

Ethics Case Procedures

Table of Contents

INTRODUCTION	3
A. General Provisions	3
1. Nature of the Process.....	3
2. Participants	4
3. Time Requirements	4
4. Relaxation of Requirements/Global Accommodations	4
5. Litigation/Other Proceedings.....	5
6. Confidentiality.....	5
7. Failure to Cooperate	6
8. Resignation and Withdrawal	6
9. Notices	6
10. Document Retention	6
11. Conflicts of Interest	6
B. Submission of Ethics Complaints/Acceptance or Rejection	7
1. Submission to the Institute	7
2. Initial Complaint Rejection.....	7
3. Institute Staff Liaison Complaint Acceptance	7
4. Ethics Review Committee.....	7
5. Ethics Review Committee Complaint Consideration	7
6. Ethics Review Committee Complaint Rejection or Acceptance.....	8
7. Formation of Review Team	8
8. Ethics Complaint Response	8
9. Complaint Referral	8
10. Charges	9
11. Complaint withdrawal	9
C. Preliminary Actions and Orders.....	10
Preliminary and Temporary Orders	10
D. Ethics Review Committee Hearings	10
1. Hearing Schedule, Notice, and Attendance	10
2. Conduct of the Hearing	10
3. Witnesses	11
4. Hearing Record	11

5.	<i>Hearing Expenses</i>	11
6.	<i>Closing the Hearing Record</i>	11
7.	<i>Ethics Review Committee Decision and Order</i>	11
8.	<i>Disciplinary Actions Available</i>	12
E.	<i>Ethics Appel Panel/Appeals</i>	12
1.	<i>Submitting an Appeal</i>	12
2.	<i>Grounds for Appeal</i>	13
3.	<i>Contents of Appeal Letter</i>	13
F.	<i>Ethics Appel Panel/Appeal Hearings</i>	14
1.	<i>Ethics Appeals</i>	14
2.	<i>Appeal Process</i>	14
3.	<i>Appeal Hearing</i>	14
4.	<i>Conduct of Appeal Hearing</i>	15
5.	<i>Standard of Review</i>	15
6.	<i>Ethics Appeals Panel Decision and Order</i>	15
G.	<i>Finalizing Ethics Cases</i>	16
1.	<i>Events Which Will Cause Final Closure of an Ethics Case</i>	16
2.	<i>Events Which Will Cause a Decision and Order to Become Final</i>	16
3.	<i>Publication of Final Disciplinary Action</i>	16
H.	<i>Probation and Suspension Orders/Reinstatement Procedures</i>	16
1.	<i>Probation Orders/Reinstatement or Referral</i>	16
2.	<i>Suspension Orders/Reinstatement</i>	16
3.	<i>Ethics Review Committee Reinstatement Request Decisions</i>	16
I.	<i>Educating PMI’s Members, Certificants, and Volunteers Regarding Ethics Enforcement</i>	17

INTRODUCTION

The following Ethics Case Procedures (the “Procedures”) are the only rules for processing possible violations of the ethical standards promulgated by the Project Management Institute (“PMI” or the “Institute”). These Procedures are applicable to:

- (1) All PMI members;
- (2) Non-members who hold a PMI certification;
- (3) Non-members who apply to commence a PMI certification process; and
- (4) Non-members who serve PMI in a voluntary capacity.

Throughout these Procedures, the individuals to which these Procedures are applicable may be referred to collectively as “Covered Individuals.” Covered Individuals understand and agree that these Procedures are a fair process for resolving all ethics matters duly adopted by PMI; and they will be bound by decisions made, and requirements issued, pursuant to these Procedures.

A. General Provisions

1. *Nature of the Process*

By applying for membership in the Institute, by applying for certification by the Institute, by holding a certification issued by the Institute, and by applying to serve PMI in a volunteer capacity, individuals agree that they will accept the exclusive authority of the Institute to apply the *PMI Code of Ethics and Professional Conduct* (the “Code”), these Procedures, and other relevant PMI policies to resolve ethics matters.

These Procedures are not a formal legal process; therefore, many legal rules and practices are not observed, and the Procedures are designed to operate without the assistance of attorneys. Regardless, any individual Respondent may be represented by an attorney with respect to an ethics matter. If an individual has retained an attorney, that attorney may be directed to communicate with the Institute through PMI’s General Counsel or retained outside counsel. Individuals are encouraged to communicate directly with the Institute. The Institute, including its committees charged with carrying out these Procedures, may use the services of PMI’s General Counsel or retained outside counsel at its discretion.

