

AFTE Procedures for the Enforcement of the Code of Ethics

I. Enforcement

- A. The AFTE Procedures for the Enforcement of the Code of Ethics are not punitive in nature. The purposes to be served by enforcement of the Code of Ethics are as follows:
 - 1. To educate both the individual accused and the membership in general of the ethics of the profession and the importance of ethical behavior.
 - 2. To advise the criminal justice system of those individuals who engage in serious unethical activity, in order to promote the ends of justice.
 - 3. To protect the reputation of the Association from those members who may engage in unethical activity.

- B. In every consideration of a charge of ethical misconduct the distinction must be made between unethical behavior and an honest difference of opinion.
 - 1. It is not unethical to disagree with one's peers, even if one's peers are more experienced, provided there is an adequate basis for the opinion. It may be unethical to express an opinion for which one does not have an adequate basis because:
 - a. The individual is not competent to express such an opinion because of a lack of proper education, training or experience, or;
 - b. The individual has not acquired the data necessary to justify the conclusion, or;
 - c. The individual is basing his or her opinion on improper or discredited data.

II. Sanctions Imposed for Ethical Violations

- A. The sanctions which may be imposed by the Association for violation of the Code of Ethics are as follows:
 - 1. Private reproof. The Accused is privately admonished for the violation. The general membership will not be advised of the identity of the Accused. This reproof may be imposed at any time prior to the issue being considered by the General Membership of the Association.
 - 2. Censure. The Accused is publicly censured. This sanction can be imposed by either the Board of Directors or by the General Membership of the Association.
 - 3. Expulsion. The individual is expelled from the Association and publicly censured. This sanction can be imposed by either the Board of Directors or by the General Membership of the Association.

- B. It shall be considered proper for any member to inform any interested person of a sanction of censure or expulsion imposed upon any member. It shall not be proper to divulge the fact that a member has been privately reproofed except to:
 - 1. A member of the Board of Directors
 - 2. A member of the Ethics Committee
 - 3. The reproofed member
 - 4. Insure compliance if legally compelled to make such a disclosure.

- C. By holding membership in the organization, a member is deemed to have acquiesced to:

1. The By-Laws of the Association
2. The Code of Ethics
3. The AFTE Procedures for the Enforcement of the Code of Ethics
4. Any duly approved amendments thereto.

D. It may be deemed proper for the continuation of an investigation involving a resigned member if the President prior to that member's resignation received the Complaint initiating the investigation, and for the Board of Directors to act on the recommendation of the Ethics Committee regardless of any such resignation, depending on the circumstances involved.

III. Considerations Determining the Proper Sanction to be Imposed

- A. The sanction to be imposed upon a member for an ethical violation will be determined based upon the following factors:
1. Whether an injustice in the criminal justice system has resulted from such unethical behavior
 2. Whether an injustice in the criminal justice system would likely have resulted from such unethical behavior. It shall not be a defense that no injustice actually did occur in the specific case, if an injustice was likely to have occurred
 3. Whether the individual had previously been disciplined for ethical violations by this or a similar association
 4. Whether the conduct exhibited a flagrant disregard for ethical considerations or was merely an exercise of bad judgment
 5. Whether the conduct was an isolated incident or was part of a pattern of continuing unethical conduct
 6. Whether the Accused recognizes the ethical violation and expresses regret and remorse for his/her conduct
 7. Whether the Accused has been honest and open with the Ethics Committee in its investigation.

IV. Procedure for Ethics Investigation

- A. General Provisions
1. Communications
 - a. Unless specifically set forth in these Procedures, service of documents and communications may be made by any trackable form of communication
 - b. Members of the Ethics Committee and/or the Board of Directors are encouraged to utilize the AFTE Web Site for secure committee communication
 2. Document Retention and Control
 - a. All documents, notes and/or any other material that relate to an ethics complaint will be maintained in an 'Ethics File'.
 - b. Upon the final resolution of any ethics complaint, the Ethics File will be maintained in such a way as to ensure confidentiality.
 - c. Upon the final resolution of any ethics complaint, any member of the Association who was involved in the investigation in an official capacity must submit

documentation stating that all written and electronic documents and records that were in their possession as part of the ethics investigation have been destroyed. This documentation will be included in the Ethics File.

