



Judicial Affairs Policy Manual

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INTRODUCTION

The purpose of the policies and procedures outlined herein is to ensure a fair, consistent and transparent judicial affairs process that protects both AAPA members and the Academy as an organization.

AAPA, by virtue of its role as the representative organization of the PA profession, is obligated to standards of excellence, and, as an organization, has committed itself to the highest professional ideals and respect for the public interest.

By choosing to affiliate with AAPA, a member, leader or a constituent organization (CO) agrees to uphold the provisions of the Academy's Bylaws and policies and demonstrate the principles and purposes for which the Academy was founded. It is expected that they will act in accordance with the law and a high standard of professional ethics.

Judicial review is reserved for transgressions of such severity that the initiation of the process and its potential outcome would be justified. This is not to discourage utilization of the process but is rather a reflection of the respect the Academy has for its responsibilities and obligations and the individuals involved. Any judicial affairs review or action must be based on objective criteria and facts. The presiding officer of any review is empowered to apply discretion in implementing these policies based on the facts of the situation and as required to preserve the fair application of the judicial affairs process.

Resources Guiding Judicial Affairs Procedures

AAPA establishes both its authority and expectations surrounding judicial affairs issues in its governing documents. The Bylaws and policies that provide a framework for this document can be found in the AAPA Policy Manual. A complete list of AAPA policies relevant to judicial affairs can be found in Appendix E.

More than providing procedural guidance, AAPA's policy -- *Guidelines for Ethical Conduct for the PA Profession* -- is a tool for understanding the ethical and professional expectations of AAPA members. It may be used as a resource in evaluating complaints relating to professional or ethical standards.

Stakeholders in AAPA Judicial Affairs Procedures

Only AAPA members or a CO are subject to AAPA judicial affairs procedures. For the purpose of this document, "member" includes any member category listed in the AAPA Bylaws, Article III, Sections 2-9, Membership.

The Board of Directors (BOD) is responsible for AAPA's judicial affairs, with some authorities delegated to the Judicial Affairs Commission (JAC), an impartial commission of 5-7 AAPA members.

Communication

All official notifications described in this manual shall be made via email with both received and read delivery receipts requested. In the event that neither is confirmed, a second round of communication will be sent via certified, return receipt-requested mail.

Financial Responsibility

When a formal complaint is filed and proceeds to a hearing, the complainant and respondent are each responsible for their own expenses generated by this procedure—including, but not limited to, fees associated with documentation, communication, travel (including witnesses' travel), and professional services. AAPA is responsible for expenses generated by AAPA staff, the Judicial Affairs Commission, or other AAPA-designated participants in implementing judicial affairs policies and procedures.

Compliance

AAPA will implement judicial affairs policies and procedures in good faith to the best of its ability. Technical, non-substantial, non-compliance with procedures are not grounds for legal action. The JAC chair (or presiding officer if not the JAC chair) has the right to grant a continuance based on good cause.

DISCIPLINARY ACTIONS WHICH DO NOT REQUIRE A HEARING

1.0 Loss of License

- 1.1 Any individual who has their PA license or temporary permit revoked as the result of a final adjudicated disciplinary action for violation of their respective professional practice statutes or regulations shall be ineligible to apply for AAPA membership during the period of that revocation.
- 1.2 In the event AAPA receives official notice of a current license revocation, the member's AAPA membership will be automatically revoked, and the member shall not have the right to a hearing pursuant to these policies. Any action other than revocation -- such as probation, resignation, surrender or suspension of a license or letters of reprimand -- does not make an individual ineligible for AAPA membership.
- 1.3 If a member is licensed in multiple states, and has a license revoked in one but not another, the JAC will consider the available facts of each case in light of AAPA policies. The JAC will determine if membership will be revoked based on the determination made by the revoking jurisdiction. The member shall not have the right to a hearing pursuant to these policies.
- 1.4 Membership revocation will be recorded as part of the individual's electronic record in the AAPA database.

2.0 Discovery of Adjudication Processes Leading to License Revocation

- 2.1 AAPA receives reports on adjudicated disciplinary actions relating to PAs from the Federation of State Medical Boards (FSMB). The JAC staff advisor identifies PAs whose license has been revoked and notifies the membership department of the automatic revocation per section 1.2. The Membership department locates the PA's record in the AAPA database and updates the membership records accordingly.
- 2.2 In the event that AAPA receives unofficial notice of license revocation, AAPA will contact the FSMB or relevant licensing agency, or use publicly available online verification services, to confirm whether an official revocation has taken place.
- 2.3 The JAC Chair will notify an AAPA member informing them that their membership has been suspended or revoked.
- 2.4 In the event of an automatic revocation of membership, the JAC staff advisor will provide a report to the JAC, AAPA President/Chair of the Board and the CEO notifying them of the memberships that have been suspended or revoked. If the member is a current Delegate, the Vice President/Speaker of the HOD will also be notified.

3.0 Criminal Indictment and Conviction

- 3.1 In the event a member is charged with a felony offense, their membership will be automatically suspended until the matter has been adjudicated in a court of law. The member shall not have the right to a hearing pursuant to these policies.
- 3.2 In the event a member has been convicted of or pleads guilty to a felony, the JAC will review the available facts in light of AAPA policies and determine if membership will be revoked based on the criminal proceeding. The member shall not have the right to a hearing pursuant to these policies.
- 3.3 AAPA may be made aware of criminal felony charge or conviction by unofficial sources. Upon receipt of such notice, staff will verify the indictment or conviction.
- 3.4 An individual whose membership was revoked under section 3.2 of this Manual may be eligible to apply for AAPA membership when the individual's PA license has been restored or the revocation has been reversed. The JAC will review the individual's request and make a determination based on the available facts including, without being limited to, the following considerations:
 - a. If the individual has completed their sentence.
 - b. If the individual has demonstrated a good faith effort to repay a debt to society and re-establish their PA practice in accordance with applicable laws and ethical standards.