These Procedures are designed to encourage full Code compliance by Covered Individuals. The Code and these Procedures are also designed to protect Covered Individuals, through the use of reasonable due process procedures, against patently false, malicious or groundless accusations that could result in significant harm if not properly handled.

While the adoption and enforcement of the Code demonstrates the Institute’s commitment to enhancing ethics among practitioners, it should not be construed in any manner as a guarantee or certification of the competency and/or professional qualities of Covered Individuals. Rather, the Code and these Procedures are designed to encourage

the maintenance of ethical standards and to enforce such standards in those instances when an alleged violation is brought to the attention of the Institute through the processes outlined in these Procedures.

2. *Participants*

Ethics cases may be decided by the PMI Ethics Review Committee (the “ERC”), the Ethics Appeals Panel (the “Appeals Panel”), and/or any authorized designee of either committee. The following individuals may be referred to in these Procedures collectively as “Participants”:

- **Respondent:**

A Covered Individual who is the subject of an ethics complaint or investigation will be identified as the Respondent.

- **Complainant:**

An individual, group, or organization that initiates an ethics complaint will be identified as the Complainant.

- **Witness:**

An individual who provides written or oral testimony in connection with an ethics complaint will be identified as the Witness.

The PMI Board of Directors will appoint each year such number of PMI members as the PMI Board of Directors deems appropriate to serve members of the ERC. The PMI Chair, with Board of Directors approval, will appoint a Committee Chair from the members, who will supervise ERC’s work. The Committee Chair may appoint one or more Vice-Chairs to assist him/her, to preside over one or more Ethics Hearings, and to otherwise serve the role of and exercise the powers of the Committee Chair.

3. *Time Requirements*

The Institute will make every reasonable effort to follow the time requirements noted in these Procedures. However, the Institute’s failure to meet a time requirement will not prohibit the final resolution of any ethics matter, or otherwise prevent the Institute from acting under these Procedures. Participants are required to comply with all time requirements specified in these Procedures. The ERC Chair or Appeals Panel Chair may grant time extensions or postponements at their discretion, as applicable, in response to a Participant’s timely request.

4. *Relaxation of Requirements/Global Accommodations*

In light of the global nature of the international project management community, including differences related to language, customs, geographic location, and other characteristics of PMI members, certificate holders, volunteers and applicants, the Institute recognizes that Complainants and/or Respondents may have difficulty meeting certain time or other requirements in these procedures. Accordingly, Complainants and/or Respondents may submit to the ERC Chair or the Appeals Panel Chair, as applicable, a written request for an extension of one or more of the time requirements, or a reasonable accommodation related to matters of language, custom, geographic location, or the like. The ERC Chair or the Appeals Panel Chair, as applicable, shall make a reasonable and appropriate determination as to whether to grant the request, in whole or in part, at the Chair’s sole discretion.

5. *Litigation/Other Proceedings*

The Institute shall reject or dismiss (as applicable) a complaint when civil or criminal litigation or other proceedings substantially related to the complaint are before a court, a regulatory agency, or other governmental body.

The Institute shall reject or dismiss (as applicable) a case if the matter is being pursued through another PMI process including, but not limited to, matters filed under the PMI Complaint, Dispute, and Grievance Policy (the "Grievance Policy").

The ERC may at its option begin and continue processing ethics complaints when proceedings are before another professional body, including, for example, another membership organization or a PMI component. The ERC Chair shall determine whether to proceed with consideration of ethics complaints when proceedings are before another professional body.

Should the Institute reject or dismiss any complaint pursuant to this section, the Complainant shall be permitted to refile the complaint once the relevant proceeding has concluded.

6. *Confidentiality*

Complainants, Respondents, and Witnesses are required to maintain the confidentiality of materials submitted to or received by PMI as part of the ethics complaint process, provided, however that Respondents are permitted to disclose such information to Witnesses and third parties as is reasonably necessary to prepare a defense. PMI shall make reasonable efforts to maintain the confidentiality of relevant materials.

Nonetheless, there may be occasions in which materials or information that are part of the ethics process may not be considered confidential.