3. All Association members are required to cooperate fully and in a timely fashion with the ethics process, including any requests made by members of the Ethics Committee and/or members of the Board of Directors, acting in their official capacity.
4. All members involved in the ethics process must at all times remain fair, impartial and objective, and must at all times act in furtherance of giving the Accused a fair hearing.
5. All members involved in the ethics process must avoid actual conflicts of interest and should attempt to avoid perceived conflicts of interest as well.
 - a. In a timely manner, the Accused shall communicate any objections based upon bias or conflicts of interest relative to any member of:
 - i. The Ethics Committee
 - ii. The Board of Directors
 - b. The President, in his or her sole discretion, shall rule on any such objections and advise the Complainant in writing (by certified mail--return receipt requested) of his or her decision.
 - c. If the President determines that there exists any actual or potential bias or conflicts of interest, he or she shall replace the member at issue pursuant to the provisions of the Bylaws and these Procedures.
 - d. Any newly appointed interim member of the Ethics Committee or the Board of Directors shall immediately be provided with all material previously provided to the other members of the Ethics Committee or the Board of Directors, as appropriate, relating to the investigation at issue.
 - e. If the President is the subject of the ethics complaint, the bylaws procedures covering the incapacitation of the President shall be followed for the purposes and duration of the Ethics investigation.
6. Any requests for an extension or continuance relative to the proceedings set forth in these Procedures shall be directed to the President. Any such requests shall be based upon good cause under the circumstances. The President shall, at his or her sole discretion, grant or deny any such requests in the interests of fairness to all parties considering the totality of the circumstances.

B. The Ethics Committee

1. An Ethics Committee composed of three (3) regular members shall be appointed by the President
2. None of the members of the Board of Directors shall serve on the Ethics Committee
3. Each member of the Ethics Committee shall serve for a period of three (3) years, their terms being staggered
 - a. The most senior member of the Committee assumes the Post of Chair in the last year of this three (3) year term.
 - b. If a member's term on the Ethics Committee ends while the Committee is investigating one or more ethical Complaints, that member shall remain on the Committee for the duration of the investigation of any such ethical Complaints,

but shall not be involved in the investigation of any ethical Complaints received by the Chair after the expiration of his or her term.

- c. Newly appointed members shall not take part in the investigation of any ethical Complaints already pending at the time of their appointment.
4. In the event of the death, incapacitation, or resignation of a member of the Ethics Committee, the President shall appoint a member to serve the remainder of the term. If the member is the Chair of the Ethics Committee, the next most senior member of the Ethics Committee will be appointed Chair by the President to serve the remainder of the term.
5. In the event a member of the Ethics Committee is recused or is otherwise unable to fulfill his or her obligations with respect to a particular ethical Complaint, the President will thereafter appoint an interim member to serve on the Committee for the investigation of that ethical Complaint only. If the member at issue is the Chair of the Ethics Committee, the President shall appoint either a past Chair of the Ethics Committee or a past President to serve as interim Chair of the Ethics Committee for the investigation of that ethical Complaint only.
6. Determination of the manner of investigation and of investigative assignments within the Ethics Committee shall be the responsibility of the Chair.
7. It is desirable to have geographic distribution of the members of the Ethics Committee.

C. Initiation of the Investigation

1. A complaint of ethical violation must be submitted in writing to the President no later than ninety (90) days after the Complainant discovers that the ethical violation has occurred.
2. A Complaint of ethical violation must be submitted in writing to the President.
 - a. A Complaint sent to an officer or member other than the President shall be forwarded within 15 days to the President and shall not be officially deemed received by the Association until the President receives it.
 - b. The President shall forward the Complaint within 15 days to the Chair of the Ethics Committee for evaluation.
 - c. If the President is unable to forward the Complaint to the Chair of the Ethics Committee within the 15 day time period, the President must document in writing why the forwarding of the Complaint was delayed.
3. A Complaint, while it need not be in any particular format, must contain the following:
 - a. It must refer to facts and circumstances as specifically as possible;
 - b. If the Complainant is an AFTE member, the Complaint must refer to the section or wording of the AFTE Code of Ethics which has been allegedly violated (as interpreted by the Complainant);
 - c. His or her reasons for concluding that a violation was committed; and
 - d. Any supporting documents should be attached.
4. The evaluation of the Complaint and investigation of the alleged ethical violation(s) shall be conducted according to the guidelines and within the timetables set forth in these Procedures.

