

**These Professional Compliance Program Grievance Procedures apply to  
grievances filed between April 18, 2005 and December 1, 2006**



**The American Academy of Orthopaedic Surgeons  
The American Association of Orthopaedic Surgeons**

**PROFESSIONAL COMPLIANCE PROGRAM  
GRIEVANCE PROCEDURES**

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**1 Purpose**

The purpose of these procedures is to establish a process for the American Academy of Orthopaedic Surgeons and the American Association of Orthopaedic Surgeons (“AAOS”) to address grievances about the behavior of an AAOS Fellow or Member that may violate the AAOS Standards of Professionalism (“Standards”).

Only a Fellow or Member may initiate a professional compliance grievance against another Fellow or Member under this process.

**2. Foundation for Professional Compliance Procedures**

Article VIII of the Bylaws, as amended April 18, 2005, of the American Association of Orthopaedic Surgeons (“Association”) provides a process by which the AAOS addresses professional compliance grievances brought by one AAOS Fellow or Member against another AAOS Fellow or Member.

These professional compliance procedures are designed to supplement Article VIII of the Association Bylaws and to create a process that is expeditious and equitable.

**3. Applicability of Professional Compliance Procedures**

- A. These professional compliance procedures apply to grievances filed against an AAOS Fellow or Member that allege a violation of the AAOS Standards of Professionalism arising from activities that occurred on or after April 18, 2005, and to reported violations of any additional SOPs occurring after their adoption by the AAOS as provided for in the Bylaws.
- B. Grievances that allege a violation of the AAOS Standards of Professionalism may be filed within ten years of the date of eligibility.

- C. These professional compliance procedures shall **not** apply to:
1. Matters that are in litigation, arbitration or mediation; under review by a state medical board or other state or federal agency; or are the subject of a peer review investigation;
  2. Matters in which the primary subject of the grievance has already been considered by the AAOS, even if brought by a different Fellow or Member. However, a Respondent may file a counter-Grievance, but only before the Committee on Professionalism has made a determination that a *prima facie* case has been made that a violation may exist; and
  3. Matters for which the AAOS Bylaws provide a different avenue for removing or limiting the membership of an AAOS Fellow or Member, specifically actions based on non-payment of AAOS dues {Association Bylaws, Para. 8.3.a}; actions based on the Fellow's or Member's "loss, restriction on or limitation of any right associated with the practice of medicine in any state or Canadian province." {Association Bylaws, Para. 8.3.b}; actions based on a conviction of any felony {Association Bylaws, Para. 8.2.e}; and actions based on a conviction of scientific fraud {Association Bylaws, Para. 8.2.f}.
- D. If at any time after a professional compliance grievance is submitted, the subject matter of the grievance becomes the subject of litigation, arbitration, mediation, administrative review or review by a state medical board or other state or federal agency, AAOS shall hold the grievance in abeyance pending final resolution of the proceedings, subject to approval and direction from the Board of Directors. Each party has an obligation to notify AAOS of the final resolution of the litigation, arbitration, mediation or review in order for the AAOS process to continue.
- E. Fellows and Members who have been named in a grievance will not be permitted to resign from AAOS during the course of this professional compliance process.
- F. A Candidate Member named in a grievance will have his or her Fellowship application held in abeyance pending the final resolution of the grievance.
- G. A Grievant may withdraw a grievance, but only before the Committee on Professionalism has made a determination that a *prima facie* case has been made that a violation may exist. Notwithstanding the above, if it appears there is a patient safety issue, the AAOS, at its discretion, may proceed even if the Grievant wishes to withdraw the grievance.
- H. Fellows or Members who are suspended from AAOS as a result of professional compliance actions may be named as Respondents in grievances alleging new violations of the Standards of Professionalism during the period of suspension.

- I. Fellows or Members who are expelled from AAOS as a result of professional compliance actions may not be named as Respondents in grievances alleging new violations of the Standards of Professionalism unless or until the Fellow or Member is re-admitted to AAOS.