Without limitation, the following are examples of situations in which PMI may disclose case-related materials and information:

- a. Maintaining and publishing general statistical and anonymous information regarding ethics cases;
- b. *Disclosing information and materials when subject to a legal requirement, like a subpoena;*
- c. Disclosing already publicly known or broadly disseminated information or materials;
- d. Publishing portions of or the complete text of all final published rulings, decisions, requirements, and/or orders of the ERC or the Appeals Panel which the ERC or the Appeals Panel (as applicable) directs to be disclosed;
- e. Providing information as permitted elsewhere in these Procedures (e.g., Section G.3); and
- f. Sharing information with Participants, members of the ERC, members of the Appeals Panel, the PMI legal counsel, PMI staff, and third-party contractors (e.g., translators)

The ERC, the Appeals Panel, and/or PMI may notify appropriate governmental, professional, or similar bodies of any actions taken concerning a Respondent by sending referral information to any such bodies, including but not limited to a copy of a final Decision and Order issued by the ERC and/or the Appeals Panel, or by sending another appropriate notice. This notification may be done at any point when the case is being considered by the ERC or the Appeals Panel or subsequent to finalizing the case. At any time, the Institute may respond to inquiries from other parties regarding the existence of ethics cases and indicate the existence of such proceedings.

7. Failure to Cooperate

If any party refuses to fully cooperate with the Institute concerning matters arising under these Procedures without good cause, the ERC or the Appeals Panel, as applicable, may: terminate the ethics complaint of an uncooperative Complainant; or impose any preliminary sanction or requirement included within these rules if a Respondent is uncooperative. In the event that a Respondent fails to cooperate by failing to provide a written response to an ethics complaint or failing to participate in an Ethics Hearing, the ERC may proceed without the Respondent's participation and the Respondent will forfeit any right to an appeal. Except in the case when a Respondent fails to cooperate by providing a written response to an ethics complaint or fails to participate in an Ethics hearing, when a discipline, order, requirement, or other directive is issued by the ERC under this Section, the Covered Individual involved may seek review and appeal pursuant to these Procedures in the same manner and for the same reasons provided for in these Procedures when a final Decision and Order has been issued.

8. Resignation and Withdrawal

During the course of any ethics case, should a Respondent relinquish PMI membership, terminate certification status, withdraw an application for certification, or resign from his/her PMI volunteer position and thereby cease to be a Covered Individual, the Institute may, at the discretion of the ERC Chair or Appeals Panel Chair, as applicable, cease to consider the matter.

9. Notices

All notices provided to Participants under these Procedures shall be delivered electronically to the email delivery address on file with PMI headquarters. Parties are responsible for maintaining up-to-date email delivery addresses with PMI headquarters. Materials sent to the email address on file with PMI headquarters will be deemed to have been received for purposes of these Procedures, regardless of whether such materials are returned as undeliverable; the ERC Chair or the Appeals Panel Chair (as applicable) may make exceptions to this general rule at his/her discretion.

10. Document Retention

Legal Counsel to the ERC and the Appeals Panel shall retain all official documents related to all proceedings arising under these Procedures in accordance with PMI's document retention policies. ERC and Appeals Panel members shall destroy all copies (including electronic copies) of notes and materials related to any matters that have been officially closed. The Institute may supplement this requirement with policies and procedures governing document retention.

11. Conflicts of Interest

ERC and Appeals Panel members shall operate at all times consistent with all applicable Institute policies and procedures, including those governing conflicts of interest.

B. Submission of Ethics Complaints/Acceptance or Rejection

1. Submission to the Institute

Any individual, group, organization, or, in appropriate cases, the Institute, may initiate an ethics complaint and be a “Complainant.” In the event a group, organization, or the Institute is the Complainant, a single individual must be designated to receive correspondence and represent the Complainant. Each Complainant must submit to the Staff Liaison (a term that, for the purposes of these Procedures, shall include the person holding the position of ERC staff liaison as well as any PMI staff member designated by the staff liaison to carry out obligations identified in these Procedures) a complete Ethics Complaint Form, including a detailed written description of the factual allegations supporting the ethics complaint and an explanation of how the allegations set forth in the complaint may constitute a violation of the Code. Anonymous complaints where the Complainant is not identified are not permitted and will be rejected. Upon receipt of a new complaint, the Staff Liaison shall assign a case number (“Case Number”) to the matter for recordkeeping purposes.

2. Initial Complaint Rejection

Upon receipt of a new complaint, the Staff Liaison or the ERC Chair may use discretion to determine that the complaint:

- (1) Is incomplete or contains factually unreliable or insufficient information;
- (2) Is patently frivolous or trivial;
- (3) Should be filed under the PMI Grievance Policy;
- (4) Is the subject of civil or criminal litigation or other proceedings substantially related to the complaint before a court, a regulatory agency, or other governmental body (see Section A.5. of these Case Procedures); and/or
- (5) Is directed against an individual who is not a Covered Individual.

If the Staff Liaison or ERC Chair determines that an allegation or charge should not constitute a formal ethics complaint, the Staff Liaison or ERC Chair will return all information submitted and notify the Complainant of the rejection and its basis by written email correspondence. All such preliminary dispositions of complaints by the ERC Chair or the Staff Liaison shall be reported in writing promptly to the ERC. The ERC may re-initiate the preliminarily dismissed complaint at its discretion.