D. Initial Evaluation of Complaint(s)

1. It shall be proper for the Chair of the Ethics Committee to contact the Complainant in order to clarify a Complaint.
2. Within forty-five (45) days the Chair must forward to the President his or her opinion as to whether:
 - a. The Complaint does not constitute a potential ethical violation;
 - b. The Complaint constitutes a potential ethical violation; or
 - c. Request a forty-five (45) day extension in writing from the President.
3. If a Complaint does not, in the Chair's opinion, constitute a potential ethical violation he or she may discontinue its further consideration, provided that he or she first obtains the written concurrence of the President and the First Vice President. In such cases, the President shall, within thirty (30) days of approval of the discontinuation, forward to the Complainant and the Accused a Notice of Discontinuation (by US Registered Mail - Restricted Delivery - return receipt requested) stating the reasons for such discontinuation.
 - a. Within fifteen (15) days of receipt of the Notice of Discontinuation, the Complainant may send to the President a written, signed Request for Reconsideration of the decision to discontinue the ethics proceedings. Reconsideration of the Complaint shall be completed within ninety (90) days following receipt of the Request for Reconsideration. The following procedures shall be followed during this ninety (90) day period.
 - i. The President shall forward the Complaint, the Notice of Discontinuation and the Request for Reconsideration to the Board of Directors for their review and evaluation. If the President deems it necessary, he or she may also convene the Board of Directors for purposes of discussing this material in any such manner as deemed appropriate under the circumstances.
 - ii. Members of the Board of Directors must vote on the Request for Reconsideration by responding (in a trackable method) to the President. If two-thirds of the total membership of the Board of Directors, excluding the President and the First Vice President, vote to overrule the Notice of Discontinuation, the Complaint shall be forwarded to the Ethics Committee for investigation. A vote of less than two-thirds of the total Board of Directors' membership, excluding the President and the First Vice President, is a denial of the Request for Reconsideration
 - iii. The President shall advise the Complainant and Accused in writing (by US Registered Mail - Restricted Delivery - return receipt requested) of the Board of Directors' decision. A copy of the decision shall be sent to the Ethics Committee members. There shall be no right of appeal by any person whomsoever from this decision.
4. If a Complaint does, in the Chair's opinion, constitute a POTENTIAL ethical violation he or she will, provided that he or she first obtains the written concurrence of the President and the First Vice President, inform the accused in writing (by US Registered Mail - Restricted Delivery - return receipt requested) of the Complaint made and the initial opinion of the Chair.
 - a. If the Accused recognizes and agrees that the Complaint is valid, a private reproof may be granted if the accused takes action to remedy the violation. The

Chair will give this reproof after he or she first obtains the written concurrence of the President and the First Vice President. The Accused may then be privately admonished for the violation. The general membership and the public will not be advised of the identity of the Accused. This will bring this Complaint to a close. There shall be no right of appeal by the Complainant from this decision.

- b. If the Accused does not agree with the validity of the Complaint; or if there is lack of agreement between the Chair, the President and the First Vice President; or the Complaint is of such a nature that an investigation is warranted, the Complaint will be referred to the entire Ethics Committee for Investigation.
5. If the Chair feels that more time is required to render an opinion, he or she may request from the President, an additional period of forty-five (45) days in which to render an opinion. Only one (1) extension may be granted.

E. Referral to the Ethics Committee

1. A "Notice of Referral" will be prepared for distribution by the Chair and sent to the Accused within fifteen (15) days (by US Registered Mail - Restricted Delivery - return receipt requested), with a copy to the Complainant, the President and the other Ethics Committee members, in the event that:
 - a. A Complaint, in the Chair's opinion, constitutes a potential ethical violation; or
 - b. The Board of Directors grants a Request for Reconsideration.
 - c. The "Notice of Referral" need not be in any particular format, but shall contain the following:
 - i. The entire Complaint and all accompanying material;
 - ii. An indication that the Complaint is under "investigation" by the Ethics Committee;
 - iii. The apparent Ethics Code section(s) involved;
 - iv. An invitation to the Accused to provide the Ethics Committee with any written statement or other documentation which the Accused might deem appropriate;
 - v. A clear statement informing the Accused that a Response to the Complaint must be served within thirty (30) days of receipt of the Notice of Referral by the Accused;
 - vi. A clear statement informing the Accused that the Ethics Committee shall conclude its investigation and forward a Report of Investigation to the President within one hundred and eighty (180) days of the receipt of the Notice of Referral by the Accused.
 - vii. The Accused shall also be sent a copy of the AFTE Code of Ethics, these Procedures and a flow chart illustrating the enforcement process (See Appendix 1).
2. The Accused shall have ninety (90) days from the receipt of a Notice of Referral to provide a written Response to the Complaint to the Chairman of the Ethics Committee. The Response shall:
 - a. Thoroughly respond to all charges raised by the Complaint;
 - b. Provide any and all materials the Accused wants the Ethics Committee to consider in defense of the charges;

