



National Association for
College Admission Counseling

Individual Member Disciplinary Policy and Procedures

*Approved by the NACAC Board of Directors
February 2014*

I. Background and Purpose

A. History and Purpose

Ethical college admission is the cornerstone of the National Association for College Admission Counseling (NACAC). Since its founding in 1937, NACAC has striven to ensure principled conduct among professionals in the recruitment of students and the transition to postsecondary education.

NACAC's code of conduct is known as the Statement of Principles of Good Practice (SPGP). NACAC adds principles to the SPGP cumulatively, as ethical issues arise. Traditionally, the SPGP has focused on the activities of member colleges, universities and other educational organizations involved in the recruitment process and the transition of students to postsecondary education.

In more recent years, however, the application and recruitment process has become increasingly influenced by marketplace forces that raise new and complex ethical questions. Notably, the behaviors of individual college education consultants/counselors and college admission and enrollment professionals have begun to play a greater role in college recruitment and student transition to postsecondary education. These individuals may be employed by an institution or organization or work independently. As a result of the growing role of individuals in these processes, it is imperative for NACAC to create and maintain a policy that addresses expectations for the ethical treatment of students or inappropriate behaviors by individual counselors or admission professionals. Creating a disciplinary policy and set of procedures provides protocols to address the activities of individual members of NACAC who fail to meet expectations as outlined in our NACAC Bylaws.

NACAC recognizes the distinction between the current SPGP process where the member institution is held accountable for violations of the SPGP and the growing awareness and need for a disciplinary process for individuals due to legal or good cause concerns.

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B. Statement of Principles of Good Practice (SPGP)

The SPGP has focused on the compliance of the “institution” and the principle representative with the SPGP rather than the “individual” member’s compliance. The Statement of Principles of Good Practices (SPGP) consists of the following sections:

- I. Introduction
- II. Core Values
- III. Member Conventions
- IV. Mandatory Practices
 - a. All Members
 - b. Postsecondary Members
 - c. Counseling Members (secondary school counselors, independent counselors and organizations engaged in counseling)
- V. Interpretations of Mandatory Practices
- VI. Best Practices

The sections of the SPGP that are for All Members apply to all NACAC members, including individuals within NACAC member institutions and members of organizations who are not affiliated with a college, university or other educational institution. All must abide by the statements within the SPGP.

C. Applicability of Policy

The proposed Individual Member Disciplinary Policy and Procedures would apply only to individual members of NACAC, where individual actions may be viewed as inappropriate, illegal, unprofessional, etc. Institutional members, such as those employed by secondary or postsecondary institutions, are bound by the disciplinary process set forth in the SPGP and the SPGP: Education, Monitoring Procedures and Penalties.

II. Responsible NACAC Bodies

A. Board of Directors’ Authority

Article V, Discipline, of the NACAC Bylaws provides:

Any member of the association may be censured, suspended or expelled by the Board of Directors with an affirmative vote equal to two-thirds (2/3) of the entire Board of Directors for failure to comply with the provisions of these Bylaws, the Statement of Principles of Good Practice, association policies, or for other good cause. Any member proposed for discipline shall be provided due process in accordance with policies and procedures approved by the Board of Directors.

Thus, the NACAC Bylaws empower the Board of Directors to censure, suspend or expel a member, provided:

- (1) the board does so by a 2/3rds vote of the entire board;
- (2) the board finds that the member failed to comply with the NACAC Bylaws, the SPGP, NACAC policies or for any other “good cause;” and

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(3) the member is provided due process in accordance with approved policies and procedures.

B. *Committee on Individual Member Discipline*

The Board of Directors will not receive or review the original complaint against an individual member. Nonetheless, the Board of Directors has established a Committee on Individual Member Discipline to serve as an advisory committee, to receive any complaints concerning the actions of individual members and to make recommendations on such complaints to the Board of Directors. This committee would be named and serve at the request of the Board of Directors.

1. The Committee on Individual Member Discipline is an advisory committee composed of at least three but not more than seven NACAC members appointed by the Executive Committee to review complaints made against individual NACAC members and to make recommendations to the board with respect to such complaints.
2. These individuals will be recommended from the pool of former NACAC leaders or current members, including former members of the Board of Directors, affiliate boards and members of the national Admission Practices Committee.
3. The recommendations to the board from this committee will be determined by a majority vote of the entire committee.
4. This committee will make a recommendation for action (dismiss complaint or take action to censure, suspend or expel) on any individual member to the Board of Directors.
5. The NACAC Conflict of Interest Policy applies to the members of this committee. Each member of this committee must disclose or acknowledge any conflict of interest with respect to any complaint or individual under consideration prior to participating in any committee activities with respect to a complaint or an individual.