3. Institute Staff Liaison Complaint Acceptance

If there is no rejection as described in Section B.2, the Staff Liaison will provide the complaint to the ERC.

4. Ethics Review Committee

The ERC is responsible for the investigation and resolution of each ethics complaint, subject to the provisions of these Procedures addressing appeals of ethics complaints.

5. Ethics Review Committee Complaint Consideration

Upon receipt of a complaint, the ERC will determine whether sufficient detail is presented to constitute a formal ethics complaint and to permit the ERC to conduct an appropriate review. To determine whether to reject a complaint forwarded to the ERC by the Staff Liaison, the ERC shall consider: (1) whether a proven complaint would constitute a violation of one or more specific Code provisions; and (2) whether relevant, reliable

information or proof concerning the charge is likely to be available with reasonable investigation. In general, the ERC will reject complaints which address only conduct that occurred three (3) or more years prior to the submission of the complaint, unless such delay was due to the existence of other proceedings as described in Section A.5.

6. *Ethics Review Committee Complaint Rejection or Acceptance*

In the event that the ERC determines that a complaint should be rejected, it shall issue a formal rejection letter to the Complainant (the "Rejection"), with brief explanation for the reason for the rejection. In the event that the ERC determines that a complaint should be accepted, it shall issue a formal Ethics Complaint Notice (the "Notice") identifying each Code violation alleged, and the supporting factual basis for the complaint. The Rejection or Notice (as applicable) will be delivered to the Respondent in accordance with the Document Retention section (A.10) of these Procedures, and marked *Confidential*. The ERC may request additional information to supplement or explain an allegation. The ERC will strive to provide the Rejection or Notice (as applicable) not later than forty-five (45) days following its receipt of the complaint.

7. *Formation of Review Team*

Upon complaint acceptance, the ERC Chair assigns a Review Team of not less than three (3) members to a case. The Review Team reviews the documentation provided and engages in independent fact-finding to the extent necessary to clarify, expand, or corroborate the information provided. The Review Team may be assisted by PMI staff, PMI legal counsel, and/or outside experts. It is mandatory that the ERC Review Team use the PMI-appointed legal counsel when preparing a case for an Ethics Hearing and that no other legal counsel be consulted by the ERC Review Team unless such other legal counsel is consented to in writing by the PMI General Counsel. The Complainant and/or the Respondent may be contacted by the Review Team or its agents for additional information with respect to the complaint. In addition, the Review Team or its agents may contact Witnesses who may have knowledge of the facts and circumstances surrounding the complaint.

8. *Ethics Complaint Response*

The Respondent must submit a completed Ethics Complaint Response Form within forty-five (45) days of the mailing date of the Notice. The Ethics Complaint Response must include a full response to each complaint, and a copy of each document relevant to the resolution of the ethics complaint. The Review Team, at its sole discretion, may request additional information from the Respondent, the Complainant, or a Witness to supplement a response.

9. *Complaint Referral*

The ERC may at any time refer to PMI headquarters any complaint which alleges infringement of PMI property or which otherwise may place PMI at legal or business risk.

If the Review Team determines that the factual allegations presented by a Complainant, or the information revealed by an investigation, may constitute a violation of Code provisions not directly related to those presented by the Complainant, the Review Team may take any of the following actions:

- Notify the Respondent of possible, unrelated Code violations, and consider such possible unrelated, Code violations in addition to those raised in the complaint; or

- Take other appropriate actions.

10. Charges

Upon completion of its review, the Review Team shall determine whether the complaint warrants the bringing of charges against the Respondent. If the Review Team concludes that charges should be brought, it shall prepare written charges explaining the alleged aggrieved conduct and why such conduct constitutes grounds for disciplinary action. The charges document shall be provided to the Respondent by the ERC. This document will inform the Respondent that a hearing will be scheduled pursuant to these Procedures and will communicate a reasonable deadline established by the ERC for the Respondent to:

- (1) notify the ERC of the names of individuals who will serve as witnesses for the Respondent during the hearing; and
- (2) provide the ERC any further written materials in support of the Respondent's position.

If the Review Team concludes that no charges should be brought, it shall dismiss the complaint without prejudice. The ERC Chair shall notify the Respondent and Complainant in writing. The ERC Chair shall report all such dispositions of complaints immediately in writing to all ERC members with a copy to the Chief Executive Officer and to PMI's general counsel.