4.0 Actions that Result in Marketing Restrictions and Monitoring

- 4.1 If AAPA receives official notice of a license revocation, criminal charges or criminal conviction of a non-member (who can be identified in the AAPA database), AAPA may mark their record 'excluded' to restrict marketing of certain products and services to that individual.
- 4.2 If a staff member receives communication from an individual with an 'excluded' record, they are required to consult with the JAC staff advisor to determine how to respond.
- 4.3 If AAPA is notified of anyone in the AAPA database (member or non-member) currently involved in any adjudication processes that may lead to the loss of their license or criminal charges, the JAC staff advisor may monitor the case by recording receipt of such notice in their electronic record.
- 4.4 AAPA may not use this information to deny services to members or refuse the sale of products that are unrelated to membership (i.e., CME, conference registration, etc.) to anyone.

5.0 Reversals and Reacquisition of PA Licenses

- 5.1 Upon successful re-acquisition of a PA license, or a successful legal challenge which results in reversal of revocation, an individual may apply for reinstatement of AAPA membership.
- 5.2 The individual whose membership was revoked is responsible for notifying the Judicial Affairs Commission and providing documentation that confirms they are eligible to apply for AAPA membership.
- 5.3 The Judicial Affairs Commission shall review the individual's request and supporting documentation and determine whether they qualify for AAPA membership according to existing policies and bylaws.
- 5.4 The JAC Chair shall inform the individual of the JAC's decision to reinstate or not reinstate their membership. The JAC staff advisor shall notify the Membership department should the JAC's decision result in reinstatement of membership.

ADJUDICATION OF PROCEDURES POTENTIALLY INVOLVING A JAC HEARING

Complaints may be brought forward by AAPA members or non-members. The Complainant is responsible for ensuring that charges are specific, justified and evidence based. The Respondent is obligated to follow the Judicial Affairs processes and policies presented to remedy the complaint.

6.0 Complaints Against Members

- 6.1 Complaints are only accepted against current AAPA members or participants in AAPA activities (i.e. conferences, CME events, etc.).
- 6.2 Complaints may reflect, without being limited to, any of the following kinds of violations:
 - Violations of the values and expectations articulated in HP-7026 (formerly HP-3700.1.2) *Guidelines for Ethical Conduct for the PA Profession*.
 - Breach of ethics broadly defined to include criminal or fraudulent behavior, unprofessional and/or incompetent medical practice.
 - Violations of specific Bylaws, policies or procedures as reflected in AAPA's governing documents.
 - Violations of rules or codes of conduct associated with AAPA events and activities.
 - Actual or alleged violations of law.
- 6.3 AAPA will not hear complaints that are outside the jurisdiction of AAPA or where there is a higher-authority alternative forum to hear the complaint.
- 6.4 If another forum takes an action against the member, AAPA can review the matter at that time including that the JAC may hear complaints related to the matter. Charges which include criminal or third-party (e.g., patient, employer, etc.) allegations require a final adjudicated disciplinary action by the appropriate authority (e.g., law enforcement, court, employer, etc.).

7.0 Complaints Against Elected Officials of AAPA

- 7.1 Elected officials must be members of the Academy. If an elected official has their membership revoked as a result of a loss of license, criminal indictment or conviction, or as a result of an adjudicated complaint/hearing process as described in this manual they will, as a result, be immediately expelled from office.

If an elected official has their membership suspended as a result of a criminal indictment or conviction, or as a result of an adjudicated complaint/hearing

process as described in this policy manual, their position will be immediately suspended until their membership has been reinstated or their term concludes. PAs with suspended membership may not run for an AAPA elected office.

7.2 Offices subject to complaints under this provision include:

- a. President and Chair of the Board
- b. Vice President/Speaker of the House
- c. Immediate Past President
- d. President-Elect
- e. Secretary-Treasurer
- f. Director/1st Vice Speaker of the House
- g. Director/2nd Vice Speaker of the House
- h. Director-at-Large
- i. Student Director
- j. Elected Student Academy Board Members
- k. Elected Nominating Work Group Members

7.3 In addition to violations listed in 6.2, complaints against elected officials may also relate to the responsibilities of office.

7.4 Grounds for complaints related to responsibility of office include, but are not limited to:

- a. the breach of any material duty or obligation under AAPA's Articles of Incorporation, Bylaws, BOD Code of Conduct and related obligations, or other AAPA policies;
- b. misrepresentation of AAPA to outside organizations;
- c. malfeasance or nonfeasance of duties of office;
- d. misappropriations of AAPA funds;
- e. failure to fulfill fiduciary duties;
- f. benefiting from a conflict of interest;

- g. conduct that is unbecoming of the office;
 - h. willful or reckless misconduct that causes or will cause material harm to AAPA, including to the reputation or mission of AAPA.
- 7.5 In the event a complaint is brought against the sitting President/Chair of the BOD, the duties assigned to the President/Chair of the BOD within this manual will be assigned to the President-elect.
- 7.6 The BOD may act unilaterally to investigate and discipline a Board member for charges such as those listed in section 7.4. Board procedures for such action shall be articulated in the Board Manual.
- 7.7 Disciplinary actions taken by the BOD will be reported to the chair of the JAC. BOD members who wish to appeal a BOD decision may submit a written appeal statement to the chair of the JAC within seven (7) days of receiving the BOD's decision. The JAC shall review the appeal statement, a statement by the BOD chair and all meeting records related to the BOD's discussion and subsequent action, and determine if the BOD action should be overturned, upheld or referred to a hearing panel.

8.0 Complaints against JAC Members

- 8.1 JAC members are afforded the same rights and due process as other members. Complaints against JAC members will be handled in accordance with this policy manual. Grounds for filing a complaint against a JAC member may include without being limited to:
- Breach of duty or obligation as defined in this Manual or in JAC service agreements.
 - Violating the confidentiality of a JAC case or complaint.
- 8.2 In the event that a complaint is brought against a JAC member, that member will be immediately recused from any JAC action involving the complaint and excluded from all information involving the case.
- 8.3 The President/Chair of the BOD will determine if the current Chair or other members of the JAC are able to fulfill their duties without real or perceived conflict(s) of interest.

JAC members may also recuse themselves from the proceedings at their own discretion.

If the JAC is unable to serve, the President/Chair of the BOD will charge the Governance Commission to fulfill the role of the JAC in addressing the complaint. Former members of the JAC, Governance Commission or Board of Directors may be called upon to serve on a hearing panel, if necessary.

9.0 Complaints against AAPA Constituent Organizations

9.1 An individual may file a complaint to report information regarding a constituent organization (CO) violating AAPA's Bylaws, policies, procedures or the terms of the CO's recognition or affiliation agreement. Such complaints should report only organizational or systemic violations by the CO, including actions by a CO leader who is acting on behalf of the CO. Complaints should not report the actions of an individual CO member who is not acting on behalf of, or with the authority of, the CO.