#### **4. Definitions**

- A. For purposes of these professional compliance procedures, the term “Standards of Professionalism” shall mean the AAOS “Standards of Professionalism,” as adopted by the AAOS Fellowship.
- B. For purposes of these professional compliance procedures, the term “Fellow” shall include all categories of AAOS Fellowship (Active, Inactive or Emeritus).
- C. For purposes of these professional compliance procedures, the term “Member” shall include certain categories of AAOS Membership (Associate Member - Allied Specialties; Associate Member - Basic Sciences; Associate Member - Orthopaedic; Associate Member - Osteopathic; Associate Resident Member; Associate Resident Member - Osteopathic; Associate Candidate Member; or Associate Candidate Member - Osteopathic). It specifically does not include an International Affiliate Member or Honorary Member.
- D. For purposes of these professional compliance procedures, the term “days” shall refer to calendar days and shall include Saturdays, Sundays and legal holidays when computing a time period.
- E. For purposes of these professional compliance procedures, the term “Grievant” shall mean the AAOS Fellow or Member who files a grievance against another AAOS Fellow or Member.
- F. For purposes of these professional compliance procedures, the term “Respondent” shall mean the AAOS Fellow or Member against whom the grievance has been filed.
- G. For purposes of these professional compliance procedures, the term “General Counsel” or “Office of the General Counsel” shall mean the AAOS General Counsel, all staff who report to the AAOS General Counsel involved in the AAOS Professional Compliance Program, or counsel retained by the Office of General Counsel.
- H. For purposes of these professional compliance procedures, the “Committee on Professionalism” (COP) shall be the AAOS body responsible for reviewing, investigating and adjudicating grievances of alleged violations of the Standards of Professionalism and developing a recommendation for professional compliance action to be taken by the AAOS Board of Directors.

- I. For purposes of these professional compliance procedures, a “Hearing Panel” shall be that body of members of the Committee on Professionalism that hears the evidence and testimony from the Grievant and Respondent and develops a written recommendation for AAOS professional compliance action to be taken.
- J. For purposes of these professional compliance procedures, the “Judiciary Committee” shall be the AAOS body responsible for hearing the appeal of either the Grievant or Respondent of the recommendation made by the Committee on Professionalism Hearing Panel and for developing a written recommendation for professional compliance action to be taken by the AAOS Board of Directors.
- K. For purposes of these professional compliance procedures, a “*prima facie*” case is one in which the body determines there is sufficient merit in a fact or set of facts supporting an individual’s claim to allow the matter to proceed.
- L. For purposes of these professional compliance procedures, a “Letter of Concern” is one that may be sent to either a Grievant or Respondent when concerns exist about a Fellow’s or Member’s behavior. This Letter of Concern shall not be considered an official professional compliance action and will not be made available upon request to Fellows, Members, or counsel.
- M. For purposes of these professional compliance procedures, “professional compliance action” shall be the final action taken by the AAOS Board of Directors that results in Censure, Suspension, or Expulsion of an AAOS Fellow or Member.
- N. For purposes of these professional compliance procedures and consistent with the AAOS Bylaws, a “Censure” shall be a “written reprimand to the Fellow or Member from the Association, with no loss of the benefits of Fellowship or Membership. Such censure shall be made a part of the membership file of the Fellow or Member.” {Association Bylaws, Para. 8.1.a}
- O. For purposes of these professional compliance procedures and consistent with the AAOS Bylaws, a “Suspension” shall “cause the Fellow or Member to lose the benefits of Fellowship or Membership for a period of time as determined by the Board of Directors, after which the individual may be fully reinstated upon the request of the individual, provided he or she pays all past dues, fees or special assessments owing upon reinstatement. Suspension shall be for such term as the Board determines is necessary to ensure modification of behavior.” {Association Bylaws, Para. 8.1.b}
- P. For purposes of these professional compliance procedures and consistent with the AAOS bylaws, an “Expulsion” shall “cause the Fellow or Member to be removed from the rolls of the Association. An expelled Fellow or Member shall not be entitled to any of the benefits of Fellowship or Membership. The Association shall

not accept a reapplication for Fellowship or Membership from an expelled Fellow or Member until a prescribed period, as the Board shall determine, has elapsed from the date the individual was notified of the Board's action." {Association Bylaws, Para. 8.1.c}