11. Complaint withdrawal

A Complainant may withdraw a Complaint at any time by providing written notice to the ERC. The ERC or the applicable Review Team (in the case of a Complainant which is under review of a Review Team at the time of the withdrawal) shall determine whether there is sufficient evidence supplied or otherwise available to be developed without the cooperation of the Complainant to justify continuing to pursue the investigation of the Complaint. The ERC or Review Team shall also consider all other relevant factors when determining whether to continue pursuing the Complaint, including the possible effects on the Complainant and/or others if the investigation were to continue. If the ERC or Review Team decides not to pursue the Complainant after a Complainant's withdrawal, the Complaint shall be dismissed.

C. Preliminary Actions and Orders

Preliminary and Temporary Orders

The ERC or the Appeals Panel, as applicable, may require the Respondent to do, or to refrain from doing, certain acts by Preliminary and Temporary Order reasonably related to the complaint under consideration pending the final resolution of the case or investigation. Such orders may include, but are not limited to, a requirement that the Respondent immediately cease from representing himself or herself as a PMI member, volunteer, certificant, or applicant, or as otherwise associated with the Institute, until further notice; or, a restriction that the Respondent may not pursue a PMI position or office pending the final resolution of the ethics matter under review. The ERC or the Appeals Panel may discipline a Respondent who fails to comply with a Temporary or Preliminary Order. Preliminary and Temporary Orders are not subject to appeal, but may be reconsidered by the applicable committee upon written request of the Respondent presenting substantial reasons that the order is no longer necessary.

D. Ethics Review Committee Hearings

1. Hearing Schedule, Notice, and Attendance

If the Review Team determines that charges should be brought, then a hearing date, time, and location for each ethics case will be scheduled by the ERC in consultation with the Respondent, and the Respondent will be notified in writing via email. Any Ethics Hearing may proceed to a conclusion and decision, whether or not the Respondent is present, based on the appropriate written record as determined by the Hearing Panel. Once a hearing date, time, and location have been set after consultation with the Respondent, requests for changes to such date, time, and location shall only be honored pursuant to the ERC Chair's sole discretion. As determined by the ERC Chair, the Ethics Hearing may be conducted entirely or in part via teleconference, where all persons participating will be able to communicate with one another. The ERC shall provide to the Complainant notice of and an opportunity to participate in the hearing and provide a statement during the Ethics Hearing, but the Complainant shall not be required to participate

2. Conduct of the Hearing

It is mandatory that PMI-appointed legal counsel shall assist the ERC at an Ethics Hearing and that no other legal counsel be consulted by the ERC unless such other legal counsel is consented to in writing by the PMI General Counsel. The ERC Chair presides at the Ethics Hearing or in the case where the ERC Chair may not be able to preside, the past ERC Chair or the Vice Chair may fulfill this duty, and the Review Team is responsible for setting forth the charges. The Respondent may have legal counsel participate in an Ethics Hearing. The members of the ERC who participate in an Ethics Hearing and who were not members of the Review Team shall serve as members of the Hearing Panel. There must be at least three (3) Hearing Panel members participating in order to go forward with an Ethics Hearing. No formal legal rules of evidence, cross-examination, oath, and other procedures apply to hearings. The Respondent, or a legal representative, is permitted to respond to the charges. The Review Team and the Respondent, as well as the Complainant (if

participating in the Ethics Hearing) may be asked questions by the Hearing Panel. Objections relating to relevance of information and other procedural issues during the Ethics Hearing will be decided by the ERC Chair and these decisions are not subject to appeal. In the event of contradictory or disputed testimony or evidence, the Hearing Panel may weigh the relative credibility of any such testimony or evidence and make a reasoned determination based on all facts presented. The ERC may establish more detailed hearing guidelines that are consistent with the provisions of these Procedures.

3. Witnesses

The Respondent and the Review Team may request witnesses to participate in the Ethics Hearing; such witnesses' participation shall be subject to the sole discretion of the ERC Chair. Alternatively, witnesses may submit statements to be included in the Hearing Record. Witnesses permitted by the ERC Chair to participate at an Ethics Hearing may make presentations and be asked questions by members of the Review Team and the ERC presiding at the Ethics Hearing.

4. Hearing Record

A recording or other record of the Ethics Hearing may be made by the ERC, another PMI representative, or a stenographer/recorder, if so determined by the ERC. No taping or other type of recording of an Ethics Hearing may be made by any Participant.

5. Hearing Expenses

The Respondent and Complainant will be responsible for his/her expenses associated with an ethics investigation or case, including the costs associated with any witnesses or legal counsel. The Institute will bear other general costs of conducting the Ethics Hearing, including costs associated with the activities of PMI representatives.

