



New York State Chapter of the International
Association of Arson Investigators
PO Box 6501 Watertown, NY 13601

**NEW YORK STATE CHAPTER
OF THE
INTERNATIONAL ASSOCIATION OF ARSON
INVESTIGATORS**

**ETHICAL PRACTICE AND GRIEVANCE
STANDARD OPERATING PROCEDURE**

NYS IAAI ETHICAL PRACTICE AND GRIEVANCE COMMITTEE
Standard Operating Procedure

I. PURPOSE

The NYS IAAI's Ethical Practice and Grievance (EP&G) Committee of the New York State Chapter of the International Association of Arson Investigators (NYS IAAI) has been established to review complaints, from any source, which are brought against members or individuals that were members of the NYS IAAI at the time the alleged violation occurred and to report its findings and recommendations to the Board of Directors and the NYS IAAI Officers. The purpose of the EP&G Committee is to maintain and protect the high degree of professionalism and integrity of the membership of the NYS IAAI and, additionally, to protect the public and the chapter membership from violations of rules or codes of the NYS IAAI. Decisions of the Board imposing sanctions may be disseminated for the edification of the fire investigation community, except a private letter of censure.

II. COMPLAINT FILING AND ADMINISTRATION

A. Basis.

The basis for a complaint may include the following:

1. Conviction of a criminal offense.
2. Judgement or order entered against the member in a criminal, civil or contempt action related to the status of the accused as an investigator.
3. Breach of the professional responsibilities or legal duties of an investigator.
4. Violations of the By-Laws of the NYS IAAI.
5. Falsification or misrepresentation under circumstances intended to influence or affect the outcome of any proceeding, including, but not limited to, trials, hearings, depositions, interviews or applications.

B. Filing.

A current copy of this SOP and the forms needed to file a complaint shall be made available on the NYS IAAI website. The procedure for filing a complaint, as listed below, must be followed and a failure to comply with this procedure may result in dismissal of the complaint. The procedure is as follows:

1. Complainant makes a written request for a complaint packet from the NYS IAAI (sample attached to this SOP) or obtains it from the NYS IAAI website.
2. Complainant completes the complaint form and returns it with all supporting documents and other evidence. The documents must be sent to NYS IAAI by email or U.S. mail. The complainant must include identifying information and contact information regarding the complainant, and an electronic submission shall serve as the signature of the complainant.
3. No complaints will be accepted or processed until all civil or criminal court actions involving both parties are complete. Complaints may be filed at any time, subject to limitations in Paragraph C below. If civil or criminal court actions are pending at the time of processing the complaint, processing may be suspended by a majority vote of the EP&G Committee. The chairman of the EP&G Committee shall be responsible for determining when the case shall be reactivated for decision by the EP&G Committee.
4. Matters that come to the attention of the Board of Directors outside the normal complaint process can be referred to the EP&G Committee for review and appropriate action.

C. Time Limitation.

Except in instances involving fraud, misrepresentations or omission of an applicant to become a member of NYS IAAI, complaints must be received at NYS IAAI within one year of the date of the occurrence which is the basis of the complaint. In the event the occurrence, which is the basis for the complaint, was not discovered and could not have been reasonably discovered within three years before the complaint was filed then the complaint must be received within one year of the date of discovery. Any complaint received by NYS IAAI based on conduct which occurred more than one year before the date of receipt and which could have been discovered within that one year will be dismissed. There is no time limitation for membership fraud, misrepresentation or omission.

D. NYS IAAI Procedures.

Upon receipt of a properly completed complaint form, NYS IAAI will do the following:

1. Assign a unique case number to the complaint.
2. Create and maintain a confidential file for original documents and other submitted evidence.

3. Forward copies of the complaint form, and all supporting documents to the EP&G Chairperson.
4. At the conclusion of the case all materials associated with the case shall be returned to NYS IAAI which shall create an electronic file archive.

III. PROCESSING THE COMPLAINT

A. Review.

Complaints will be reviewed initially by the EP&G Committee. The review may include investigation and will include dismissal or EP&G Committee recommendation to the NYS IAAI officers and Board of Directors ("Officers /Board"). The following procedures will be in effect.

1. The EP&G Chairperson will send written notification of the complaint to members of the EP&G Committee, the complainant, and the accused. This written notification will include copies of the complaint and supporting documents and if practical, copies of photos or other evidence submitted. Notice to the accused will be sent by certified mail, return receipt requested.

NOTE: The accused will be given the name of the complainant at this time. Anonymous claims will not be processed by NYS IAAI.

