

Code of Ethics and Rules of Professional Conduct

Code of Ethics

1. Members and Associates will, in personal and public life, strive to enhance the status of Enrolled Agents and promote their qualifications to serve the public.
2. Members and Associates will demonstrate honesty, integrity and objectivity in all of their professional actions and relationships.
3. Members and Associates will continually strive to improve upon their competence to practice by keeping informed and educated about tax practice and representation.
4. Members and Associates will maintain the confidentiality of professional relationships.
5. Members and Associates will support efforts to advance the reputation and prestige of the EA license.
6. Members and Associates will be compliant with the most current provisions of Treasury Department Circular 230 and the NAEA Rules of Professional Conduct.
7. Members and Associates will not knowingly misrepresent or omit information in preparing or in approving and filing tax returns, documents, affidavits, and other papers relating to Internal Revenue Service matters. If a client insists on the misrepresentation or omission, the Member or Associate should withdraw and refuse to prepare the return or other document.

Rules of Professional Conduct

1. Members and Associates will adhere to all laws and regulations that provide equal opportunity for all clients and employees regardless of race, color, religion, gender, national origin, age, handicap, sexual orientation, or any other legally protected class.
2. Members and Associates will maintain a confidential relationship between themselves and their clients or former clients, disclosing confidential information only when authorized or legally obligated to do so. Members and Associates will instruct employees that information acquired in their duties is confidential and will ensure that confidentiality is maintained.
3. Members and Associates will promptly submit requested information to the Internal Revenue Service (IRS) and will not interfere with

- lawful efforts by the IRS to obtain any record or information, unless the Member or Associate believes, in good faith and on reasonable grounds, that the information is privileged.
4. Only Members may designate themselves "Member(s) of the National Association of Enrolled Agents"; only Associates may designate themselves as "Associate(s) of the National Association of Enrolled Agents."
 5. Members and Associates will not represent conflicting interests without express written consent of all parties after full disclosure.
 6. Members and Associates will not allow their related business interests to affect representation of a client, and must immediately disclose their interests when referring a client to another firm or enterprise for services.
 7. Members and Associates will refuse any gift, favor or hospitality that would influence or appear to influence their actions.
 8. Members and Associates will take a position on a tax return favorable to their clients only if there is substantial authority that the position will be sustained on its merits, unless the position is disclosed and there is at least a reasonable basis for it. If applicable law is unsettled, or the application of law to the facts in a given situation is uncertain, Members and Associates must explain the probable effects of various alternatives to their clients who make the final decision as to the position to be taken.
 9. Members and Associates will not knowingly, directly or indirectly, professionally associate with an individual who has been suspended or disbarred.
 10. Members and Associates will avoid any appearance of impropriety when paying or accepting a commission to obtain a client, or to refer products or services.
 11. Members and Associates who are engaged simultaneously in another occupation will conduct themselves in such a manner that no conflict of interest exists when rendering professional tax service or professional advice. No Member or Associate will accept or pay a commission for the sale or referral of products or services to a client unless they are properly licensed, and all facts are fully disclosed in writing to the client. No Member or Associate will pay a commission or referral fee to an employee for the sale or referral of products or services to a client unless the employee is properly licensed and the facts are fully disclosed in writing to the client.
 12. Members and Associates will not solicit clients in any manner prohibited by the most current provisions of Circular 230, including

- advertising or other forms of solicitation that presents a false, misleading, or deceptive appearance.
13. Members and Associates will undertake only those tax matters which the Member or Associate, or the Member's or Associate's firm, can reasonably expect to complete with professional competence. Members and Associates will obtain sufficient relevant data to provide a reasonable basis for conclusions or recommendations as required to complete the task.
 14. Members and Associates should be considerate and courteous in dealing with representatives of governmental agencies. In practice, Members and Associates are required to provide all information required by a statute or regulations when formally requested by the authorized governmental agency.
 15. Members and Associates will not suggest or give the impression they can obtain special consideration from governmental agencies or their representatives because of prior IRS employment.
 16. Members and Associates will advise a client, preferably in writing, if they suspect the client may not have complied with the revenue laws or may have made an error in, or omission from a return, document, affidavit, or paper which the client is required by law to execute.
 17. Members and Associates will not represent a client, or will withdraw from client representation that has commenced, if:
 - a. the representation will result in violation of the rules of professional conduct or the law,
 - b. the Member's or Associate's physical or mental condition materially impairs his/her ability to represent the client,
 - c. the client persists in a course of action involving the Member's or Associate's services that the Member or Associate believes is criminal or fraudulent,
 - d. the client has used the Member's or Associate's services to perpetrate a crime or fraud, or
 - e. the Member or Associate is discharged.
 18. Members and Associates may withdraw from representing a client if:
 - a. the client insists on pursuing an objective that the Member or Associate considers imprudent,
 - b. the client fails substantially to fulfill an obligation to the Member or Associate regarding the Member's or Associate's services and has been given reasonable warning that the