6. Closing the Hearing Record

Any Ethics Hearing may proceed to a conclusion and decision, whether or not the Respondent is present, based on the appropriate written record, as determined by the ERC. The ERC will review the hearing record, as well as any submissions presented by the Respondent and other relevant information, and thereafter, will determine the outcome of the ethics case by majority vote of the Hearing Panel in a closed session. The hearing record will be closed following the conclusion of the hearing, unless otherwise directed by the ERC Chair. The Hearing Panel shall use a preponderance-of-evidence standard (i.e., whether it was more likely than not that the Respondent violated one or more Code provisions) for determining whether to find that a Code violation occurred.

7. Ethics Review Committee Decision and Order

The ERC will prepare a Decision and Order after closing the record, including:

- A summary of the case, including the positions of the Complainant and the Respondent;
- A summary of relevant factual findings based on the record of the hearing;
- A final ruling on the Code violations charged;
- A statement of any corrective or disciplinary action(s); and
- Other directives issued by the ERC.

Copies of the ERC Decision and Order shall be sent to the Respondent and the Complainant. The ERC shall strive to send the ERC Decision and Order not later than

twenty (20) days following the close of the Ethics Hearing. The Respondent and the Complainant also will be notified that the final decision may be published consistent with these Procedures. The Respondent may request a copy of the recording, if applicable, made of the Ethics Hearing from the ERC Chair or PMI legal counsel for purposes of preparing an appeal.

8. *Disciplinary Actions Available*

When a Respondent is found to have violated one or more Code provisions, the ERC may issue and order one or more of the following disciplinary or remedial actions:

- 8.a. The denial and rejection of any PMI membership and/or certification application;
- 8.b. Private reprimand and censure, including any appropriate conditions or directives;
- 8.c. Public reprimand and censure, including any appropriate conditions or directives;
- 8.d. Membership, certification, and/or volunteer probation for a period up to three (3) years, including any appropriate restrictions or conditions concerning membership, certification, and/or volunteer rights and any other conditions or directives;
- 8.e. Suspension of membership, certification, and/or volunteer status for a specified period of time, including any appropriate conditions or directives;
- 8.f. Termination of membership and/or revocation of certification status;

Appropriate conditions, restrictions or directives may include: paying restitution to the party(ies) harmed; undergoing ethics education; and issuing a public or private apology. For each of the above-listed disciplinary actions except 8.b., the ERC shall determine whether and, if so, how to publicize the sanction(s). Respondents found to have violated one or more Code provisions also may be subject to restrictions established by the Institute, such as prohibitions against serving on particular PMI committees.

E. Ethics Appel Panel/Appeals

1. *Submitting an Appeal*

1.a. *Deadline.*

Within forty-five (45) days of the mailing date of an adverse ERC Decision and Order, the Respondent may submit to the Appeals Panel, care of the Institute headquarters address, a written appeal of all or a portion of the Decision and Order consistent with the requirements of these Procedures.

1.b. *Appeals Panel Appointment.*

If the written appeal is not timely or otherwise fails to meet the requirements of these Procedures, the Staff Liaison, in consultation with PMI legal counsel, shall send a rejection letter promptly to the Respondent, with explanation for why the appeal was rejected. If the written appeal is timely and otherwise meets the requirements of these Procedures, the Staff Liaison shall notify the PMI Board of Directors promptly. Upon notification, the Chairman of the PMI Board of Directors shall appoint a three-member Appeals Panel to consider the appeal, naming one such individual as Chair. Appeals Panel appointees shall be chosen from among the PMI membership, including where appropriate members of the PMI Board of Directors and other PMI members with preference given to individuals

with prior ethics experience, such as by serving previously on the ERC or other PMI ethics committee or group.

1.c. Appeals Panel Process.

The Staff Liaison will forward the appeal to the Appeals Panel Chair for review, consideration, and assignment.

2. Grounds for Appeal

An adverse ERC Decision and Order may be reversed, remanded, and/or otherwise modified by the Appeals Panel. However, the grounds for appeal of an adverse decision are strictly limited to the following:

2.a. Procedural Error

The ERC committed clear error in the application of a provision contained in these Procedures, and that misapplication prejudiced the Respondent. Decisions made by the ERC Chair on matters which are left to the discretion of the ERC Chair under these Procedures are not appealable unless the decision constituted an abuse of discretion. With respect to this subsection, the Appeals Panel will consider only arguments that were presented to the ERC prior to the closing of the Hearing Record.