III. Grounds for Complaint

A. *Appropriate Grounds for Complaint*

In order for a complaint to be heard by the committee and the board, the complaint must allege the individual member's failure to comply with the NACAC Bylaws, the SPGP or NACAC policies. A complaint may also request that action be taken against an Individual Member for "any good cause."

1. Violation of SPGP or NACAC Bylaws or Other Policies or Procedures.

If a complainant wishes to file a complaint against an individual NACAC member for that member's failure to abide by the SPGP, NACAC Bylaws or any other NACAC policy or procedure, the complaint must refer to the specific provision of the SPGP, Bylaws, policy or procedure that the member has violated, describe any relevant facts regarding such violation and attach any supporting documentation. SPGP complaints regarding institutional compliance are managed by the Admission Practices Committee, with recommendations for discipline advanced to the Board of Directors from this body.

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2. “Good Cause.”

If a complainant requests that action be taken against an individual member for “good cause,” the complaint must describe, in detail, the facts of the particular situation and provide an explanation why such facts provide a basis for disciplinary action against the individual member. “Good cause” may include, for example, clearly recognizable offensive or bad behavior such as illegal or grossly immoral public conduct, conviction of a crime, fraud or willful and wanton misconduct. “Good cause” includes personal conduct that is adverse to the best interests and purposes of NACAC.

B. Inappropriate Grounds for Complaint

NACAC’s complaint process described in this policy is not a substitute for legal action or suit. NACAC’s complaint process is not intended to be used for resolving business disputes between complainants and NACAC individual members.

IV. Filing a Complaint

A. Who May File a Complaint/ Who May Be the Subject of a Complaint?

1. Any member may file a complaint against an individual member of NACAC on an approved NACAC Confidential Complaint Form or in a format containing the required information set forth in this policy. The chief executive officer will receive and advance all complaints to the Individual Member Discipline Committee as set forth in this policy.
2. NACAC’s chief executive officer shall promptly acknowledge receipt of all complaints. If the complaint does not contain all of the required information, the chief executive officer (or designated staff member) shall advise the person making the complaint that further information must be provided before any further action can be taken, and shall specify what further information is required. Any complaint that fails to meet the requirements of this policy will not be considered.

B. Contents of a Complaint

1. All complaints must be in writing and signed by the person making the complaint.
2. All complaints must contain the name and address of the individual member complained against, a description of the conduct complained of, and references to the specific provisions of the SPGP, NACAC Bylaws, or NACAC policies or “good cause rationale” involved in the complaint.
3. In addition, the complaint must include all pertinent documentation that substantiates the complaint.
4. All complaints must be signed by the complainant and the complainant must affirm that the facts stated in the complaint are true and accurate to the best of the complainant’s knowledge and belief.
5. The complaint must also contain the complainant’s consent for NACAC’s disclosure

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of the complaint to the individual member complained against, the members of the Committee on Individual Member Discipline, and NACAC directors, officers or appropriate staff.

C. *Decision Not to Consider a Complaint*

The NACAC chief executive officer and the chair of the Committee on Individual Member Discipline may determine, in their sole discretion, not to send the complaint to the full committee if the complaint:

- (1) fails to state grounds upon which the committee may recommend action; or
- (2) is beyond the scope or authority of the committee.

If the complaint involves business-related disputes, the complaint will not be considered by the committee. After the business practice issues or disputes have been resolved, the complainant may file a new complaint with NACAC. If the complaint is not sent to the full committee for the reasons set forth above, the chief executive officer shall inform the complainant in writing of such fact and the reasons why the full committee will not consider the complaint.

D. *Domain of Confidentiality*

NACAC shall keep confidential all records, documents, files, and evidence pertaining to a complaint, and proceedings will be closed to the public, except as may be necessary for compliance with these complaint procedures, to take ancillary action with respect thereto, or unless ordered otherwise by a court or agency of competent jurisdiction. Any party filing a complaint must agree in writing not to disclose all or part of any record, document, file, evidence, the recommendation of the committee, or any decision of the board as well as to indemnify and hold harmless NACAC from any claim or action that may result from such improper disclosure. Furthermore, any individual NACAC member violating these confidentiality provisions shall be subject to sanctions under this policy.