## **5. Notification of Professional Compliance Actions**

- A. Time-sensitive material will be transmitted to recipients through certified mail or other verifiable delivery service. Notification will be sent to the Fellow's or Member's last address in the AAOS Membership database.
- B. At least annually, and only after final action by the Board of Directors, AAOS shall notify Fellows and Members of all professional compliance actions taken. AAOS shall publish a summary of the matter in one or more of the AAOS publications, specifying the particular Standard of Professionalism that was deemed to have been violated, identifying the Respondent by name and the state in which he or she has his or her principal practice.
- C. For all professional compliance actions resulting in suspension or expulsion that relate to patient health and welfare (including expert witness testimony), the AAOS will notify the National Practitioners Data Bank (NPDB) in compliance with NPDB requirements.
- D. AAOS shall communicate professional compliance actions to the Respondent's state orthopaedic society, state medical society, the American Board of Orthopaedic Surgery (ABOS), and other medical boards or associations as appropriate.
- E. AAOS will respond in writing to a written request from any party about an individual Fellow's membership in the AAOS. In addition, AAOS will inform the requesting party of any professional compliance action taken by the AAOS Board of Directors.
- F. Following final Board of Directors decisions, records of AAOS professional compliance proceedings will not be private and may be obtained and/or made public at a reasonable charge upon request by either AAOS Fellows or Members or by outside counsel representing or opposing AAOS Fellows or Members in other proceedings.
- G. During the pendency of a professional compliance action, AAOS will attempt to maintain but does not guarantee the confidentiality of grievances nor does AAOS guarantee that results of professional compliance actions will not be reported to other entities.

## **6. Rights and Obligations of all Parties**

- A. Any Fellow or Member who files a grievance (“Grievant”) under these procedures shall have certain rights and obligations associated with these procedures. Conversely, a Fellow or Member against whom a grievance has been filed (“Respondent”) shall also have certain rights and obligations. The AAOS recognizes its obligations to the public and the profession when reviewing issues of professional compliance.
- B. Specifically, all parties involved in a professional compliance matter have the:
- i. Right to timely communication from AAOS;
  - ii. Right to know who has filed the Grievance;
  - iii. Right to know the specific allegations made in the Grievance;
  - iv. Right to counsel;
  - v. Right to respond to the Grievance;
  - vi. Right to know who will investigate and/or hear the matter and make recommendations;
  - vii. Right to confront and question the Grievant;
  - viii. Right to appeal the decision;
  - ix. Obligation to adhere to the procedures outlined in this document; and
  - x. Obligation to maintain confidentiality until the grievance process is concluded.

## **7. Grievance Procedures**

### **A. Grievances Filed with AAOS**

1. All grievances must be in the format required by the AAOS, containing specific allegations against a Fellow or Member and following HIPAA guidelines for de-identifying patient information. Any relevant supplementary material to be considered by AAOS should be de-identified as required and accompany the grievance.
2. All grievances must be signed and dated.
3. All grievances and accompanying supplemental materials shall be sent to:

American Academy of Orthopaedic Surgeons  
6300 N. River Road  
Rosemont, Illinois 60018-4262  
Attention: Office of General Counsel
4. No inquiry about a pending grievance, correspondence or materials may be sent to members of the Committee on Professionalism, the Judiciary Committee, or any other AAOS official or officer, staff or representative. Verbal contact may be made only through the Office of General Counsel.

5. The Grievant must be willing to submit written material as part of the grievance process and may be asked to attend a hearing, but the Grievant's attendance is not mandatory.
6. Within thirty (30) days of the receipt of the grievance, AAOS will acknowledge the grievance and mail a copy of these professional compliance procedures to the grievant.

**B. Initial Administrative Evaluation**

1. Within sixty (60) days of the receipt of the grievance, the Office of General Counsel will conduct a preliminary administrative evaluation of the grievance. Any alleged grievance that does not conform to the required format will be returned to the Grievant.
2. The Office of General Counsel will refer grievances that appear to meet the criteria for review to the Committee on Professionalism.

**C. Referral to the Committee on Professionalism**

1. The Committee on Professionalism shall be responsible for reviewing all grievances referred from the Office of General Counsel. The Committee on Professionalism shall initially have eight members, appointed by the AAOS Board of Directors. At its discretion, the Board of Directors may appoint additional members to the Committee on Professionalism.

The AAOS Board of Directors will utilize the Committee Appointment Program (CAP) process to identify volunteers for the Committee on Professionalism. The "one member-one committee" rule shall not apply to the Committee on Professionalism, and members of the Board of Councilors, COMSS, Membership Committee, Ethics Committee and Professional Liability Committee will be especially encouraged to apply. Orthopaedic Surgeons holding a JD degree will be encouraged to apply.