- Member or Associate will withdraw unless the obligation is fulfilled,
- c. the representation will result in an unreasonable financial burden on the Member or Associate,
 - d. the representation has been rendered unreasonably difficult by the client, or
 - e. other good cause for withdrawal exists.
19. If representation is terminated, a Member or Associate will make reasonable steps to protect the former client's interests including providing reasonable notice to allow retention of another practitioner, surrendering papers and property to which the client is entitled, and refunding unearned advance fees.
20. Members and Associates will return to the client or former client all records the client provided.
21. Tax preparation or representation services will be offered as authorized by the most current provisions of Circular 230.

APPENDIX A

I. GENERAL

The Association is obligated to prescribe and enforce standards for its Members and Associates. Complaint procedures are outlined in Section III. Investigations and hearings may be held to determine if Members and Associates adhered to these standards. The Respondent may resign at any stage of proceedings discussed below but NAEA has no obligation to suggest or accept such resignation.

II. DEFINITIONS

- A. Censure: The mildest form of discipline, this action is a warning or reprimand.
- B. Preponderance of Evidence: This is evidence that is more likely true than not.
- C. Complaint: A written statement that must contain a clear and concise statement of facts that a Member or Associate (now referred to as Respondent) violated the ethical standards set forth by this Association. The complaint must include pertinent dates of the alleged unethical practice and be signed by the Complainant(s), who may or may not be a Member or Associate of the Association.

- D. Conflict of Interest: A conflict of interest arises when any person involved in a disciplinary proceeding (other than the Complainant or Respondent) has competing professional or personal interests. Such competing interests can make it difficult to fulfill the disciplinary duties impartially. A conflict of interest exists even if no unethical or improper act results from it, and can create an appearance of impropriety that can undermine confidence in the process. Any conflict of interest will not deprive a party or witness the opportunity to be heard, but the conflict may be considered when evaluating the evidence.
- E. Expulsion: This includes loss of NAEA Member or Associate rights and privileges. Should proceedings result in expulsion, NAEA has the right to disclose only that a person is no longer a Member or Associate.
- F. Fraud: This is a deliberate misrepresentation, by words or conduct, that causes another person to suffer damages, usually monetary damages. Fraud can also be committed by false or misleading allegations or by concealing something that should be disclosed.
- G. Suspension: This is an intermediate form of discipline, between censure and expulsion. A person who is suspended loses all rights and privileges of membership or association with NAEA for the period of suspension.

III. COMPLAINT PROCEDURES

- A. Initial Handling and Review
 - 1. The Association's Executive Vice President receives all initial complaints. If a complaint is first received by a State Affiliate leadership or Ethics Committee, the complaint must be forwarded within ten (10) days to the NAEA Executive Vice President. The complaints will be reviewed for required information described in II. C. above. The Executive Vice President will acknowledge receipt of the complaint to the Complainant within thirty (30) days. A complete log or diary must be maintained by the Chair of the Ethics & Professional Conduct Committee (E&PC). This log is open for inspection by E&PC Committee members and the NAEA Executive Vice President or NAEA's President upon written request.
 - 2. Every complaint will be reviewed and evaluated by the NAEA Ethics and Professional Conduct (E&PC) Committee Chair. The Chair and/or the E&PC Committee is not

obligated to act on every complaint received. The Chair will report disposition of all complaints to the NAEA Executive Vice President.

3. The NAEA E&PC Committee Chair will refer the complaint to the President of the relevant State Affiliate. At any time the State Affiliate can request that the NAEA E&PC Committee process the complaint.
4. If the Respondent is an Officer or Director of the National Association, the NAEA E&PC Committee alone will process the complaint.
5. If the Respondent is an Associate with no state affiliation, the NAEA E&PC Committee alone will process the complaint.

B. Investigation

1. The State Affiliate President or the NAEA E&PC Committee Chair will notify the Respondent in writing within thirty (30) days of receiving the complaint. The notice will advise the nature of the charge and the allegations supporting the charge, will advise the Respondent of his/her rights under the disciplinary procedure, and will request a response within thirty (30) days.
2. The State Affiliate President or NAEA E&PC Committee Chair will appoint two NAEA Members to investigate the charge. The Investigating Members will report to the President or Chair with a recommendation within sixty (60) days.

