deliberates, it shall make a determination whether it has found it is more likely than not (the review standard) that a breach of the AIC Code of Ethics occurred.
11. In the event it is determined under the aforementioned review standard that a breach of the AIC Code of Ethics did not occur it shall dismiss the complaint without prejudice. The Certification Manager will notify the certificant via registered mail, return receipt requested, or by any other form of reliable overnight or other delivery in which a record of such delivery is maintained.
12. In the event it is determined that it is more likely than not that a breach of the AIC Code of Ethics occurred the Commission will notify the certificant in writing of the finding and offer the certificant the opportunity for a hearing. The notification shall:
  - a. Be in writing and sent via registered mail, return receipt requested, or by any other form of reliable overnight or other delivery in which a record of such delivery is maintained.
  - b. Explain the alleged aggrieved conduct and why such conduct constitutes grounds for disciplinary action
  - c. Set a deadline of fifteen (15) days for the certificant to respond in writing to request a hearing.
13. If the certificant fails to request a hearing before the deadline the Commission will make a decision regarding disciplinary action for the case as described in item 19 below and the noted follow up actions taken.
14. In the event that a hearing is requested, the Commission shall work with the certificant and the Certification Manager to schedule a teleconference hearing at a mutually convenient date and time and the certificant shall be notified in writing of such hearing date and time. At the time the hearing is scheduled, the named individual will be informed that the hearing will not take place in his or her absence no matter what the situation and that the Commission will determine the disciplinary action, if any, based on all of the information they have to date. Once a meeting time and arrangements have been set after consultation with the named individual, requests for changes to such arrangements shall only be honored pursuant to the Commission's Chair's sole discretion. In the event of a sudden illness or accident the Commission will reschedule the hearing at a time convenient to the named individual.
15. Upon request by the Commission, the Certification Manager, and the Commission's Legal Counsel shall be available to assist the Commission at the Hearing. The Commission Chair shall preside at the hearing. The certificant may be represented by counsel at the hearing. No formal legal rules of evidence, cross-examination, oath, and other procedures will apply to hearings.
16. Not less than three (3) Commission members shall be in attendance for the hearing.
17. The Commission Chair shall have general discretion to set the agenda and conduct the hearing in a fair and expeditious manner.
18. The certificant will be responsible for his/her expenses associated with an AIC Code of Ethics investigation or case, including the costs associated with any witnesses or legal counsel.

19. At the conclusion of the hearing, the Commission will review the hearing record as well as the written record and, if a finding of a breach of the AIC Code of Ethics is made, will make a decision regarding disciplinary action for the case. Disciplinary actions within the purview of the Commission pertain only to the credential and use and protection thereof and actions, if any, by the certificant to justify future restoration of his/her ability to use the designation. The maximum penalty the Commission may impose is revocation of the right to use the Commission certification designation and to require return of the certificant's certificate. The Commission may impose lesser penalties and may set a time limit on the penalty or make it permanent. The Commission will not initiate civil or criminal actions and will avoid involvement in same to the extent practical.
20. In the event the named individual does not appear at the hearing or sends an individual to represent him or her, the hearing will not take place and based on the information the Commission has to date will make a decision on a disciplinary action as described in item 19 above.
21. The Certification Manager will notify the certificant of the Commission's decision by registered mail, return receipt requested, or by any other form of reliable overnight or other delivery in which a record of such delivery is maintained.
22. In the event that the Complainant withdraws the complaint, the investigation will be immediately terminated and the named individual will be so notified of the dismissal of the complaint.
23. In the event of receipt of official notification of the death of the named individual anytime during the investigation process, the investigation will immediately be terminated and the Complainant so notified.
24. The certificant may appeal the Commission's decision in accordance with its Appeals Policy. The appeal must be initiated by the certificant within ninety (90) calendar days of the date on the delivery of the notice letter stating the decision.
25. If, and only if, a decision adverse to the certificant is reached, and the appeal process has been exhausted, then the action taken against the certificant will be posted on a publicly accessible section of the Commission's website and the certificant will be requested to return their Certification Certificate (Commission Document No. 5).
26. The Commission has the right to resolve any complaint through negotiation and discussion at any time during the investigation. Any settlement reached through negotiation and settlement may be deemed confidential and not discussed with any Commission member, volunteer or Contractor staff member, complainant or other third party.
27. The Commission shall not be liable for damages in the carrying out of its obligations and duties in accord with these established procedures.
28. Copies of all documents and related correspondence, generated in complying with this policy will be placed by the Certification Manager in the respective certificant's secured Commission file.

### **Revision History**

Last Revision: 02/04/2022