If an AAPA member believes that a CO leader(s) is in violation of their individual ethics standards, charges should be made against the individual rather than against the CO.

9.2 While the BOD has the sole authority to issue or revoke a CO agreement, the BOD has designated the Constituent Relations Work Group (CRWG) to review AAPA relationships with COs and make recommendations to the BOD. This includes examining complaints against COs.

9.3 A properly filed complaint against a CO shall be forwarded by the JAC Staff Advisor to the CRWG for adjudication. The CRWG shall process the complaint in accordance with sections 12-17 of this Manual. The CRWG Chair shall assume the same responsibilities as the JAC Chair and the CRWG shall assume the same responsibilities of the JAC when processing the complaint. A hearing panel may consist of current or former CRWG members, or current or former members of the Governance Commission.

9.4 Only complaints that meet the following requirements will be accepted by the CRWG for review:

- a. The CO must have a current AAPA affiliation or recognition agreement in place.
- b. Complaints must be filed in writing on the official AAPA Complaint Form and signed by the Complainant.
- c. The Complaint must cite the specific AAPA Bylaws, policies, and/or procedures that are alleged to have been violated and a detailed account of the facts and circumstances involving the alleged violations.
- d. The Complainant must identify themselves.

9.5 A Respondent CO's Board of Directors will be notified of an accepted complaint via email and certified mail. The Respondent CO shall appoint an official representative to speak on behalf of the CO regarding the complaint.

- 9.6 If the CRWG or hearing panel determines the Respondent CO is not guilty of all charges, it will dismiss the complaint.
- 9.7 If the CRWG or hearing panel determines the Respondent CO is guilty of any of the charges, the CRWG may recommend to the BOD one of the following disciplinary actions:
- a. Corrective Action: The BOD communicates corrective action required to ensure the CO's agreement is not revoked.
 - b. Revocation of Recognition or Affiliation Agreement: The BOD immediately revokes the CO's recognition or affiliation agreement. Corrective action and reapplication may be required to restore CO status.
- 9.8 A Respondent CO or Complainant may appeal the BOD's action or the CRWG's decision to dismiss a complaint without action.
- 9.9 A properly completed request for appeal from the Complainant or Respondent CO shall be forwarded to the JAC for review in accordance with Sections 20.1-20.7 of this Manual. The Chair of the CRWG will be notified that the JAC will review the matter and will be asked to submit a summary of CRWG actions to date, including any hearing panel transcripts, reports to the BOD or other formal actions relating to the complaint.
- 9.10 The JAC Chair shall communicate the outcome of an appeal to the BOD with a recommendation limited to:
- a. Upholding the previous finding.
 - b. An alternate or amended recommendation to the BOD.
- 9.11 Following an appeal, the decision of the BOD shall be final.

10.0 Inquiries

- 10.1 All inquiries regarding potential complaints shall be forwarded to the JAC staff advisor. The staff advisor will notify the JAC Chair and the Senior Vice President of Communications, Governance and Leadership Development of all inquiries.
- 10.2 When responding to an inquiry, the JAC staff advisor may verify if a potential Respondent is a member, elected official or JAC member.
- 10.3 All inquirers interested in bringing a complaint shall be referred to the Judicial Affairs Policy Manual and provided a link to where it is located on the AAPA website.

10.4 Complaint forms shall be received by the JAC staff advisor via email at judicialaffairs@aapa.org. The staff advisor will process the submission and deliver it to the JAC Chair.

11.0 Initial Complaint

11.1 Only complaints that meet the following requirements will be acted upon:

- a. Complaints must be filed in writing on the official AAPA Complaint Form and must be signed by the Complainant.
- b. The Complainant must describe, in detail, the known circumstances involving the alleged violation.
- c. The Complainant must identify themselves.
- d. Complaints which include criminal or third-party allegations require proof of a final adjudicated disciplinary action by an appropriate authority (e.g. law enforcement, court, employer, etc.).
- e. The Complaint Form must list the specific AAPA Bylaws, policies, procedures and/or ethical guidelines that are alleged to have been violated and a detailed account of the facts and circumstances involving the alleged violations.
- f. All known charges to be made against a member must be filed in the initial complaint.
- g. All documentation of the reported violation must be legible and specific to the reported violation.
 - 1) All documentation must be delivered electronically in PDF format. All documentation submitted by the Complainant must clearly state the source of the material.
- h. A maximum of five (5) witnesses to the alleged violation shall be listed on the form with all required information. The Complainant should inform each witness that they are being so identified.

11.2 Complaints will be confidential to the JAC Chair and appropriate staff until the above requirements are fulfilled.

11.3 An addendum to the complaint may be filed alleging additional violations if the Respondent is notified in writing of other violations thirty (30) calendar days prior to the hearing. If necessary, the Respondent may request a continuance of the hearing.

- 11.4 An incomplete form shall be returned to the Complainant. No action will be taken until the form has been properly completed and submitted. The Complainant will bear all costs associated with securing such documentation.
- 11.5 If the form is signed and meets the requirements listed in this section, it shall be submitted to the JAC Chair for further consideration.

12.0 Review and Notice of a Complaint

- 12.1 Upon receipt of a properly completed complaint form, the JAC Chair, in consultation with legal counsel, shall determine:
- a. if the complaint has sufficient detail of the alleged incident. If not, the form will be returned to the Complainant for additional information.
 - b. whether the alleged behavior demonstrates a potential violation of AAPA policy.
- 12.2 If the requirements established in 12.1 are met, the complaint will be distributed to the JAC and a meeting or conference call will be convened to consult with the Commission.
- 12.3 If the JAC decides that examination of the matter by AAPA is not warranted or is not within the authority of AAPA, the matter will be closed.
- a. The Complainant will be notified within fourteen (14) calendar days of the decision with a copy of the notification sent to the AAPA President/Chair of the Board and CEO.
- 12.4 If the JAC decides that further examination of the matter is warranted, these procedures will be followed:
- a. The AAPA President/Chair of the Board and CEO will be notified that a valid complaint has been received. No details of any complaint shall be provided at this time.
 - b. The Complainant will be notified that the complaint has been accepted by the JAC.
 - c. The Respondent will be notified that an official complaint has been received.
- 12.5 When notice is sent to a Respondent, the following procedures will be followed.:
- a. The Respondent will be notified that they have thirty (30) calendar days upon receipt to respond in writing to the allegations and to request a hearing. The communication to the Respondent will include:

- 1) a copy of the complaint;
 - 2) the Judicial Affairs Policy Manual;
 - 3) a list of Complainant's witnesses, to the extent known at the time;
 - 4) complainant's documentary information, to the extent known at the time;
 - 5) instructions regarding response and next steps.
- b. The JAC will review the written response within thirty (30) calendar days of receipt and determine whether a hearing and/or further information is necessary. The Complainant and the Respondent will be notified of the JAC's decision within forty-five (45) days of receipt of the respondent's reply.
- c. If the Respondent does not provide a written response and does not request a hearing, then they will be deemed to have admitted to the allegations in the complaint and will have no other hearing or appeal rights.
- 1) The JAC will determine and impose disciplinary action as described in 18.2. AAPA will report to the National Practitioner Data Bank if an individual's membership has been revoked as a result of the complaint and its adjudication.
- d. Information about the complaint will remain confidential with the exception of those who have access to the information as a result of procedures identified in this Manual.
- e. If the Respondent's membership lapses or is voluntarily resigned after the receipt of a valid complaint but before JAC consideration, there shall be no further action. If the Respondent reapplies for membership at a future date, the hearing procedure will be reactivated at the initial review and notice stage.
- f. AAPA will retain a record of such complaint for future reference.

HEARING PROCEDURES

13.0 Pre-Hearing

- 13.1 The Complainant and Respondent shall have the right to know, no less than ten (10) days in advance of the hearing, the witnesses (limited to five people from each party) who will be called and the documents that will be presented by the opposing side during the hearing. Each side is limited to presenting documents exchanged in discovery.
- 13.2 Those identified as witnesses by either party cannot be compelled by AAPA to testify. It is the responsibility of each party to ensure those they have listed as witness are willing and able to testify at the hearing.
- 13.3 The Presiding Officer shall oversee the preparation for the hearing, including:
 - a. determining date, time, location (in-person or virtual) and communicating such information to all parties involved in hearing (panel, complainant, respondent, witnesses, etc.)
 - b. admitting evidence which may be of probative value, in his/her sole discretion, and not in accordance with traditional legal rules of evidence or other legal procedures;
 - c. collecting and sharing admitted evidence submitted by the parties or otherwise requested by the Hearing Panel;
 - d. obtaining transcription services or utilizing services provided on a virtual meeting platform, which may include real-time transcription of a virtual meeting or recording and transcribing the meeting at a later date as needed;
 - e. ensuring that the Hearing Panel is sufficiently briefed on the process and procedures in advance, including expectations for decision making, and is provided documents as applicable in advance to facilitate their work;

14.0 Respondent's Rights

- 14.1 The Respondent has the right:
 - a. to a hearing;
 - b. to be assisted by any AAPA member of choice or an attorney or legal representative (see section 15.7 Appearance by Parties, Witnesses and Others)
 - c. to present their own testimony and that of their witnesses

- d. to cross-examine Complainant and other witnesses;
- e. to present evidence;
- f. to receive copies of evidence used by the complainant;
- g. to ask questions of Hearing Panel members and the Presiding Officer which are directly related to determining whether they are impermissibly biased and to challenge the impartiality of any member or the Presiding Officer;
- h. to appeal.

15.0 Hearing

- 15.1 The JAC Chair shall notify the Respondent, Complainant, JAC members, President/ Chair of the Board and CEO of the date, time, and location of the hearing. In the event the hearing is held virtually, the JAC staff advisor shall provide necessary access details.
- 15.2 The JAC Chair will identify three (3) fellow members who have previously served on the Judicial Affairs Commission to serve as a Hearing Panel. The hearing panelists will be free of conflict of interest or bias, as determined by the Board of Directors' Internal Affairs Committee. If three (3) fellow members who previously served the JAC cannot be identified, former members of the Governance Commission or former members of the Board of Directors may be substituted.
- 15.3 The JAC Chair will serve as the Presiding Officer or will appoint the Presiding Officer if they are unable to serve. The Presiding Officer shall not be a voting member. The Presiding Officer shall be free of conflict of interest or bias, as determined by the Board of Directors' Internal Affairs Committee.
- 15.4 A hearing shall be scheduled no less than thirty (30) but no greater than sixty (60) calendar days after receipt of a request for a hearing. The Presiding Officer may grant a continuance based on demonstration of good cause.
- 15.5 Hearing Procedure. The Presiding Officer shall conduct the hearing in an informal manner, similar to most membership organizations' disciplinary proceedings. The hearing is not a legal procedure in a court of law. Rather it is an alternative case resolution forum for AAPA to hear and act upon complaints, appeals and other matters as provided for in the JAC Policy Manual and other AAPA policies and procedures. The object of the hearing shall be to determine the facts, the rights and duties of the parties, and any remedies, on the merits in a fair procedure and to enforce AAPA policies, purposes, and further AAPA's mission.
- 15.6 On the day of the hearing, the Presiding Officer shall facilitate the process by:

- a. presiding over the hearing, to include the authority to rule on matters of procedure;
- b. providing an agenda;
- c. reviewing the rules of conduct as indicated in this manual and communicated to all participants in advance of the hearing;
- d. providing all necessary documentation to the Hearing Panel.