C. Hearing

1. Upon receipt of the investigative file, the State Affiliate E&PC Committee or NAEA E&PC Committee will notify the Respondent the investigation is complete and offer a hearing before the NAEA E&PC Committee. The Respondent must request a hearing within ten (10) days.
2. If the Respondent declines a hearing, or if the Respondent fails to reply within ten (10) days, the Committee will issue findings of fact and a recommended decision as described in Section III.
3. If the Respondent requests a hearing, advance notice of the date, time and place of the hearing will be provided at least thirty (30) days before the hearing.
4. Only members of the State Affiliate E&PC Committee or the NAEA E&PC Committee will hear the matter. A Hearing

Committee, consisting of at least three members, will select a Chair to preside at the hearing. The hearing can be transferred to the NAEA E&PC Committee upon written request within fifteen (15) days of receipt of the Respondent's hearing request if the affiliate E&PC Committee is unable or unwilling to conduct the hearing. Hearing attendance is restricted to Hearing Committee members, the Respondent, the Respondent's counsel (if applicable), the State Affiliate or National counsel (if applicable), and a transcriber. Other persons may be allowed to attend only by agreement with the E&PC Committee and Respondent. Witnesses, including the Complainant, will not be allowed to attend any part of the hearing in which they are not directly involved. Evidence will be considered informally and hearsay evidence will be heard, but the Hearing Committee Chair will exclude irrelevant or unduly repetitive testimony. The Hearing Committee Chair may restrict speakers' time if restrictions are stated in advance of the hearing opening.

5. The Respondent will have the right to appear before the Hearing Committee in person, to be represented by counsel, to present witnesses, to make an opening statement, to examine and rebut unfavorable evidence and to make a closing argument.
6. The hearing will be recorded using a tape recorder or other recording device. The verbatim transcription will be made by a person who is not a Member or Associate of NAEA. All documents accepted by the Hearing Committee Chair will be made an official part of the hearing record.
7. The Hearing Committee will deliberate in executive session with no non-committee member present including the transcriber or any party to the hearing.
8. All rulings and decisions of the Hearing Committee Chair that concern these proceedings will be final and binding.

IV. FINDINGS AND RECOMMENDATIONS

A. Findings

1. The only disciplinary actions that can be recommended are: dismissal, censure, suspension, or expulsion.
2. When making a recommendation, the E&PC Committee should consider all facts and circumstances it deems

relevant, including, but not limited to the following (where applicable):

- a. The extent of the seriousness of the offense, including whether it was intentional fraud, negligent misrepresentation or an innocent mistake.
- b. Whether this is the first offense or complaint. If it is not the first complaint, the E&PC Committee will also consider the date of the last offense and the nature of that offense.
- c. Whether, and to what extent, others were harmed by the actions, including monetary loss or if there is physical injury, or harm to reputation, loss of income, etc.
- d. Whether the Respondent may be subject to other liability or punishment.
- e. Whether, and to what extent, the Respondent has been responsive to and cooperative with the investigation and hearing.
- f. Whether, and to what extent, the Respondent made restitution to Complainant(s).
- g. Whether, and to what extent, the Respondent has been subject to previous discipline by NAEA (or a state Affiliate).
- h. Previous handlings of past similar cases.
- i. Whether there are any mitigating circumstances.

B. Dismissal

1. After initial review of the complaint as set forth in III.A.2 above, the NAEA E&PC Committee Chair may dismiss a complaint after consulting with legal counsel or whomever is deemed appropriate.
2. For purposes of illustration only and not intended to be a complete or exhaustive list, a complaint may be dismissed for the following reasons:
 - a. Failure to state a claim on which relief can be granted.
 - b. Basing a complaint on matters which are already covered by another authority, jurisdiction or regulated by law.
 - c. Knowledge that the same acts or omissions complained of are already the subject of

investigation, discipline or prosecution by another body.

- d. Failure to allege a violation with specificity and/or with sufficient facts, evidence or detail to support the charge.
- e. Failure to comply with the requirements for a proper complaint, including complainant's identity and signature.
- f. Legal counsel advises no further action should be taken on the complaint.

3. A complaint may be deferred pending the action of another authority or jurisdiction the Respondent is subject to.

4. At any time during the investigative process, the State Affiliate President or NAEA E&PC Committee Chair may dismiss the complaint if the Chair believes it is appropriate to do so under the same reasons given in IV.B.2. above.