- c. Contain any and all specific requests of the Accused relative to the Ethics Committee's investigation; and
 - d. The Response is intended to be a complete statement of the Accused's defense, including any and all supporting material.
3. Upon receipt of the Response from the Accused, or ninety (90) days from the date of the receipt of the "Notice of Referral" by the Accused, whichever occurs first, the members of the Ethics Committee shall commence their investigation of the charges.
4. If all members of the Ethics Committee deem it necessary for the purpose of a thorough investigation, they may appoint another member of the Association who is located in close geographic proximity to the Accused to assist them in the investigation. Any such person so appointed shall have the duty to investigate on behalf of the Committee, but shall have no vote on any action taken by the Committee.
5. If two members of the Ethics Committee deem it warranted, the Committee shall request an interview with the Accused.
 - a. Such an interview should be requested for the purpose of clarification and/or possible resolution of the charges. It should not be undertaken to solicit admissions of guilt from the Accused. The interview may be conducted in any manner the Chair deems appropriate under the circumstances.
 - b. The Accused shall have no right to counsel at such an interview. If the Accused refuses to be interviewed by the Ethics Committee, no adverse inference shall be drawn from that refusal.
6. If, during its investigation, the Ethics Committee uncovers an additional incident(s), which it feels would warrant a Complaint on ethical violations, the Committee, on its own motion, shall make such a Complaint.
 - a. The Committee shall send the Accused and the President an amended Notice of Referral describing the new Complaint and all supporting documents within fifteen (15) days of the decision to issue the new Complaint.
 - b. The Ethics Committee may immediately investigate such a Complaint without awaiting response from the Accused.
 - c. All such instances of possible violations shall be consolidated into one investigation.
7. The investigation conducted by the Ethics Committee shall be impartial.
8. If two members of the Ethics Committee deem it warranted, the Committee shall obtain any additional material or contact any additional witnesses in furtherance of the investigation. The specific methods employed to obtain any such additional information shall be at the discretion of the Chair. Whenever possible, statements from persons interviewed by the Ethics Committee should be in the form of Affidavits. Supplemental statements obtained from witnesses by the Board of Directors or the Accused should also be answered through the use of Affidavits whenever possible.
 - a. The Ethics Committee shall:
 - i. Investigate all reasonable points raised by the Accused in his or her defense.
 - ii. Consider all requests by the Accused for the Ethics Committee to investigate certain matters, obtain certain documents, or contact certain witnesses.