15.7 Appearance by Parties, Witnesses and Others

- a. The Complainant must appear virtually or in person before the Hearing Panel. Failure of the Complainant to be present terminates the complaint.
- b. Failure of the Respondent to request a hearing or appear in person or virtually before the Hearing Panel constitutes acceptance of the charges and subjects them to disciplinary actions described in 18.2.
- c. The Complainant and Respondent may be assisted during the proceedings by any AAPA member, or private legal counsel, at their own expense.
 - 1) This is not a hearing in a court of law. Attorneys are subject to AAPA policies, the policies and procedures outlined in this manual and the authority of the Presiding Officer. The role of a party's legal counsel or other AAPA member during a hearing is to counsel and advise their party. They may not answer or ask questions for the party or otherwise actively participate in the hearing, except as permitted by the Presiding Officer.
- d. Witnesses must be present virtually or in person. The Hearing Panel must have the ability to hear the witness' testimony and ask the witness questions. Written testimony will not be accepted.
- e. Subject matter experts relating to the issues of the case may be present virtually or in person at the hearing at the discretion of the Presiding Officer.
- f. The JAC Staff Advisor and the Chief of Public Affairs & Advocacy shall be present. Neither is a party to the complaint, but may observe and support the hearing panel, as necessary, in its facilitation of a fair procedure. In the event that the JAC Staff Advisor and/or the Chief of Public Affairs and Advocacy has a real or perceived conflict of interest in relation to either party, a designee from staff may be appointed by the CEO to fulfill these responsibilities.
- g. AAPA Legal Counsel may be present at the hearing at the discretion of the Presiding Officer. Legal Counsel is not a party to the hearing but may

observe and support the Presiding Officer and Hearing Panel, which may include answering questions of a legal nature.

16.0 Order of Procedure

- A. Opening statement by the Presiding Officer detailing the procedure to be followed and presenting AAPA's actions to date.
- B. Opening statement by the Complainant (optional).
- C. Opening statement by the Respondent (optional).
- D. Presentation of evidence by the Complainant.
- E. Testimony of witnesses, if any, in support of the Complainant and cross-examination by the Respondent.
- F. Questions directed to witnesses in support of the Complainant by the Hearing Panel.
- G. Presentation of evidence by the Respondent.
- H. Testimony of witnesses, if any, in support of the Respondent and cross-examination by the Complainant.
- I. Questions directed to witnesses in support of the Respondent by the Hearing Panel.
- J. Closing statement by the Complainant (optional).
- K. Closing statement by the Respondent (optional).
- L. Hearing is closed.
- M. The Presiding Officer may stipulate time limits, as well as extend time limits as reasonably requested and may revise the order of procedure at his/ her discretion.

17.0 Conducting the Hearing

- 17.1 The Hearing Panel shall determine findings based on the evidence presented at the hearing. The Hearing Panel shall determine findings as to all questions of fact and all questions of interpretation of applicable AAPA Bylaws, policies or procedures. The decision of the Hearing Panel shall be based on its findings.
- 17.2 Hearings shall be conducted in a manner that will result in a just decision based on AAPA policies and any applicable laws. All evidence presented must be relevant to the complaint(s) before the Panel. The Presiding Officer shall determine the admissibility of evidence.
- 17.3 The Hearing Panel shall determine the weight and credibility of evidence presented without restrictions as to the rules of admissibility which would apply in a court of law.
- 17.4 Exhibits shall be presented in an orderly fashion and retained for future identification.

- 17.5 The Presiding Officer will rule upon objections by the Complainant and the Respondent
- 17.6 The hearing shall be recorded and transcribed. Parties involved may secure copies of the transcript upon payment of costs and reasonable handling charges.
- 17.7 The Complainant has the burden of proof. It must be shown by a preponderance of the evidence that the Respondent is guilty of the alleged charges.
- 17.8 Deliberations by the Panel shall be held in a closed session. The session will begin at the conclusion of the hearing and continue until a final decision is reached. The Presiding Officer may attend the Hearing Panel's deliberations but will not vote. If additional time is needed for deliberations, the Panel may adjourn and reconvene.
- 17.9 The Hearing Panel will decide by simple majority vote if the respondent is guilty.

18.0 Disciplinary Action

- 18.1 If the Hearing Panel determines the respondent is not guilty of all charges, it will dismiss the complaint.
- 18.2 If the Hearing Panel determines the respondent is guilty of any of the charges, it shall determine a recommendation on disciplinary actions. The recommendations of the Hearing Panel shall be limited to:
 - a. Private Reprimand: A letter is sent to the Respondent that states that the Respondent's behavior is contrary to applicable AAPA Bylaws, policies or procedures. The record of the reprimand is included in their membership record.
 - b. Public Reprimand: Same parameters as a private reprimand except that a record of the member's name, charge and the disciplinary action is made available to members.
 - c. Corrective Action: The respondent is directed to take an action designed to repair damage or prevent future infractions. Examples include, but are not limited to, a mandated training course, issuing a formal apology or financial restitution.
 - d. Suspension:
 - 1) Membership: This includes temporary removal of all membership benefits, rights and privileges until a specified date or successfully completing a corrective action. Membership dues will be forfeited and the suspended individual may not represent themselves as a member of AAPA during the period of suspension. It is the right of the Respondent to have membership reinstated (or reapply if their

membership lapses during the suspension period) upon the JAC's determination that the terms of suspension have been successfully met.

2) Office: Elected officials may be suspended from office, which includes a temporary removal of all duties and benefits of office until a specified date or successfully completing a corrective action. Upon the JAC's determination that the terms of suspension have been successfully met, it is the right of the respondent to have their position reinstated (if their service term has not ended) or be eligible to run for election.

e. Revocation: This includes the removal of all membership benefits, rights and privileges. The individual whose membership has been revoked will lose all membership services and privileges and may not represent themselves as a member of AAPA. Membership dues will be forfeited.

18.3 The JAC Staff Advisor and/or Chief, Public Affairs & Advocacy – with the support of the JAC Chair will operationalize the disciplinary action as recommended by the Hearing Panel.

19.0 Notification of Hearing Panel's Decision

19.1 Within ten (10) days of the Hearing Panel's decision, the Presiding Officer shall send a report to the Respondent, Complainant, AAPA President/Chair of the Board, CEO, and JAC members. This report shall be limited to: dates of actions, adherence to procedure, statement of findings of fact, and the disposition of the complaint.

19.2 In the Hearing Panel's report, the Respondent and Complainant are notified of their right to appeal and are sent the appropriate forms and directions for appeal.

19.3 If no appeal is filed in accordance with section 20.3 of this manual:

a. The decision of the Hearing Panel will become final.

b. If disciplinary action includes the revocation of membership, staff will report the revocation to the National Practitioner Data Bank (NPDB). AAPA is not required to report other disciplinary actions to NPDB.

19.4 The CEO, or their appointed designee, is responsible for any communication surrounding any additional statements or answering inquiries not included in this publication.

19.5 In the event that membership is revoked as a result of a JAC hearing, AAPA will keep the fact of the revocation confidential to all members and stakeholders unless the JAC or the AAPA Board of Directors finds it necessary to make such a disclosure.