2. For each appropriate grievance received by AAOS, the Office of General Counsel will canvass the members of the Committee on Professionalism to determine whether there exists any real or perceived conflict of interest between a member and the Grievant and/or Respondent. No Committee member may participate in a case that involves a Fellow or Member with whom that individual is in partnership or in direct economic competition. A standing committee of the Chair of the Committee on Professionalism, President, First Vice President, Second Vice President and the General Counsel shall review and determine questions of conflicts of interest, if necessary.

3. The Committee on Professionalism will review the material submitted by the Grievant, and it may further investigate to determine whether the grievance is appropriate for Committee review.
4. Within thirty (30) days of receipt, the Committee on Professionalism will advise the Respondent that a grievance has been filed and provide the Respondent with a copy of the grievance, relevant material, and a copy of these professional compliance procedures. The Committee on Professionalism will advise the Respondent that he or she may submit material for consideration prior to the Committee's determination of whether a *prima facie* matter exists. All material to be considered by the Hearing Panel must be provided within sixty (60) days of receipt of this notice and must be consistent with HIPAA guidelines. AAOS will return to the Respondent material that does not conform to the required format. Material submitted by the Respondent for consideration will be made available to the Grievant.

All correspondence or materials must be sent to the AAOS General Counsel.

5. Within thirty (30) days of receipt of the Respondent's material (or if the Respondent does not submit material, the due date for such submission), the Committee on Professionalism shall meet and develop its recommendations on whether a *prima facie* violation of the Standards of Professionalism exists on the basis of the written submissions from both the Grievant and the Respondent. The Committee on Professionalism will send written notification of the Committee's findings to the Grievant and the Respondent within fifteen (15) days of this meeting.
6. If a majority of the participating Committee on Professionalism members determines that the grievance is not appropriate for its consideration or that a *prima facie* violation of the Standards of Professionalism has not been established, the Committee on Professionalism will notify the Grievant and the Respondent in writing that the grievance is not accepted for further review.
7. If the Committee on Professionalism does not accept the grievance for further review, the Grievant will have the right within fifteen (15) days of receipt of the written notice from the COP to demand a hearing nonetheless. In such case, the Grievant shall be responsible for paying all the AAOS' direct costs in conducting that hearing and all of the Respondent's direct costs, up to a maximum of three thousand dollars (\$3,000), if the ultimate decision of the hearing is the same or substantially similar to the tentative decision that the Committee on Professionalism reached before the hearing. The Grievant shall be obligated to pay five thousand dollars (\$5,000), which shall be held in an interest-bearing account, in advance of the hearing. The Office of General Counsel shall determine AAOS' direct costs at the end of the hearing, which may include, but are not limited to, the cost of counsel preparing for and

attending the hearing and the Committee members' expenses in attending the hearing.

8. In some circumstances, the Committee on Professionalism may have concerns with the alleged behavior described in the grievance, yet, at its discretion, may decide not to accept the grievance. In these instances, at its sole discretion, the Committee may write a Letter of Concern detailing its concerns to either the Grievant or the Respondent. This Letter of Concern shall not be considered an official professional compliance action. In addition, the AAOS shall send a notice to the opposing party (either Grievant or Respondent) that a Letter of Concern has been sent, but not its specific contents.
9. The recipient of the Letter of Concern, either the Grievant or Respondent, has the right within fifteen (15) days of receipt to demand a hearing nonetheless. In such case, the Grievant or Respondent shall be responsible for paying all the AAOS' direct costs in conducting that hearing and all of the opposing party's direct costs, up to a maximum of three thousand dollars (\$3,000), if the ultimate decision of the hearing is the same or substantially similar to the tentative decision that the Committee on Professionalism reached before the hearing. The requesting party shall be obligated to pay five thousand dollars (\$5,000), which shall be held in an interest-bearing account, in advance of the hearing. The Office of General Counsel shall determine AAOS' direct costs at the end of the hearing, which may include, but are not limited to, the cost of counsel preparing for and attending the hearing and the Committee members' expenses in attending the hearing.
10. If a majority of the Committee on Professionalism decides that a *prima facie* case has been established, the Chair will appoint a Hearing Panel, composed of at least four Committee members, to hear and adjudicate the grievance, with three Committee members constituting a quorum. The Chair of the Committee on Professionalism may be the Chair of that Hearing Panel and/or act as an *ex officio* member of the Hearing Panel. The Committee on Professionalism will furnish copies of both sides' full submissions to this Hearing Panel. Once a Hearing Panel has been chosen, that panel shall continue to function as the hearing entity until the Board of Directors has taken final action on the matter, even if the panel member's term on the Committee has expired.
11. The Committee on Professionalism will notify the Grievant and Respondent if the Grievance has been accepted for review and assigned to a Hearing Panel. The Grievant and Respondent will be sent the names of the Hearing Panel members, and any relevant material that might be taken into consideration by the Hearing Panel. The Respondent and the Grievant will be notified that, within thirty (30) days of receipt of this notice, he or she may challenge the appointment of any Hearing Panel member for cause. Challenges for cause will be arbitrated by the standing committee of the Chair of the Committee on

Professionalism, President, First Vice President, Second Vice President and the General Counsel.