2.b. New or Previously Undiscovered Information

Following the closing of the hearing record, the Respondent located relevant proof that was not previously in his/her possession; was not reasonably available prior to closure of the record; and, could have affected the ERC decision.

2.c. Arbitrary and Capricious

The ERC decision was arbitrary and capricious and the ERC had no reasonable basis for arriving at the conclusion it reached.

3. Contents of Appeal Letter

The Respondent must submit to the Institute headquarters address a letter or other written document directed to the attention of "PMI Ethics Appeals," containing the following information and material:

- The ethics case name;
- The Case Number and date of the ERC Decision;
- A statement and complete explanation of the reasons for the appeal under Section E.2, including an explanation and basis for any request concerning a reduction in the discipline issued by the ERC; and,
- Copies of any material supporting the appeal.

3.a. In the case of an appeal under Section E.2.a, the Respondent must provide a specific reference to the procedure(s) involved and to the section(s) of the case documentation which supports the Respondent's position. In the case of an appeal under Section E.2.a alleging the ERC Chair's abuse of discretion, the Respondent must provide detailed information from the case documentation which supports the Respondent's position. Any appeal under Section E.2.a will not be accepted without proper documentation.

3.b. In the case of an appeal under Section E.2.b, the Respondent must provide the relevant new or previously undiscovered information, a written statement as to whether such information was reasonably available at the time the case was considered by the ERC, and a written explanation as to how the new or previously undiscovered information would have affected the ERC's decision. Any appeal under Section E.2.b will not be accepted without proper written documentation.

3.c. In the case of an appeal under Section E.2.c, the Respondent must provide a written explanation explaining why the ERC had no reasonable basis for arriving at its conclusion and citing specific parts of the hearing record which support the Respondent's position. Any appeal under Section E.2.c will not be accepted without proper documentation.

If the letter or other document submitted by the Respondent to the Appeals Panel fails to include all of the above contents or if it fails to provide on its face sufficient information and documentation to support an appeal under Section E.2, the Appeals Panel shall reject the Respondent's appeal.

F. Ethics Appel Panel/Appeal Hearings

1. *Ethics Appeals*

The Appeals Panel will consult PMI-appointed legal counsel when preparing to consider the appeal. The Appeals Panel shall consider only those grounds for appeal specifically cited by the Respondent in the appeal letter and shall not consider other grounds not raised in the appeal letter.

2. *Appeal Process*

Following receipt of a complete and proper written appeal, the Appeals Panel will deliver to the ERC Chair a copy of the appeal with instructions for the ERC to provide written response within forty-five (45) days.

3. *Appeal Hearing*

After considering the written appeal and the written response from the ERC, the Appeals Panel may:

- (1) determine that sufficient information has been provided by the Respondent and the ERC for the Appeals Panel to conclude the appeal and issue its Appeal Decision and Order, or
- (2) determine that an Appeal Hearing is necessary before the Appeals Panel is able to conclude the appeal.

In the event that an Appeal Hearing is determined to be necessary, the Appeals Panel shall schedule a date on which to conduct an Appeal Hearing and notify the Respondent and ERC in writing at least thirty (30) days in advance of the scheduled date. As determined by the Appeals Panel Chair, the Appeal Hearing may be conducted entirely or in part via teleconference, where all participants will be able to communicate with one another.

4. Conduct of Appeal Hearing

PMI-appointed legal counsel shall assist the Appeals Panel at an Appeal Hearing; no other legal counsel may be consulted by the Appeals Panel unless such other legal counsel is consented to in writing by the PMI General Counsel. The Appeals Panel Chair shall preside at the Appeal Hearing. No formal legal rules of evidence, cross-examination, oath, and other procedures will apply to the Appeal Hearing. The Respondent and one or more representatives of the ERC (as determined at the sole discretion of the Appeals Panel Chair) shall each be given an opportunity to speak at the Appeal Hearing. Both the Respondent and the ERC representative(s) may be asked questions by the Appeals Panel members. Objections relating to relevance of information and other procedural issues during the Appeal Hearing will be decided by the Appeals Panel Chair and these decisions are not subject to appeal. The Appeals Panel may establish more detailed hearing guidelines that are consistent with the provisions of these Procedures.

5. Standard of Review

In the case of an appeal under section E.3.a, the Appeals Panel shall give deference to the ERC's discretionary procedural decisions, such that a discretionary procedural decision made by the ERC may only be grounds for a successful appeal under section E.3.a if the decision was arbitrary or lacking in any reasonable basis. In the case of an appeal under section E.3.c, the Appeals Panel shall give deference to the ERC's factual findings, such that a factual finding will be presumed reasonable unless the finding was lacking in any reasonable basis.