- iii. However, if the Ethics Committee objectively determines that any request by the Accused is unreasonable, unnecessary, or cost prohibitive it shall not be obligated to comply.
 - b. While a Complaint is under investigation by the Ethics Committee, the Complaint shall not be discussed by any member of the Board of Directors or the Ethics Committee except in the fulfillment of their official duties with respect thereto.
 - c. AFTE members interviewed should refrain from discussing the nature of the interview(s) with anyone other than Ethics Committee or Board of Directors members.
 - d. When the Ethics Committee makes a request of a member, acting in its official fact-finding capacity, the member shall assist the Committee to the extent that he or she is reasonably able to do so.
 - e. The Ethics Committee shall maintain an Investigation File for each Complaint of ethical violations.
- F. Report of Investigation
 1. After completing its investigation, the Ethics Committee shall prepare a Report of Investigation for submission to the President. Preparation of the Report of Investigation shall be a collaborative effort between all members of the Ethics Committee; however, the Chair shall have primary responsibility for drafting the Report.
 2. The Report of Investigation need not be in any particular format but shall contain the following:
 - a. A summary of each purported ethical violation investigated;
 - b. A summary of the facts in support of each charge;
 - c. A summary of the facts in support of the defense of each charge;
 - d. A listing of the names of all persons contacted by the Ethics Committee (including addresses and telephone numbers);
 - e. A summary of all material considered by the Ethics Committee; and
 - f. A chronology of events such as interviews, continuances (with reason[s] why), the receipt and distribution of documents, requests made by the Accused and whether or not they were honored (with the reason[s] why), etc.
 3. The Report of Investigation shall contain a conclusion as to whether each charge is founded or unfounded, and the basis for such a conclusion. If one or more of the charges are determined by the Ethics Committee to be founded, the Report of Investigation shall also contain a recommended sanction.
 4. The Report of Investigation should be reviewed by all Ethics Committee members before submission to the President
 - a. The Report need not be unanimous; the Committee may act upon the vote of any two (2) members in determining whether the charges are founded or unfounded, or the appropriate sanction to be imposed.
 - b. If there is a dissenting member of the Committee, he or she may file a separate dissenting report.
 5. The Report of Investigation shall be signed by the Chair and sent (by US Registered Mail - Restricted Delivery - return receipt requested) to the President within one

- hundred and eighty (180) days of the receipt of the Notice of Referral by the Accused. The Report of Investigation shall include as exhibits or accompanying material, the following:
- a. Copies of the Complaint (and all material submitted in support thereof);
 - b. The Response of the Accused (and all material submitted in support thereof);
 - c. Any Affidavits obtained from witnesses; and
 - d. Any other documents, which the Chair in his or her discretion determines, should be included with and as part of the Report.
 - e. A copy of the Report of Investigation (inclusive of exhibits and accompanying material) shall concurrently be sent to the Accused (by US Registered Mail - Restricted Delivery - return receipt requested) no later than fifteen (15) days prior to the meeting of the Board of Directors.
6. Upon the conclusion of the Ethics Committee's investigation, the Investigation File containing all material compiled by the Ethics Committee during the course of their investigation shall be turned over to the President.
- G. Consideration of the Report of Investigation by the Board of Directors
1. Upon receipt, the President shall forward copies of the Report of Investigation (inclusive of exhibits and accompanying material) to each member of the Board of Directors for their review and evaluation. If the President deems it necessary, he or she may also convene the Board of Directors for purposes of discussing the material in any such manner, as he or she deems appropriate under the circumstances.
 2. The President shall make the Investigation File containing all material compiled by the Ethics Committee during the course of their investigation available to any member of the Board of Directors upon request.
 3. Within thirty (30) days of the President's receipt of the Report of Investigation (inclusive of exhibits and accompanying material), the members of the Board of Directors will evaluate the Report of Investigation and shall vote on whether there is or is not good cause for further consideration of the ethics violation(s) alleged in the Complaint.
 4. If the Board of Directors determines, by two-thirds of those available to vote, excluding the President, that there is good cause for further consideration of the ethics violation(s) alleged in the Complaint, it shall issue a Notice of Ethics Hearing, signed by the President, to the Accused (by US Registered Mail - Restricted Delivery - return receipt requested), with a copy to each of the members of the Ethics Committee.
 - a. The Notice shall specify the time, date, and place of the hearing.
 - b. The date of the Ethics Hearing shall not be sooner than 60 days from the receipt of the Notice of Ethics Hearing by the Accused.
 5. If less than two-thirds of the members of the Board of Directors, excluding the President, do not vote that there is good cause for further consideration of the ethics violation(s) alleged in the Complaint, it shall issue a Notice of Dismissal, signed by the President, to the Accused, the Complainant, and the members of the Ethics Committee, and further consideration of the alleged ethical violation(s) shall terminate forthwith. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.