All correspondence or materials should be sent to AAOS General Counsel.

12. The Grievant and the Respondent shall be responsible for his or her own travel and related costs as well as the costs of any personal representatives involved or any witness that he or she may call or any evidence produced. AAOS shall bear the costs of the Hearing Panel and all related hearing costs.

**D. Referral to Hearing Panel**

1. The Grievant and Respondent will be given at least sixty (60) days prior notice of the hearing date and location. The hearing will be held, if possible, within ninety (90) days from the date of notice at a location designated by the Committee on Professionalism.
2. If the Grievant or Respondent declines or fails to appear at a duly scheduled hearing, the hearing shall still proceed, and the panel members shall consider any material submitted previously by the absent party.
3. The Hearing Panel Chair will conduct the hearing, with the assistance of the General Counsel. Only Hearing Panel members who attend the full hearing may participate in the deliberations and recommendations. Parties and counsel may attend hearings. Hearings will be closed to guests or observers. Formal rules of evidence or law will not apply to hearings. The hearing will be officially recorded by a court reporter, but no other recording devices are permitted. The Grievant and Respondent may request copies of the official transcript and must reimburse AAOS for any costs associated with providing copies of the official transcript.
4. The Grievant or Respondent may be represented by himself or herself or by any other designated individual, including legal counsel. Each party will be given thirty (30) minutes to make a presentation. Both the Grievant and Respondent may present additional witnesses at the hearing, but the identity of any such witnesses and the subject matter of their testimony must be provided to the General Counsel at least three (3) days in advance. Any presentations made by representatives or witnesses are included in the 30-minute time limit. Participating attorneys may ask questions of the other side, but extensive cross-examination will not be permitted.
5. During the hearing, the Hearing Panel may receive oral testimony and written statements from the Grievant and Respondent and may also review relevant information developed during the Committee on Professionalism investigation.

Hearing Panel members may ask questions of any party or witness within the thirty (30) minute time limit.

6. At any time during its review, the panel may request additional information from the Grievant, Respondent, or any third party. Any additional information will be made available to each party.
7. Hearing Panel members may not discuss the specifics of the case with any non-participant, with the exception of the General Counsel, and may only consider evidence and testimony introduced in conjunction with the Grievance process. However, Hearing Panel members may rely upon their own expertise and experience as orthopaedic surgeons in evaluating written material, oral testimony, or issues raised.
8. Following the conclusion of the hearing, the Hearing Panel shall meet in executive session with the General Counsel and shall, by majority vote, determine which of the following alternative findings should be recommended:
  - a. That the grievance is not sustained, and that no further action should be taken;
  - b. That the grievance is not sustained and that a Letter of Concern, which does not constitute a formal professional compliance action, describing the Hearing Panel's concerns with the behavior be sent to either the Grievant or Respondent, with a notification to the other party that the Letter has been sent but not its specific contents; or
  - c. That the grievance is sustained, and the Respondent should be:
    1. Censured;
    2. Suspended from AAOS for a stated period of time; or
    3. Expelled from AAOS.

In the event the majority vote does not sustain the grievance, the Hearing Panel's recommendation will be that the Respondent is not found to have violated the Standards of Professionalism.

9. The Hearing Panel may delay the vote to allow time to consider the official transcript of the hearing.
10. Within sixty (60) days from the conclusion of the hearing, the Hearing Panel shall issue its written recommendation. This recommendation will specify the material on which the Panel relied in making its determination.