- 19.6 Disciplinary actions will be communicated to third parties (e.g., staff, members, constituent organizations) to an extent deemed necessary to successfully implement the action, giving due consideration to protecting the confidentiality of the hearing proceedings.

20.0 Hearing Panel Appeals

- 20.1 Both the Complainant and the Respondent have the right to appeal the Hearing Panel's decision on the complaint and/or the disciplinary action imposed.
- 20.2 Appeal requests shall be submitted on the appropriate form to the JAC staff advisor within 30 days following receipt of the Hearing Panel's decision. The JAC Chair will notify the AAPA President/Chair of the Board, CEO and JAC members upon receipt of an appeal.
- 20.3 This appeal will be heard by an Appeal Board appointed by the JAC Chair and composed of three (3) former JAC members. No one serving on the Appeal Board may have been in attendance at the initial Hearing. The JAC Chair will appoint the Appeals Board Chair. If three former JAC members cannot be convened, former Governance Commission members shall be secured.
- 20.4 The Appeal Board Chair, upon receipt of a completed appeal request, shall notify both parties of the date, time and place of the appeal hearing, which shall occur no less than thirty (30) calendar days and no more than ninety (90) calendar days after receipt of a request for an appeal. A transcript of the original hearing will be sent to the Appeal Board and both parties no later than ten (10) calendar days prior to the appeal hearing.
- 20.5 The Appeal Board will consider the appeal at a closed-session meeting inclusive only of the Appeal Board members, and others as necessary and requested by the Appeal Board.
- 20.6 Both parties may present a written statement to the Appeal Board. Such statements shall be limited to the length determined by the Chair of the Appeal Board. Oral testimony will not be allowed.
- 20.7 The decision shall be based on the record of the Hearing proceedings and the written appeal statement.
- 20.8 The decision of the Appeal Board will be limited to:
- a. uphold the Hearing Panel's decision;
 - b. modify the decision by:
 - 1) dismissing the original complaint
 - 2) by imposing a different disciplinary action.

- 20.9 The decision of the Appeal Board shall be final.
- 20.10 Within ten (10) calendar days of the Appeal Board's decision, the Appeal Board Chair shall send a report to the Respondent, Complainant, AAPA President/Chair of the Board, CEO, and the JAC. This report shall be limited to: dates of actions, adherence to procedure and the Appeal Board's final decision.
- 20.11 The JAC, with the support of appropriate staff, will operationalize the disciplinary action as upheld or amended by the Appeal Board.
- a. AAPA will report a revocation of membership to the National Practitioner Data Bank (NPDB). AAPA is not required to report other disciplinary actions.

21.0 Records

- 21.1 The official records shall be maintained by AAPA with due consideration given to confidentiality and security.
- 21.2 The following documents, in possession of AAPA, will constitute the official record of the complaint:
- a. the original complaint, including any attachments;
 - b. notification letters and correspondence;
 - c. the transcript of Hearing Panel's testimony and exhibits;
 - d. the final report of the Hearing Committee;
 - e. the final report of the Appeals Board (if applicable);
 - f. any records relating to implementation of the disciplinary action(s).
- 21.3 Information obtained during a hearing will not be used in any subsequent hearing, unless the JAC determines that relevance to the new charge has been established.
- 21.4 If disciplinary actions are imposed, AAPA will retain a record of the action in the member's database record with due consideration given to confidentiality and security.

PROCEDURES INVOLVING AAPA ELECTIONS

22.0 Procedures for Challenging an AAPA Election

- 22.1 AAPA's elections consist of the Board of Directors General Election, House of Delegates Elections – including House Officer and Nominating Committee Elections – and the Student Academy Board of Directors Election. A challenge to any AAPA election may be submitted to the Judicial Affairs Commission either:
- a. While the election is in progress;
 - b. Within one calendar month of the date when the election results are announced.
- 22.2 Elections may only be challenged by a candidate or by a member eligible to vote in that election. Election challenges shall be filed as an official complaint using the Judicial Affairs Complaint Form (Appendix A).
- 22.3 Grounds for challenging an election shall include:
- a. Votes were cast by ineligible persons;
 - b. Procedures for holding an election as outlined in AAPA Bylaws and/or the AAPA Elections Manual were not observed;
 - c. Negligence or failure to properly conduct the election.
- 22.4 Upon receipt of a properly submitted complaint form, the Judicial Affairs Commission will review the charges and gather any additional information needed to investigate the election challenge. The JAC Chair will notify the Chair of the Governance Commission, the CEO and AAPA President that an election challenge is under review.
- Additionally, the Vice President/Speaker of the House of Delegates shall be notified if a House election has been challenged.
- 22.5 A member of the Judicial Affairs Commission who is also a candidate for elected office shall recuse themselves from the election challenge review process.
- 22.6 If the election is challenged while in progress, it will continue unless the Judicial Affairs Commission recommends to the Governance Commission that the election be suspended until a final determination is reached.
- 22.7 If the election is challenged after the election results have been announced, the new officers will assume elected office and remain in office until the Judicial Affairs Commission makes a final determination.

- 22.8 If the Judicial Affairs Commission finds that the grounds for challenging the election are valid and the evidence reasonably demonstrates that a violation of AAPA election or other applicable rules could have changed the election results, the election will be declared void. If the Judicial Affairs Commission finds the grounds to be baseless or that there is insufficient evidence that a violation of AAPA election or other applicable rules could have changed the election results, the Judicial Affairs Commission may dismiss the challenge.
- 22.9 Election challenges shall be adjudicated, and the members notified of the action taken within eight weeks of receipt of the original challenge. The Judicial Affairs Commission Chair shall notify the Chair of the Governance Commission, CEO and AAPA President/Speaker of the House and affected candidates before the action is announced to the membership.
- 22.10 If an election is declared void, the seats in question shall be vacated and/or remain vacant until a special election can be conducted by the Governance Commission.