5. In the event the Chair of the NAEA E&PC Committee or the State Affiliate President dismisses the complaint, the NAEA E&PC Committee Chair will notify the Complainant of such decision. Unless legal counsel recommends dismissal of the complaint, the Complainant will be notified that the decision to dismiss may be appealed to the President of the Association, who after consulting with the E&PC Committee Chair may sustain or overrule the decision.

6. If the Committee decides to dismiss the complaint, the decision is final. Notification of the complaint's dismissal will be mailed to the State Affiliate President, the Respondent, the Complainant and the NAEA Executive Vice President within ten (10) days.

C. Censure

- 1. If the E&PC Committee recommends censure, a copy of the finding of fact and recommendation will be mailed to the Respondent within fifteen (15) days.
- 2. A censure must be in writing and clearly outline the consequences in the event of a recurrence of the conduct.

D. Suspension or Expulsion

1. If the E&PC Committee recommends suspension or expulsion, a copy of its finding of fact and recommendation will be mailed to the Respondent at least fifteen (15) days prior to the effective date of suspension or expulsion.
2. Upon receipt of a State Affiliate's or NAEA E&PC Committee's findings and recommendation for suspension or expulsion of a Member or Associate, the NAEA President will call a meeting of the NAEA Board unless a regularly scheduled meeting is to be held within ninety (90) days, to review the State Affiliate's or NAEA E&PC Committee findings and recommendation. Excluded from this review will be all Officers and Directors from the State Affiliate who participated in processing the case at the state level. The Respondent may be heard at this session, if so desired. All disciplinary action hearings will be held in closed Executive Session.
3. The NAEA Board of Directors, upon reviewing the investigative file and recommendation, will confirm, modify or dismiss the recommendation of the State Affiliate or NAEA E&PC Committee. In reviewing the findings and recommendation, the NAEA Board will consider the facts and circumstances as identified in Section III.A.2. above. The decision of the NAEA Board of Directors is the final appeal of a decision to suspend or expel a Member or Associate.
4. Suspension or expulsion will be done in good faith and in a fair and reasonable manner. A procedure is deemed fair and reasonable when it is done according to California Corporate Code for Nonprofits and:
 - a. It is done according to the NAEA bylaws.
 - b. The Respondent is given notice of the suspension and the reasons for the action at least fifteen (15) days before the suspension or expulsion takes place.
 - c. An opportunity is provided for the Member or Associate to be heard orally or in writing, not less than five (5) days before the effective date of suspension or expulsion by a body (or person) authorized to decide that the proposed suspension or expulsion not take place.

V. ADMINISTRATIVE DEMANDS

- A. Documents sent to the Complainant or Respondent as required by this Code must be mailed by USPS or sent by a private delivery service that provides confirmation of delivery.
- B. No postponements or delays will be granted in the processing of a case unless unusual circumstances arise.
- C. Any inspection or receipt of tax return information as a part of these procedures will be in accordance with existing laws, rules, and regulations.
- D. Confidentiality will be established and maintained throughout the processing of a complaint.
- E. The investigative file, including the hearing record, findings of fact and recommendation, will be mailed to the State Affiliate President and the NAEA Executive Vice President within fifteen (15) days of the hearing. If no hearing is held, the investigative file will be mailed within thirty (30) days of the investigation's completion. All duplicate records will be destroyed.
- F. Records of all proceedings under this Code will be sealed and retained at the NAEA National Office and State Affiliate headquarters for five (5) years from the date of the final decision of the highest body to hear the matter. If no State Affiliate headquarters exist, the NAEA National Office will serve as custodian. If no legal action has been instituted for reinstatement within that time, all records will be destroyed by the Executive Vice President. No records will be destroyed while any legal action is pending.
- G. In the event of a conflict of interest or bias among any person serving in any capacity in a proceeding, that person will recuse him/herself from participation.
- H. No E&PC Committee member or State Affiliate E&PC Committee member will be compensated for their time in this service. The respective convening authority will be responsible for charges incurred during conduct of its business. NAEA will reimburse NAEA E&PC Committee members for travel, lodging and mailing in accordance with NAEA policies and procedures. The State Affiliate will reimburse its E&PC Committee members in accordance with its own standing rules and procedures.
- I. Any State Affiliate Board of Directors that wishes to have a standing committee for Ethics and Professional Conduct must adopt the NAEA Code of Ethics and Rules of Professional Conduct or Ethics and Professional Conduct rules that are at least as comprehensive as NAEA's, and "fair and reasonable" procedures.

This "fair and reasonable" criterion requires the Code, Rules and Procedures to be either set forth in the State Affiliate Bylaws, adopted by reference in the State Affiliate Bylaws, or sent annually to all Members or Associates within the State Affiliate.

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