11. A copy of the Hearing Panel's recommendation will be sent to the Grievant, Respondent, and Office of the General Counsel at the time it is issued.
12. The Grievant may file an appeal of the Hearing Panel's recommendation. Such an appeal must be submitted to the Office of the General Counsel within fifteen (15) days of the notification of the Hearing Panel's recommendations. In such case, the Grievant shall be responsible for paying all the AAOS' direct costs in conducting the appeal and all of the Respondent's direct costs, up to a maximum of three thousand dollars (\$3,000), if the ultimate decision of the appeal is the same or substantially similar to the Hearing Panel's recommendation. The Grievant shall be obligated to pay five thousand dollars (\$5,000), which shall be held in an interest-bearing account, in advance of the appeals hearing.
13. The Respondent may file an appeal of the Hearing Panel's recommendation. Such an appeal must be submitted to the Office of the General Counsel within fifteen (15) days of the notification of the Hearing Panel's recommendations. This request must be submitted to the Office of General Counsel.

**E. Referral to the Judiciary Committee for Consideration of Hearing Panel's Recommendation**

1. The Judiciary Committee shall be composed of five members appointed by the Board of Directors who have been trained to evaluate and adjudicate appeals of matters of alleged violations of the Standards of Professionalism. At its discretion, the Board of Directors may appoint additional members to the Judiciary Committee.

The AAOS Board of Directors will utilize the Committee Appointment Program (CAP) process to identify volunteers for the Judiciary Committee. The "one member-one committee" rule shall not apply to the Judiciary Committee, and members of the Board of Councilors, COMSS, Membership Committee, Ethics Committee and Professional Liability Committee will be especially encouraged to apply. Orthopaedic Surgeons holding a JD degree will be encouraged to apply.

2. For each appeal received by AAOS, the Office of General Counsel will canvass the members of the Judiciary Committee to determine whether there exists any real or perceived conflict of interest between a committee member and the Grievant and/or Respondent. No Committee member may participate in a case that involves a Fellow or Member with whom that individual is in partnership or in direct economic competition. A standing committee of the Chair of the Judiciary Committee, President, First Vice President, Second Vice President,

and the General Counsel shall review and determine questions of conflicts of interest, if necessary.

3. Within thirty (30) days of receipt of the request for appeal, the Grievant and Respondent will be sent the names of the Judiciary Committee members. The Grievant and Respondent will be notified that, within thirty (30) days of receipt of this notice, he or she may challenge any of the Judiciary Committee members for cause. Challenges for cause will be arbitrated by the standing committee of the Chair of the Judiciary Committee, President, First Vice President, Second Vice President, and the General Counsel.
4. Any member of the Judiciary Committee who participated in the grievance process, as a member of the Hearing Panel or in any other capacity, shall not participate in this process or vote on the matter. Only Judiciary Committee members who attend the full appeals hearing may participate in the deliberations or recommendations.
5. The Judiciary Committee members may not discuss the specifics of the case with any non-participant, with the exception of the General Counsel, and may consider only evidence and testimony introduced in conjunction with the grievance process. However, Judiciary Committee members may rely upon their own expertise and experience as orthopaedic surgeons in evaluating written material, oral testimony, or issues raised.
6. The Grievant and Respondent will be given at least thirty (30) days prior notice of the hearing date and location of the Judiciary Committee hearing at which the recommendation of the Hearing Panel will be considered. The hearing will be held, if possible, within sixty (60) days from the date of notice at a location designated by the Judiciary Committee.
7. The Grievant and the Respondent shall be responsible for his or her own travel and related costs as well as the costs of any personal representatives involved or any witness that he or she may call or any evidence produced. AAOS shall bear the costs of the Judiciary Committee and all related hearing costs.
8. The Chair of the Judiciary Committee will conduct the hearing, with the assistance of the General Counsel. Formal rules of evidence or law will not apply to the hearing. The Grievant and Respondent may be represented by counsel. The appeals hearing will be closed to guests and observers. No new evidence or information shall be presented to the Judiciary Committee. The hearing will be officially recorded by a court reporter, but no other recording devices are permitted. The Grievant and Respondent may request copies of the official transcript and must reimburse AAOS for any costs associated with providing copies of the official transcript.