V. Processing of the Complaint or Appeal

A. *Notification of Member of Complaint and Member Response*

Once a complaint is accepted for processing, NACAC will send communications by certified mail, overnight express courier, electronically, or hand delivery to the committee. The chief executive officer shall forward a copy of the complaint to the individual member complained against, along with a copy of this policy, and request that the member respond to the complaint in writing within thirty (30) days from the receipt date of the letter of notification sent by certified mail and to include supporting documentation or evidence with the response. A copy of any response received shall be forwarded to the complainant.

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B. Complaint/Response Submitted to Committee for Recommendation to the Board

1. When the thirty-day (30) period has elapsed, the chief executive officer shall forward the complaint, the response and any documents submitted to the Committee on Individual Member Discipline.
2. The committee may reach a recommendation based on the complaint, the response, or any submitted documents or may ask the chief executive officer to authorize the exploration of additional information.
3. The committee may also grant an opportunity for the complainant and the individual member complained of to be heard either in person, through legal counsel or in a format agreed to by all parties. A majority of the committee will be required to hold a hearing.
4. If the committee determines there are disputed issues of fact that are material to its decision, it may grant any party an opportunity to present relevant information, including documents and witnesses, and an opportunity to cross-examine the witnesses called by any party. The committee will strive to protect each person's rights in this confidential process.
5. The committee shall be the judge of the relevance and materiality of any information offered, and conformity to legal rules of evidence shall not be necessary.
6. NACAC will cover any expenses for committee members to participate in a required meeting. A hearing may be conducted in-person, by conference call or through Internet use (Skype).

C. Recommendation of the Committee

1. The committee shall thereafter prepare a written recommendation containing its findings of fact and conclusions to the Board of Directors.
2. The committee may recommend the issuance of a cautionary letter, warning or statement of advice to the individual member. Alternatively, the committee may recommend that the individual member be expelled or suspended from NACAC or be censured.
3. No committee recommendation shall become effective unless it is sustained by the Board of Directors in accordance with the NACAC Bylaws, which requires a two-thirds (2/3) affirmative vote of the Board of Directors at a meeting at which a quorum is present.

D. Notification of All Parties of Committee's Recommendation

The Board of Directors shall inform all parties as to the status of the complaint within ninety (90) days after it is received from the committee and the chief executive officer. The board may use electronic, certified or regular mail to disseminate the outcomes of the complaint.

If a hearing is scheduled, the committee shall render its recommendation to the board within sixty (60) days after the hearing is completed.

Notwithstanding the above, the committee may suspend the processing of the complaint pending the outcome of any related administrative, civil or criminal proceedings, or for any other reason deemed appropriate by the committee to ensure fairness or due process for all parties.

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1. The chief executive officer shall promptly send a copy of the recommended actions based on recommendations from the Individual Member Discipline Committee to the Board of Directors. The board will deliberate on recommendations via a face to face meeting or conference call where discussion can occur.
2. The actions to be taken will be sent to the complainant and the individual member complained against.

E. Appeal

1. If a party wishes to appeal the committee's recommendation, such appeal must be filed in writing to the chief executive officer within thirty (30) days from the date of the letter notifying all parties of the committee's action.
2. The appeal must specify the grounds upon which the party contends the committee's recommendation is erroneous and should be revised.
3. If an appeal is received within the thirty-day (30) period, the chief executive officer shall forward it to the other parties to the proceeding.
4. Any party to the proceeding desiring to respond to the appeal must do so within fifteen (15) days from the date of the letter of notification that an appeal has been made.
5. When the fifteen-day (15) period has elapsed, the chief executive officer shall forward to the Board of Directors the complaint, the response, the committee's recommendation, the appeal, any response to the appeal and all submitted documentation.

F. Final Board Decision

The Board of Directors may decide the matter on the basis of the documents submitted to it as set forth in this policy, or may grant a request for oral argument to be made by any party, in person or through their attorney. The board may affirm, reverse, modify, or return the decision to the committee for further review with specific reasons therefor. The chief executive officer shall promptly send a copy of the final decision of the board to the complainant and the individual member complained against.

G. Resignation of Individual Member

If the individual member resigns during the complaint or appeal process, NACAC shall suspend deliberations and maintain all documentation regarding the complaint and will resume the processing of the complaint if the former individual member wishes to re-join NACAC as a new member.

H. Record Retention

All records regarding a complaint, the committee's recommendation and the board's decision shall be maintained indefinitely in a confidential file.

I. Reapplication for Membership

A member whose membership has been revoked may apply to the Board of Directors for reinstatement no earlier than one year after the date of the board's decision regarding revocation, if they have addressed the issues from the original complaint.

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J. Costs

Each party shall bear his or her own costs and expenses with respect to any aspect of the proceedings, unless otherwise determined by the committee or the Board of Directors.