2. The accused, at his/her option, will have 30 days from the date of mailing of the complaint by the chairperson to the accused to provide a written response, including additional documents or evidence, to the EP&G Chairperson. This written response should be provided directly to the EP&G Chairperson who will then send copies to the other EP&G members and the complainant.
3. The complaint and documents or evidence, along with any response from the accused, will be reviewed by the EP&G Committee to determine if further action is warranted. A quorum consisting of a majority of the EP&G committee membership shall be required to take any action on a complaint. At the discretion of the EP&G Chairperson, reviews may be conducted by physical meeting, electronically or telephonically.
4. After preliminary review by the EP&G Committee, no further action will be taken on complaints determined to be frivolous, unsubstantiated or unwarranted by no less than two-thirds (2/3) vote of the EP&G Committee members voting. The accused, and the complainant will be notified of the no-action decision.

5. An investigation may be initiated at the discretion of the EP&G Chairperson only on complaints requiring further action and meeting all criteria discussed in these procedures.

B. Investigation Procedures.

1. Any EP&G investigation will be deferred pending resolution of criminal or civil matter actions involving the accused. If at any time evidence of a criminal act on the part of the accused surfaces, the EP&G investigation will stop and the complaint will be placed on hold pending resolution of the criminal matter. Investigators or other experts retained by the EP&G Committee shall immediately notify the EP&G Chairperson, who will consult with the NYS IAAI Chapter President to determine the need to notify law enforcement.
2. To the extent required, the EP&G chairperson will assign investigators or other experts as needed to conduct a confidential and thorough investigation of the complaint.
3. Reports of investigators or other experts will be given directly to the EP&G Chairperson at the conclusion of their investigation. The EP&G Chairperson in turn will provide these reports to the EP&G Committee, and the accused but not the complainant.

C. EP&G ACTION.

1. Based on all available facts, supporting documents, reports and other evidence, including the original complaint and the response, of any, by the accused, the EP&G Committee will review the complaint (conducted by a physical meeting, electronically or telephonically) and submit a written recommendation for disposition of the matter by majority vote of the EP&G Committee meeting in a quorum. The EP&G recommendation will be submitted to the Officers/Board at an official Board meeting. The written recommendation shall include:
 - a. Findings of fact as to the violations alleged;
 - b. Recommendations as to sanctions to be imposed;
 - c. Where appropriate, recommendations regarding publication of the case findings and the identity of the accused;
 - d. Information that will be disclosed to the complainant concerning the disposition of the case.

2. Complaints which are brought against the EP&G Chairperson or any member of the EP&G Committee will be sent directly to the NYS IAAI Chapter President and will be handled, in the same manner described above, with the President serving as chairperson and the Board serving as the EP&G Committee.

IV. SANCTIONS.

Any one or more of the following sanctions may be imposed if a complaint is found justified by the EP&G Committee and sustained by The Officers/Board by majority vote of a quorum in attendance. As potential sanctions of a NYS IAAI member are of great concern and significant importance, the votes necessary for action are based on those eligible to vote versus those in the quorum. The following actions require a simple majority of those eligible to vote:

1. An order to cease and desist from a specified activity.
2. A public letter of reprimand from the Board of Directors.
3. A private letter of censure from the Board of Directors.
4. NYS IAAI Membership probation.

The following actions require a 2/3 majority of those eligible to vote:

5. NYS IAAI Membership suspension.
6. NYS IAAI Membership revocation. **

** Membership revoked by the Board of Directors can be reinstated only by written application directly to the Board of Directors one year after the date of revocation is effective.

V. OFFICER/BOARD PROCEDURE.

- A. In the event the EP&G Committee recommends a sanction, the Officers/Board will review the Committee's written recommendation and sustain, reverse, or modify it. As potential sanctions of a NYS IAAI member are of great concern and of significant importance, any Board review of an EP&G Committee recommendation shall be conducted in executive session and shall require the presence of a quorum of 2/3 of those eligible to vote.
- B. If the Officers/Board, by a majority vote of a quorum, sustains the sanctions, the NYS IAAI Chapter President shall promptly notify the accused of the sanctions recommended and of the right to request a hearing (as described below). Notice by

the President to the accused will be in writing and sent by certified mail, return receipt requested.

- C. The Officers/Board before taking any action on the EP&G Committee recommendation, may request additional investigation, or information through the use of investigators, experts or the EP&G Chairperson.