9. The Grievant and Respondent shall have an opportunity to make any statement, either oral or written, he or she desires before the Judiciary Committee takes action on the Hearing Panel's recommendation. The Grievant and Respondent will be given ten (10) minutes each to make a statement to the Judiciary Committee.
10. Following the appeal hearing, the, the Judiciary Committee and General Counsel shall meet in executive session and shall, by majority vote, determine whether to recommend sustaining, altering or dismissing the Hearing Panel's recommendation.
11. The Judiciary Committee may delay the vote to allow time to consider the official transcript of the hearing.
12. The Judiciary Committee may recommend changing the Hearing Panel's recommendation based solely on the clear weight of the evidence or on the lack of due process.
13. In the event the Judiciary Committee does not sustain the Hearing Panel's recommendation, the Judiciary Committee shall, by majority vote, determine which of the following alternative findings should be recommended:
  - a. That the Grievance is not sustained, and that no further action should be taken;
  - b. That the Grievance is not sustained and that a Letter of Concern, which does not constitute a formal professional compliance action, describing the Judiciary Committee's concerns with the behavior be sent to the Respondent, with a notification to the Grievant that the Letter has been sent but not its specific contents; or
  - c. That the Grievance is sustained, and the Respondent should be:
    1. Censured;
    2. Suspended from AAOS for a stated period of time; or
    3. Expelled from AAOS.
14. Within thirty (30) days from the conclusion of the hearing, the Judiciary Committee shall issue its written recommendation. This recommendation will specify the material on which the Committee relied in making its determination.
15. The Judiciary Committee's written recommendation will be sent to the Grievant, the Respondent, and the Office of General Counsel.

**F. Decision of the Board of Directors**

1. The Board of Directors shall determine all recommendations received from the Hearing Panel and from the Judiciary Committee at the next scheduled meeting of the Board. The decision of the Board of Directors, conducted by secret ballot, shall be based on the record, the written recommendation of the Hearing Panel and the written recommendation of the Judiciary Committee. No new information may be introduced to the Board of Directors.
2. If possible, the AAOS shall give a notice to the Grievant and Respondent at least thirty (30) days prior to the meeting of the Board of Directors at which this matter will be considered.
3. The Grievant or Respondent shall notify AAOS within fifteen (15) days of the meeting of the Board whether he or she, or a representative, will appear in writing or in person before the Board of Directors, at his or her own expense, but only if the Grievant or Respondent had pursued an appeal to the Judiciary Committee. If appearing in person or by representative, the Grievant or Respondent will be given a maximum of ten (10) minutes for his or her presentation. This presentation should be focused on why the Grievant or Respondent believes that the Judiciary Committee's recommendation was incorrect.
4. Representatives of the Committee on Professionalism and the Judiciary Committee shall be present at the meeting of the Board of Directors to present their recommendations.
5. The Board of Directors, by a two-thirds secret ballot vote, shall:
  - a. Accept the recommendation of the Hearing Panel and the Judiciary Committee, if the recommendations are the same;
  - b. Reject the recommendation of the Hearing Panel and the Judiciary Committee, if the recommendations are the same;
  - c. Accept the recommendation of the Hearing Panel and the Judiciary Committee, if the recommendations are the same but reduce the suggested professional compliance action imposed;
  - d. Accept the recommendation of the Hearing Panel, but not the Judiciary Committee, if the recommendations are not the same;
  - e. Accept the recommendation of the Judiciary Committee, but not the Hearing Panel, if the recommendations are not the same; or
  - f. Take other appropriate action, based solely on the materials provided.
6. If the Board of Directors determines not to take professional compliance action against the Respondent, it may still send a Letter of Concern to him or her, describing the Board of Directors' concerns with the behavior that was the

subject of the professional compliance matter. This Letter of Concern shall not be considered an official professional compliance action.

7. The decision of the Board of Directors shall become effective immediately and will not be subject to further review or consideration.
8. The Grievant and Respondent shall be notified of the Board of Directors' action within ten (10) days of the decision.

**G. Reapplication for Fellowship**

1. In the event the Respondent is suspended or expelled, the Board of Directors will make the determination on when that Fellow or Member may reapply on a case-by-case basis.
2. A suspension shall cause the Fellow or Member to lose the benefits of Fellowship or Membership for a specific period of time as determined by the Board of Directors after which the individual may be fully reinstated upon the request of the individual, provided he or she pays all past dues, fees or special assessments owing upon reinstatement. Suspension shall be for such term as the Board determines is necessary to ensure modification of behavior. {Association Bylaws 8.1.b}
3. An expulsion shall cause the Fellow or Member to be removed from the rolls of the Association. An expelled Fellow or Member shall not be entitled to any of the benefits of Fellowship or Membership. The Association shall not accept a reapplication for Fellowship or Membership from an expelled Fellow or Member until a prescribed period, as the Board shall determine, has elapsed from the date the individual was notified of the Board's action. {Association Bylaws 8.1.c}