23.0 Complaints Against Election Candidates

- 23.1 Complaints may be filed against candidates for elected office while an election is in progress. Such complaints shall be submitted using the Judicial Affairs Complaint Form (Appendix A) and will be treated as a regular complaint against a member as defined in Section 6 of this Manual.
- 23.2 Appropriate grounds for filing a complaint against a candidate for elected office may include (without being limited to):
- a. Violating campaign rules outlined in the AAPA Elections Manual.
 - b. Providing false or misleading information on a candidate application.
 - c. Cheating or enabling the participation of individuals not eligible to vote in the election.
- 23.3 Upon receipt of a properly filed complaint form, the JAC will process the complaint in accordance with Sections 12-20 of this Manual. If the candidate for elected office is found guilty of the charges brought forward before the conclusion of an election, the Judicial Affairs Commission may recommend to the Governance Commission that the candidate be disqualified from the election. If a candidate is found guilty after being elected to office, the JAC may recommend disciplinary action consistent with a complaint against an elected official.

APPENDIX A: AAPA COMPLAINT FORM

AAPA JUDICIAL AFFAIRS COMPLAINT FORM

All information is required, unless otherwise noted. Incomplete complaints will not be processed. AAPA only accepts complaints about members or Constituent Organizations (COs) and does not accept anonymous complaints. See the Judicial Affairs Policy Manual for complete details.

RECEIPT OF PROCEDURE

I attest that I have read the Judicial Affairs Policy Manual and understand my rights and obligations as a complainant.

TYPE OF COMPLAINT:

- Complaint against a member
- Complaint against an elected official of AAPA
- Complaint against a Constituent Organization (CO)
- Election Challenge

RESPONDENT INFORMATION

Information about who the complaint is against. The information should be as complete as possible. Names are often similar and may not be sufficient. If you cannot provide contact information for the respondent, please include either their employer or program they attended in the "other" field. If you would like to bring a complaint against multiple members, a separate form must be completed for each person.

First and Last Name (If applicable):

Organization (If applicable):

AAPA Member Number (If known):

Street Address (If known):

City, ST:

Phone Number (if known):

Email (if known):

Program Attending (if student):

Other Identifying Information:

CHARGES

List the specific AAPA Bylaws, policies, and procedures and ethical guidelines that are alleged to have been violated and provide a detailed account of the facts and circumstances involving the alleged violations. Please include relevant dates, witnesses, documents and similar information substantiating the charge. You may use additional or separate sheets if more space is needed. Each additional sheet must be signed and dated by the complainant. (NOTE: Constituent Organizations cannot be charged with ethics violations)

REPORTS TO OTHER AGENCIES

If this incident has been previously reported to another agency, please note which agency below and include the report with your submission. If the complaint has already been adjudicated, please also include documentation describing the outcome.

- I have not reported this incident to another organization or agency.
- State licensing board
- Credentialing entity
- Employer
- Law enforcement / court
- AAPA constituent organization
- Other: _____

WITNESSES

Maximum of five (5). If there are witnesses to the alleged incident/conduct or if there are other persons who have information about the PA's or CO's conduct, please supply their names, addresses, phone numbers and email. You may use additional or separate sheets if more space is needed. It is your responsibility to notify each witness that they are being identified.

- No witnesses to report
- I have ___ witnesses. Witnesses contact information is below and/or attached.

Name:

Address:

Phone:

Email:

Name:

Address:

Phone:

Email:

COMPLAINANT INFORMATION (Your information)

First and Last Name:

AAPA Member Number (Required only if you are a member):

Street Address:

City, ST, Zip:

Primary Phone Number:

Secondary Phone Number (optional):

Email:

I swear the information provided is true to the best of my knowledge and belief.

Signature:

Printed Name:

Date:

SUBMITTING THE FORM

Email: JAC Staff Advisor @ JudicialAffairs@aapa.org
Please mark confidential.

APPENDIX B: INDIVIDUAL RESPONSE FORM

AAPA JUDICIAL AFFAIRS RESPONSE FORM

Failure to reply within thirty (30) calendar days will result in a decision being made without the opportunity for your input.

RESPONDENT INFORMATION (Your information)

First and Last Name:

AAPA Member Number:

Street Address:

City, ST, Zip:

Primary Phone Number:

Secondary Phone Number:

Email:

RESPONSE

I have read the allegations of the complaint against me and voluntarily resign my membership effective immediately. I understand that if I seek membership at a later date, the charges may be reinstated.

I have read the allegations of the complaint against me as an elected official and voluntarily resign my elected position. I understand that charges may still be brought forward under a complaint against a member.

I have read the allegations of the complaint against me and submit the following statement. I request a hearing, unless the JAC determines there is not sufficient information to move the complaint forward.

SUPPORTING MATERIAL

Attach any documents or materials which support your statement above. See the Judicial Affairs Policy Manual for submission requirements.

WITNESSES

Maximum of five (5). If there are witnesses who can attest to the information set forth above, please supply their names, addresses, phone numbers and email. You may use additional or separate sheets if more space is needed. It is your responsibility to notify each witness that they are being identified.

Name:

Address:

Phone:

Email:

Name:

Address:

Phone:

Email:

I swear the information provided is true to the best of my knowledge and belief.

Signature:

Printed Name:

Date:

SUBMITTING THE FORM

Email: JAC Staff Advisor @ JudicialAffairs@aapa.org
Please mark confidential.

APPENDIX C: CONSTITUENT ORGANIZATION RESPONSE FORM

AAPA JUDICIAL AFFAIRS RESPONSE FORM

Failure to reply within thirty (30) calendar days will result in a decision being made without the opportunity for your input.

RESPONDENT INFORMATION (Your information)

Constituent Organization:

Representative Name:

CO Title:

AAPA Member Number (if applicable):

Street Address:

City, ST, Zip:

Primary Phone Number:

Secondary Phone Number:

Email:

RESPONSE

We have read the allegations of the complaint against our organization and submit the following statement. We request a hearing, unless the CRWG determines there is not sufficient information to move the complaint forward.

Other response (provide below).

SUPPORTING MATERIAL

Attach any documents or materials which support your statement above. See the Judicial Affairs Policy Manual for submission requirements.

WITNESSES

Maximum of five (5). If there are witnesses who can attest to the information set forth above, please supply their names, addresses, phone numbers and email. You may use additional or separate sheets if more space is needed. It is your responsibility to notify each witness that they are being identified.

Name:

Address:

Phone:

Email:

Name:

Address:

Phone:

Email:

I swear the information provided is true to the best of my knowledge and belief.

Signature:

Printed Name:

Date:

SUBMITTING THE FORM

Email: JAC Staff Advisor @ JudicialAffairs@aapa.org
Please mark confidential.