VI. CONFIDENTIALITY.

The recommendations of the EP&G Committee and the decision of the Officers/Board vote will be confidential until the decision is final. There will be no publication or other dissemination of the recommendations or vote until the time for a hearing demand and an appeal, if appropriate, has passed.

VII. RIGHT TO A HEARING.

- A. The accused has 30 days from the date of receipt, by certified mail, of written notice of the decision to request a hearing before the Officers /Board.
 - 1. The request for a hearing must be in writing and must be sent to NYS IAAI by certified mail return receipt requested.
 - 2. The hearing will be presided over by the NYS IAAI Chapter President or a designee and will include as triers of fact all available Officers and members of the Board of Directors. A quorum will be required before the hearing can begin or continue, consisting of a 2/3 majority of the Officers and Board of Directors who are eligible to vote on the issue at hand. Once the hearing begins, no officer or Board member may participate in the decision unless they have been present for all prior hearings on the matter. The necessary quorum shall be reduced by those precluded from continued participation or who have removed themselves based on a conflict of interest.
 - 3. The hearing will be held, to the extent practicable, at an official NYS IAAI Board Meeting and the accused will be provided at least a 60 day notice in advance of the hearing.

VIII. HEARING PROCEDURE.

- A. The accused has a right to be represented, at his/her own expense, by Counsel at all stages of the hearing.
- B. The accused has a right to a copy of all supporting documents, and access to other evidentiary material utilized by the EP&G Committee. The accused may use other materials and documents as well as live witnesses or affidavits at the hearing. The accused must supply documentary and electronic materials he/she is planning to use to the EP&G Committee

minimally 24 hours in advance of the hearing. The accused has the following rights:

1. The right to be present at the hearing at his/her own expense;
 2. A reasonable opportunity to be heard at his/her own defense;
 3. To present witnesses and other evidence; and
 4. To cross examine any witness called on behalf of NYS IAAI.
- C. The complainant may testify but cannot be forced to appear to testify.
- D. Failure of the accused to appear at the time set for the hearing shall be deemed a waiver of his or her right to be present and the hearing shall proceed in his or her absence.
- E. The EP&G Chairperson, or a designee, shall present evidence of the misconduct. All evidence shall be presented in the presence of the accused, his/her counsel, if any, unless the accused is absent or the right to be present is waived by the accused.
- F. After the EP&G Chairperson or the designee has presented the EP&G case, they shall rest and the accused may then call witnesses and present evidence. The accused shall not be required to present a case if he or she chooses not to. The chairperson of the EP&G Committee or the designee shall not be called as a witness by the accused.
- G. At the hearing, the presiding officer shall not be bound by the Rules of Evidence applicable in courts of law or by the Rules of Civil Procedure. The presiding officer may exclude matters which in his/her judgement are irrelevant, duplicative, or unnecessary.
- H. An audio recording of the hearing will be kept and the accused may request a transcribed copy of the tape at his/her own cost.
- I. If the Officers/Board, after the hearing, fails to sustain the recommendation for sanction by a majority vote of a quorum, or if the Officers/Board after the hearing, by a majority vote of a quorum, reverses the sanction decision, the matter will be dismissed and returned to the EP&G Chairperson. The EP&G Chairperson will then dismiss the complaint and notify the accused, the complainant and the EP&G Committee of the dismissal.
- J. If the Board, after the hearing, votes to sustain or modify the recommendation for sanctions by an appropriate majority vote, the President shall notify the accused within 30 days by certified letter, return receipt requested, of the decision and his/her right of appeal in accordance with this document.
- K. The Board shall also decide by a simple majority whether the decision of the Board and the identity of the accused shall be published and what information concerning the case

disposition shall be disclosed to the complainant.

- L. When so directed, the EP&G Chairperson shall draft a summary of the case and sanctions imposed and, after the time for filing an appeal has expired or at the conclusion of any appeal and after approval by the President, submit the summary to the editor of the Fire Scene Magazine for publication in the next issue and/or to the webmaster for electronic publication. A personal letter of censure shall not be published.
- M. The EP&G Chairperson shall be responsible for notifying the complainant of the results of the case, either after the expiration of the time for appeal or at the conclusion of the appeal, if filed. This notice shall comply with the direction of the Board.