H. The Ethics Hearing Before the Board of Directors

1. The Ethics Hearing shall be conducted by the President, and shall require the presence of no less than two-thirds of the entire membership of the Board of Directors, exclusive of the President who presides over the hearing and who shall not vote on the Ethics Complaint.
2. The hearing shall be coordinated with the next regularly scheduled meeting of the Board of Directors unless there are exigent circumstances requiring that the hearing be completed sooner. Issues regarding scheduling, location, and duration of the Ethics Hearing shall be left to the sole discretion of the President.
3. The Chair of the Ethics Committee shall be present at the Ethics Hearing for purposes of presenting the Ethics Committee's findings, conclusions and recommendations, as summarized in the Report of Investigation. The burden of proof lies with the Ethics Committee to substantiate the charges.
4. At any time prior to the date of the hearing, upon written request to the Chair of the Ethics Committee, the Accused shall be supplied with the following:
 - a. Copies of the names (and last known address and telephone number) of all persons contacted by the Ethics Committee during the investigation;
 - b. Copies of all documents (including affidavits or declarations) obtained by the Ethics Committee during the investigation;
 - c. A specification of the last known location of all other documents or items examined by the Ethics Committee during its investigation that have not already been provided as attachments to the Report of Investigation. Such written requests shall be honored by the Chair as soon as possible following the receipt thereof; and
 - d. Requests for discovery such as this shall be honored, in a spirit of openness and fairness, whenever practical to do so.
5. The Accused shall have the right to be represented by one (1) attorney of his or her choosing at the hearing. Questions of witnesses and statements to the Board may be made by either the Accused or his Attorney, but not by both.
6. The Accused or his or her Attorney shall present his or her defense after the Ethics Committee has completed its presentation.
7. While presenting their respective cases, the Ethics Committee and the Accused may:
 - a. Introduce evidence, call witnesses, present Affidavits, proffer arguments, give summations, and proffer any other material, documents, or presentation that is reasonable under the circumstances.
 - b. Any documentary evidence and other tangible material entered into evidence at the hearing shall be maintained by the President in a file identified as the "Record of Ethics Hearing."
8. The President, in his or her sole discretion, shall determine the format and conduct of the hearing, including without limitation, the amount of time allotted to each side for their presentation, the number and duration of recesses, rulings on objections, the nature and duration of the examination and cross-examination of witnesses, the number of witnesses permitted, etc. An AFTE legal advisor shall be made available to the President in order to explain, clarify or monitor procedures. The AFTE legal advisor shall not be a member of the Ethics Committee or the Advisory Committee.

9. The President shall be responsible for arranging for the Ethics Hearing to be recorded. If the Accused desires to have the hearing recorded by any other means, the Accused may do so at his or her own expense. The recording of the hearing, as well as any other recording secured by the Accused, shall be placed in the Record of Ethics Hearing.
 10. If the Accused waives his or her right to be present at the Ethics Hearing, the Board of Directors shall consider the Report of Investigation and any other evidence or material proffered by the Ethics Committee.
 11. The Ethics Hearing shall be divided into an Accusation Phase and a Sanction Phase.
 - a. Following the presentation of evidence, the Board of Directors shall vote, by secret ballot, as to whether each alleged ethical violation has been proved by a preponderance of the evidence. A vote of two-thirds of those members voting is required for a finding that the charges are founded.
 - b. If the Board of Directors determines that the charges are unfounded, it shall take no further action except to notify the Accused of its determination and to notify the Complainant that the matter has been dismissed. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.
 - c. If the Board of Directors determines that the charges are founded, it shall then determine the proper sanction.
 - i. Before voting on this issue, the President shall read Section III of these Procedures to the members of the Board of Directors present at the hearing in its entirety.
 - ii. The members of the Board of Directors shall first vote on whether the Accused should be expelled from the Association. A vote of three-fourths of those members voting is required to impose the sanction of expulsion.
 - iii. If the required vote for expulsion is not met, the members shall next vote on whether the Accused should be publicly censured. A vote of two-thirds of those members voting is required to impose the sanction of public censure.
 - iv. If the required vote for public censure is not met, the sanction of private reproof shall automatically be imposed.
 - v. The President shall send notice of the decision of the Board of Directors to the Accused (by certified mail-return receipt requested) within fifteen (15) days of the Ethics Hearing, with a copy to the Complainant, the Ethics Committee and the Board of Directors.
- I. Appeal to the General Membership
1. The Accused shall have the absolute right to appeal the decision of the Board of Directors to the General Membership.
 2. No one other than the Accused has the right to appeal the determination made by the Board of Directors to impose a sanction.
 3. The Accused must send a Notice of Appeal to the President within fifteen (15) days of receipt of the decision of the Board of Directors. The Notice of Appeal shall contain a complete statement of the procedural and substantive basis for the appeal, including a thorough description of all points the Accused wants the General membership to consider.