6. Ethics Appeals Panel Decision and Order

Following the Appeal Hearing conclusion or conclusion of an appeal without a hearing, the Appeals Panel will issue an Appeal Decision and Order stating:

- The outcome and resolution of the appeal, including a summary of relevant portions of the ERC Decision and Order;
- A summary of any relevant procedural or factual findings made by the Appeals Panel;
- The Appeals Panel's ruling(s) and decision(s) with respect to the matters under appeal; and,
- The Appeals Panel's final Decision and Order accepting, affirming, reversing, remanding, amending, or otherwise modifying any portion of the ERC Decision and Order, including any final disciplinary action or sanction issued by the Appeals Panel.

Copies of the Appeals Panel Decision and Order shall be sent to the Respondent, the Complainant, and the ERC. The Respondent, the Complainant, and the ERC also will be notified that the final decision may be published, consistent with the requirements of these Procedures.

G. Finalizing Ethics Cases

1. *Events Which Will Cause Final Closure of an Ethics Case*

An ethics case will be closed and no longer considered active when any of the following occur:

- The ethics complaint has been rejected or dismissed pursuant to these Procedures;
- A final decision has been issued by the ERC without appeal pursuant to these Procedures; or
- A final decision has been issued by the Appeals Panel pursuant to these Procedures without further action required by the ERC.

2. *Events Which Will Cause a Decision and Order to Become Final*

A Decision and Order issued by the ERC that is not appealed within the prescribed time requirements will be considered final. A dismissal by the Appeals Panel or the issuance of a Decision and Order issued by the Appeals Panel will be considered final.

3. *Publication of Final Disciplinary Action*

The Institute may publish a notification of a final Decision and Order following the issuance of an ERC or Appeals Panel decision or ruling if so directed by the applicable Decision and Order. This notification may be published following the conclusion of any appeals available to the Respondent.

H. Probation and Suspension Orders/Reinstatement Procedures

1. *Probation Orders/Reinstatement or Referral*

Following the expiration of a final Decision and Order which includes a probation requirement under these Procedures, the ERC will determine whether the Respondent has satisfied the terms of the probation order, and will do the following:

- If the Respondent has satisfied the terms of probation in full, the ERC will immediately verify with the Institute that the probation has been completed and reinstate the individual to full membership and/or certification status following the acceptance of a complete membership and/or certification application and full payment of all membership dues, certification fees owed (if any), and submissions necessary to demonstrate satisfaction of professional development units (if necessary); or,
- If the Respondent has not satisfied the terms of probation in full, the ERC will issue any appropriate action consistent with these Procedures, including, but not limited to, the imposition of an additional probation term(s).

2. *Suspension Orders/Reinstatement*

After the issuance of a final Decision and Order which includes a suspension sanction issued under these Procedures, a Respondent shall be eligible to have membership and/or certification status reinstated at the conclusion of the suspension time period, according to all applicable Institute terms of membership and/or certification as may be in existence at the time.

3. *Ethics Review Committee Reinstatement Request Decisions*

If an applicable Decision and Order conditions reinstatement on a subsequent review by the ERC, the Respondent must submit to the ERC a written request to be reinstated. Following the submission of a complete reinstatement request, the ERC will schedule and conduct a hearing to review and rule on the request. During these deliberations, the ERC will review the information presented by the Respondent and any other relevant information, and prepare and issue a final Decision and Order stating whether the request is granted, denied, or continued to a later date; and, if appropriate, any conditions of membership and/or certification. Copies of the ERC Decision and Order will be sent the Respondent and the Complainant. While no appeal of the Decision and Order is permitted in this situation, the Respondent may submit a new request pursuant to this Section one (1) year or more after the issuance of the ERC Decision and Order rejecting the request.

I. Educating PMI's Members, Certificants, and Volunteers Regarding Ethics Enforcement

Regardless of the final disposition of a particular ethics case, the ERC may recommend that PMI publish relevant facts regarding the case for the benefit of PMI's membership, certificants, and volunteers. Publication shall only be permitted after the case is finally closed, pursuant to section G(1) of these Procedures. Except in the event that the Institute issues a disciplinary order requiring public reprimand and censure and the time for appealing such order has passed and either no appeal was filed or the appeal was heard and rejected pursuant to these Procedures, such publication shall be made in a redacted manner so that individuals are neither expressly identified nor otherwise identifiable through other facts and circumstances. In the event that the facts surrounding a particular ethics case are such that even the publication of a redacted version would result in one or more individuals being identifiable, then the ERC shall not recommend publication, unless pursuant to a disciplinary order.