APPENDIX D: APPEALS FORM

AAPA JUDICIAL AFFAIRS REQUEST FOR APPEAL

Requests to appeal a hearing panel decision must be received within thirty (30) calendar days of your receipt of notification of the previous action’s outcome.

Requests to appeal a Board decision must be received within seven (7) calendar days of your receipt of notification of the previous action’s outcome.

TYPE OF APPEAL

- JAC Hearing Panel Appeal
- Board Disciplinary Decision Appeal
- CO Complaint / CRWG Recommendation Appeal

REQUESTOR INFORMATION

- Complainant in the original action
- Respondent in the original action

AAPA Member Number (if available):

First and Last Name:

CO Title (if representing a Respondent in a CO complaint):

Street Address:

City, ST, Zip:

Primary Phone Number:

Secondary Phone Number:

Email:

SUBMITTING THE FORM

Email: JAC Staff Advisor @ JudicialAffairs@aapa.org
Please mark confidential.

APPENDIX E: GLOSSARY

These definitions are explanatory in nature for the purpose of AAPA's Judicial Affairs Manual. They are not designed to convey legal standards or limitations.

Adjudication: A formal judgment on a disputed matter by those with legal or regulatory authority. Adjudicated action from a court or state licensing board may trigger automatic AAPA discipline or be used as evidence in complaint/hearing procedures. Proof of an adjudicated action from other bodies, such as an employer or other professional organization, may be used as evidence in the complaint/hearing procedures.

Allegation: A positive assertion, especially of misconduct; a statement by a party in a judicial affairs proceeding of what that party intends to prove.

Alleged: Asserted to be true or to exist; accused but not proven or convicted.

Bias: An inclination of temperament or outlook; a personal and sometimes unreasoned judgment; prejudice or an instance of such prejudice.

Documentary Evidence: Evidence introduced in the form of documents. Although this term is most widely understood to mean writings on paper (such as an invoice or a contract), the term may include any media by which information can be preserved.

Circumstantial Evidence: Evidence that relies on an inference to connect it to a conclusion of fact. By contrast, direct evidence supports the truth of an assertion directly.

Complainant: The party who accuses another in a judicial affairs proceeding; the plaintiff.

Conflict of Interest: A conflict of interest arises when a Leader has some interest that suggests divided loyalty on the part of the individual between obligations to AAPA and to the individual's personal interests or to the interests of some other person, organization or cause. A conflict of interest may be actual or perceived.

Confidential: Private or restricted information; to be entrusted with such information.

Constituent Organization / CO: An AAPA chartered chapter, recognized specialty organization, or affiliated caucus or special interest group.

Continuance: The adjournment or postponement of an action pending in a judicial proceeding to a later date.

Dismissal: An order or judgment disposing of a claim.

Disciplinary Action: An order or judgement of some form of punishment meted out to a member of a profession or organization which has committed a breach of an expected and communicated performance standard or code of conduct.

Due Process: Compliance with the fundamental rules of fairness in judicial proceedings.

Evidence: That which tends to prove or disprove something; information presented in a judicial affairs proceeding in proof of the facts in issue and which may include the testimony of witnesses, records, documents, or objects.

Expulsion: The act of expelling. The withdrawal of rights and privileges of membership or a leadership position.

Findings of Fact: Brief statements setting forth the facts the hearing panel found to be true. Findings of fact are typically followed by the conclusion derived from those findings.

Guidelines for Ethical Conduct for the PA Profession: AAPA policy /position paper (Position Paper #15), which outlines standards to serve as guidelines for ethical professional interactions with patients, colleagues, and the general public.

Health Care Quality Improvement Act of 1986: Federal law which encourages peer review by providing immunity for hospitals, HMOs, group practices, professional societies and peer review committees for good faith participation in professional review activities. The Act also establishes the National Practitioner Data Bank.

Hearing: A judicial proceeding where an issue of fact is tried and evidence is presented to help determine the outcome.

Hearsay Evidence: Unverified, unofficial information gained or acquired from another and not part of one's direct knowledge.

Impeachment: A process that is used to charge, try, and remove officials for misconduct while in office.

Judicial Affairs Commission/ JAC: An AAPA commission which functions as an impartial body to implement Judicial Affairs procedures.

Malfeasance: The commission of an unlawful act, particularly by a public representative or official.

National Practitioner Data Bank: A national data bank authorized under Public Law 99-660 and operated by the U.S. Department of Health and Human Services, which collects and releases certain information relating to the professional competence and conduct of physicians, dentists, and other health care practitioners.

Prejudice: When a decision-maker is considered to be predisposed against an involved party.

Respondent: The individual accused of an alleged violation; the defendant.

Reprimand: To reprove severely, especially in a formal or official way; a severe, formal, or official rebuke or censure.

Revocation: Withdrawal; cancellation. Revocation of membership is the cancellation of all membership rights and privileges for an undetermined period of time. AAPA reserves the right to reinstate the member at some unseen future date.

Standards: Rules or principles that are used as a basis for judgment. Something considered by an authority or by general consent as a basis of comparison; an approved model. AAPA standards are incorporated Bylaws and policies.

Suspension: Temporary removal or withholding of rights and privileges for a defined period of time or until specific criteria are met.

Witness: A person who gives testimony in a judicial proceeding; one who has personal knowledge of something or who can attest to a fact or event.

Violation: The act of doing something that is not allowed according to AAPA Bylaws, policies or procedures, or is not in keeping with AAPA values or professional ethics.

APPENDIX F: BYLAWS AND POLICIES RELATED TO JUDICIAL PROCEDURES

The following points to major components of policy that speak directly to judicial procedures. It is not intended as an exhaustive list of any policy that may relate to a judicial affairs issues or complaint.

- AAPA Bylaws, Article III, Sections 1, 10, 11 and 12
- AAPA Bylaws, Article IX
- BA-2300.1.8
- BA-2300.4.1
- BA-2300.5.3
- BA-2300.6.2
- BA-2300.7.1
- BA-2800.1.0
- BA-2800.2.0
- BA-2800.3.0
- HP-7026 (formerly HP-3700.1.2) (Guidelines for Ethical Conduct for the PA Profession)
- AAPA Board Manual, Section V
- AAPA/CO Charters, Recognition Agreements and Affiliation Agreements (AAPA Board Manual Appendix C)