4. The appeal to the General Membership shall be conducted by the President, and shall require a quorum as defined by the Association bylaws.
5. An appeal to the General Membership will be coordinated with the next regularly scheduled business meeting, but in no event shall it be heard less than thirty-six hours after the determination by the Board of Directors. Issues regarding scheduling, location, and duration of the Ethics Hearing shall be left to the sole discretion of the President.
6. The Chair of the Ethics Committee shall be present at the Ethics Hearing for purposes of presenting the Ethics Committee's findings, conclusions and recommendations, as summarized in the Report of Investigation. The burden of proof lies with the Ethics Committee to substantiate the charges.
7. At any time prior to the date of the hearing, upon written request to the Chair of the Ethics Committee, the Accused shall be supplied with the following:
 - a. Copies of the names (and last known address and telephone number) of all persons contacted by the Ethics Committee during the investigation;
 - b. Copies of all documents (including affidavits or declarations) obtained by the Ethics Committee during the investigation;
 - c. A specification of the last known location of all other documents or items examined by the Ethics Committee during its investigation that have not already been provided as attachments to the Report of Investigation. Such written requests shall be honored by the Chair as soon as possible following the receipt thereof; and
 - d. Requests for discovery such as this shall be honored, in a spirit of openness and fairness, whenever practical to do so.
8. The Accused shall have the right to be represented by one (1) attorney of his or her choosing at the hearing. Questions of witnesses and statements to the membership may be made by either the Accused or his Attorney, but not by both.
9. The Accused or his or her Attorney shall present his or her defense after the Ethics Committee has completed its presentation.
10. While presenting their respective cases, the Ethics Committee and the Accused may:
 - a. Introduce evidence, call witnesses, present Affidavits, proffer arguments, give summations, and proffer any other material, documents, or presentation that is reasonable under the circumstances.
 - b. Any documentary evidence and other tangible material entered into evidence at the hearing shall be maintained by the President in a file identified as the "Record of Ethics Hearing."
11. The President, in his or her sole discretion, shall determine the format and conduct of the hearing, including without limitation, the amount of time allotted to each side for their presentation, the number and duration of recesses, rulings on objections, the nature and duration of the examination and cross-examination of witnesses, the number of witnesses permitted, etc. An AFTE legal advisor shall be made available to the President in order to explain, clarify or monitor procedures. The AFTE legal advisor shall not be a member of the Ethics Committee or the Advisory Committee.
12. The President shall be responsible for arranging for the Ethics Hearing to be recorded. If the Accused desires to have the hearing recorded by any other means, the Accused may do so at his or her own expense. The recording of the hearing, as well as any

- other recording secured by the Accused, shall be placed in the Record of Ethics Hearing.
13. If the Accused waives his or her right to be present at the Ethics Hearing, the membership shall consider the Report of Investigation and any other evidence or material proffered by the Ethics Committee.
 14. The Ethics Hearing shall be divided into an Accusation Phase and a Sanction Phase.
 - a. Following the presentation of evidence, the membership shall vote, by secret ballot, as to whether each alleged ethical violation has been proved by a preponderance of the evidence. A vote of three-fifths of those members voting is required for a finding that the charges are founded.
 - b. If the membership determines that the charges are unfounded, no further action shall be taken, except to notify the Accused of the membership's determination and to notify the Complainant that the matter has been dismissed. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.
 - c. If the membership determines that the charges are founded, it shall then determine the proper sanction.
 - i. Before voting on this issue, the President shall read Section III of these Procedures to the membership present at the hearing in its entirety.
 - ii. The membership shall first vote on whether the Accused should be expelled from the Association. A vote of three-fourths of those members voting is required to impose the sanction of expulsion.
 - iii. If the required vote for public censure is not met, the sanction of private reproval shall automatically be imposed.
 15. The findings and conclusions of the General Membership shall be final and non-appealable.
- J. Notification of Results to Membership.
1. Following the disposition of the case by the Board or the General Membership (in the event of an appeal) resulting in the imposition of either expulsion or a public censure, a summary of the charges and sanctions shall be prepared by the President and communicated to the membership through an official publication of the Association.