IX. RIGHT OF APPEAL.

In the event that the decision for sanctions is upheld or modified by the Officers /Board at a hearing, a written appeal may be filed by the accused by using the following procedure:

1. All appeals must be submitted in writing and mailed, certified mail, return receipt requested to the official NYS IAAI address. All appeals must be received by NYS IAAI within 45 days from the date of receipt by the accused of the written decision to uphold the sanction, which shall be sent by certified mail, return receipt requested.
2. The time for filing the appeal may be extended, for just cause, by the NYS IAAI Chapter President or the EP&G Chairperson.
3. Written appeals will be limited to 25 pages in length, not including exhibits and must be typed and submitted on 8-1/2 x 11" paper. A transcript of the hearing must be attached.
4. The appeal will be reviewed by the EP&G Committee. The NYS IAAI Chapter President may temporarily assign additional members to the EP&G Committee for the specific purpose of reviewing the appeal. Upon completion of the review, these temporarily-assigned members will be released from the EP&G Committee.
5. The cost of the appeal, including all expenses will be paid by the appellant in advance.
6. A majority vote of the panel is needed to overturn the decision of the Officers/Board. In the event there are not at least 4 votes to overturn the decision, the decision of the Officers/Board will be affirmed.
7. A written decision of the EP&G Committee will be sent to the president, the chairperson of the EP&G Committee and the accused/appealing party.

X. CONFIDENTIALITY.

1. The filing of a complaint and all actions taken in the investigation of a complaint, including the discussions and recommendations of the EP&G Committee and the discussions and decisions of the Board, shall be confidential. When a final decision imposing sanctions is made, it is no longer confidential except for a private letter of censure which shall remain confidential. If the matter is dismissed it shall remain confidential.
2. How individual members of the EP&G Committee voted will remain confidential. All votes of the Board shall be by secret ballot and shall remain confidential. There will be no publication or other dissemination of the recommendations for sanctions until the time for a hearing demand or an appeal, if appropriate, has passed or until the hearing or appeal has been concluded and sanctions approved.
3. Because violations of professional conduct represent derivations from acceptable conduct, Board shall decide if any findings imposing a sanction and/or the identity of the accused, other than a personal letter of censure, shall be published in the Fire Scene Magazine and/or on the NYS IAAI website once the findings are final.

XI. CONFLICTS OF INTEREST.

Any member of the EP&G Committee or Board who has a conflict of interest concerning the matter under consideration shall recuse themselves and not participate in any further consideration of the matter. A conflict of interest is generally defined as a current or relatively recent professional, familial or substantial social relationship with the accused. Any such recusal shall have the effect of reducing the number of those otherwise eligible to vote by one and may affect the number needed for a quorum. In the event the EP&G Chairperson recuses him/herself, the President shall appoint an acting Chairperson. If the NYS IAAI Chapter President recuses him/herself, the President's successor shall act in his/her place. The accused may ask that a member of the Committee or Board recuse themselves if he or she believes there is a conflict of interest, mere filing of a complaint that is brought to the attention of a Director should not be necessarily considered a conflict of interest.



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**NYS IAAI ETHICAL PRACTICES AND GRIEVANCE COMPLAINT
FORM**

COMPLAINANT

NAME:

ADDRESS:

PHONE NUMBER:

EMAIL ADDRESS:

MEMBER IDENTIFIED IN COMPLAINT

NAME:

ADDRESS:

PHONE NUMBER:

EMAIL ADDRESS:

DETAILS OF VIOLATION

DATE(S) OF OCCURRENCE:

DETAILS OF COMPLAINT (USE ADDITIONAL PAGE IF NEEDED):

EVIDENCE INCLUDED/ATTACHED (I.E. TRANSCRIPTS, REPORTS, ETC.):

Complaint Number:

Date Received:

Date Forwarded to EP&G:



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**NYS IAAI ETHICAL PRACTICES AND GRIEVANCE COMPLAINT
TRACKING**

Date Complaint Request Received:

Date Complaint Package Sent to Complainant:

Date Complaint Received:

Date Sent to Committee:

Date Complainant and Subject Notified:

Date of Committee Review:

Date Presented to Board:

Hearing Date:

Appeals Date:

All Parties Notified of Final Disposition:

File Closed Date:

Comments:

Complaint Number:

Date Received:

Date Forwarded to EP&G:



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**NYS IAAI ETHICAL PRACTICES AND GRIEVANCE COMPLAINT
STATUS**

INVESTIGATION ASSIGNED? _____ YES _____ NO

RECOMMENDATION OF EP&G COMMITTEE:

SIGNATURE OF CHAIRPERSON

DATE

BOARD ACTION:

SIGNATURE OF PRESIDENT

DATE

ACCUSED MEMBER NOTIFIED OF BOARD ACTION:

DATE

COMPLAINANT NOTIFIED OF BOARD ACTION:

DATE

Complaint Number:

Date Received:

Date Forwarded to EP&G: