

Policies and Procedures for EDA Code of Ethics Enforcement

Approved April 5, 2019 - Effective January 1, 2020

Introduction

This document provides the procedures and policies that govern the enforcement of the Code of Ethics on all EDA members; EDA Executive, Members of the Board of Directors, Certified Economic Developers (Ec.D.'s, and/or CEcD's), corporate members, and the general membership.

These policies and procedures provide a fair and reasonable process for resolving complaints of ethical and or professional violations and a method of determining whether a member violated the Code. The policies and procedures help ensure that a member who is subject of an investigation (the "respondent") is provided full and fair opportunity to be heard throughout the process.

The Committee on Professional Conduct (CPC) at the EDA Board of Directors (hereinafter the "Board") is the main body for reviewing and investigating alleged violations as well as determining sanctions, if proven. Appeals of the decision(s) of the CPC can be made to the EDA Board of Directors, which decision will be considered final.

Review of alleged violations and sanctions will primarily be a peer-review process. Staff support is provided to the committee, as needed.

Committee on Professional Conduct

The Committee on Professional Conduct (CPC) will be the main body reviewing and investigating complaints and determining sanctions, if the allegations contained in such complaints are proven to the satisfaction of the CPC in accordance with the policies and procedures outlined herein. The CPC is comprised of EDA members, as follows:

- Current Vice President of the Board (one year term)
- Immediate CPC Past Chair (two year term)
- A Past President of the Board who also holds an EC.D. and/or a CEcD (one year term)
- EDA member representing the public sector, to be appointed by the CPC Chair (two year term)
- EDA member representing the private sector, to be appointed by the CPC Chair (two year term)

At least two members of the CPC will be Certified Economic Developers (Ec.D. and/ or CEcD). The nominating Committee of the EDA Board will nominate a Chair for the CPC and will be elected by the Board to a two year term. There shall be no limitation placed on the number of terms a CPC committee member can be appointed. The CPC Chair shall be limited to 3 consecutive terms.

EDA is committed to holding the leadership of the EDA, Executive, Board and Staff to a high standard of professional conduct. If any of the aforementioned individuals are the subject of a professional review they may be required to take a leave of absence from EDA until the conclusion of the review. If the President is the subject of a professional review, then the President shall take a leave of absence and shall be replaced by the Immediate past president until the conclusion of the review.

Goal

The CPC will be responsible for carefully reviewing complaints, investigating allegations and determining sanctions if the allegations are proven in accordance with the policies and procedures outlined herein. EDA staff will provide support as needed.

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Reporting

The CPC will report to the EDA Board of Directors. The CPC Chair will provide updates during the EDA Board of Directors meetings. Decisions of the CPC, including sanctions and reasons, will be provided in writing to the governance committee within 7 days of the decision. Every effort will be made by the CPC to adhere to the policies and procedures outlined herein, taking into account the benefits to those involved and the public interest from prompt resolution of complaints, the goal of maintaining confidentiality to the extent feasible, and the circumstances of a given case.

Meetings

The committee will schedule monthly meetings to discuss new and existing cases. Additional meetings may be scheduled for case reviews, hearings and other investigations, as necessary. However, if there are no complaints brought to the attention of the CPC in any given month, the meeting will be canceled. EDA staff will send out materials at least one week in advance of the meetings.

Confidentiality Agreement

Members of the CPC agree to protect the identity and information regarding the alleged ethical violation(s) pertaining to all person(s) and organization(s) involved to the extent consistent with their other duties as a member of the committee. Each member of the CPC will be required to sign a confidentiality agreement.

Filing an Alleged Ethical Violation

Alleged violations can be brought to the attention of EDA via a number of avenues, such as contacting a Board member, the Board chair, CEO or the CPC. Complaints may also be initiated by the CPC on its own initiative or at the request of the Board chair or the CEO based on information concerning a potential ethical violation that comes directly to their attention by any other means without limitation. Complaint should be submitted in writing with substantial written or electronic documentation to support the allegation. Providing as much documented proof of the alleged violation as possible is strongly encouraged. EDA strives to maintain the confidentiality of the review process as well as to keep the identity of the person submitting the complaint (the “complainant”) confidential, for as long as the review process outlined herein allows. Anonymous complaints can be filed, though anonymous testimony is not allowed if the case proceeds to detailed review phase.

Review Process for Alleged Violation

Upon receiving a complaint, EDA will engage in a multi-step process of reviewing the case and determining sanctions, if the review process outlined herein has proven to the satisfaction of the Board that the allegation(s) occurred. The steps include:

- Step I: Due Diligence
- Step II: Initial Review of Complaint
- Step III: Detailed Review of Complaint

The Chair of the CPC may grant an extension to any deadline established by these procedures on request of any involved person, taking into account the goal of prompt resolution of complaints.

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Step I: Due Diligence – Information Review

Upon receiving a complaint, EDA's CEO will ensure that sufficient information has been provided for the Committee on Professional Conduct (CPC) to review and investigate the case. The information review will be completed and materials provided to the CPC within 10 business days. If the committee determines the need for additional information or documentation in order to proceed, EDA may contact the complainant(s) to provide additional information, before or during the review process by the CPC. If the complaint is of a criminal nature the complainant will be advised to approach the appropriate authorities. The CPC is not a criminal investigation authority. All complaints involving criminal actions will not be reviewed until the criminal court decision is reached.

Step II: Initial Review of the Complaint

The CPC will conduct an initial review of the complaint and information in support of the allegations to determine:

1. If sufficient information and details have been provided in order to merit a full review, and
2. Whether the alleged conduct may be a violation of the Code of Ethics.

Conditions Met

If the CPC determines that BOTH these conditions are met, the Chair of the CPC will inform the respondent(s) within 10 business days that a complaint has been submitted against the individual(s), provide a copy of the complaint, information on specific tenet(s) of the code that are determined by the CPC to be implicated, and that the CPC has decided to undertake a detailed review of the case. The respondent(s) will be allowed 10 business days to provide an initial response regarding the complaint and an additional 10 business days to provide documentation to the committee to respond to the complaint.

The detailed review will not be conducted if the respondent(s) admit(s) to the violation(s) in their initial response or if the CPC confirms that the respondent(s) have been found guilty in a court of law for the same conduct. The CPC will then determine sanction(s) based on all the information available.

If the respondent(s) do not admit to the violation(s) in their initial response, the Chair of the CPC will appoint a fact finding committee (FFC) comprised of two members of the CPC. It will be established within 10 business days of receiving the initial response from the respondent(s). Further details about the FFC are provided in the next section.

Conditions Not Met

If either of the above conditions is not met, the CPC will communicate with the complainant(s) to advise them that based on the information provided, the CPC cannot determine that the Code of Ethics has been violated and the case will not be reviewed further unless the complainant(s) submits additional relevant information to the satisfaction of the CPC. The complainant(s) will have 10 business days to respond with additional information or the case will be closed.

Step III: Detailed Review of the Complaint

The FFC will undertake a detailed review of the complaint and information provided by the complainant(s) and respondent(s). The review will be conducted in three parts, as described in the following section.

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Respondent(s) have an obligation to cooperate during the investigation and encourage others that may be involved with the case to do the same. The respondent(s) will have the opportunity to meet with the FFC in person or confer by teleconference to present their information. Respondent(s) may be accompanied by a personal representative or legal counsel at any meeting with the FFC during the detailed review process.

1. Fact Finding – the FFC will be responsible for investigating the complaint by reviewing information presented by the complainant(s) and respondent(s), interviewing both parties and additional witnesses at their discretion, as well as gathering information through other independent means to establish whether an ethical or professional conduct violation happened. The FFC will maintain detailed notes of the investigation and may require respondent(s) and complainant(s) to sign statements prepared on the basis of those notes. The FFC will complete its investigation and prepare a report with its findings of fact and recommendations within 45 days. Extensions may be granted by the Chair of the CPC, if requested.
2. Review by CPC – the remaining three members of the CPC will promptly review the fact finding report submitted by the FFC. If they determine that a violation has occurred based on the information provided in the fact finding report, they will decide the sanction(s). The CPC will inform the respondent(s) in writing of the violation(s) determined by the CPC and their intent to impose those sanction(s) and will provide a copy of the findings of fact which support the determination along with their analysis and reasons. The respondent(s) will also be advised that they have 10 business days to provide additional information that may alter the decision or the sanction(s) and/or request a hearing, or the decision of the CPC will be final. If additional information is submitted, the CPC will review the submission and inform the respondent(s) in writing whether it has determined to alter the decision or sanction(s) along with analysis and reasons for the decision. The respondent(s) will also be advised that they have 10 business days to request a hearing, or the decision of the CPC will be final. If a hearing is requested at either stage, the CPC will conduct the hearing in accordance with the procedures set in this manual.
3. Hearings – Upon receiving a request for a hearing from the respondent(s), the CPC will schedule a hearing date allowing at least 10 business days from the date that the respondent(s) is provided with all documentation related to the hearing by the CPC, to allow for both parties to assemble materials relevant to the complaint. One or both of the members of the FFC will present the case against the respondent(s), while the remainder of the CPC members who were not part of the FFC will hear the case. The FFC members will not vote on the decision(s) by the CPC.

Respondent(s) have the following rights:

- a. To appear personally and give evidence on their own behalf;
- b. To be accompanied by a personal representative or legal counsel;
- c. To review prior to the start of the hearing all documents and evidence to be presented against them during the hearing;
- d. To cross-examine any witness(es) who testify against them;
- e. To present witnesses who testify on their behalf, subject to cross examination by the FFC or its representative; and
- f. To submit documents or other evidence.

The fact finding report as well as signed statements(s) from the complainant(s) and respondent(s) will be admissible evidence for the hearing. All witnesses who testify may be questioned by the CPC. Testimony of witnesses may be taken in person or by telephone, provided that a speaker phone or other communications device permits the respondent(s), the CPC and all participants at the hearing to hear the testimony as it is given, and verify the identity of the witness by means satisfactory to the CPC.

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Formal rules of evidence will not apply and the CPC may receive all evidence offered, in its discretion, and accord it such weight as the circumstances warrant. Once the hearing is concluded, if the CPC determines that an ethical violation has occurred, it will decide on the appropriate level of sanction(s) pursuant to the level of violation.

The decision of the CPC, including the reason(s) and the sanction(s) if a violation is found, will be communicated in writing to the respondent(s) within 5 business days of completion of the hearing. If a violation is found, the respondent(s) will also be advised that they have 10 business days to appeal. (See Appeals Process for complete details).

The CPC will submit a brief summary report to the EDA Board of Directors within 5 business days of completion of the detailed review process explaining the review process, the findings and the sanction(s) imposed on the violator(s). The fact finding report may also be attached to this summary report.

Sanctions

No sanctions will go into effect until a decision of the CPC becomes final, including, if applicable, any appeal.

In determining the sanction(s) to be imposed, the following factors may be considered: the nature of the violation, prior violations by the respondent, the harm caused to individuals or the public interest, whether the violation was intentional, the respondent's professional or public responsibility, mitigating circumstances, and any other factors which bear upon the seriousness of the violation. The nature of sanctions will also depend on whether the respondent(s) is/are certified member(s) (Ec.D. and/or CEcD) or serve on the EDA Board of Directors. The following sanctions may be imposed in any combination:

1. Private Censure – The CPC will issue a letter to the violator(s) stating that the individual(s) were found to have violated the EDA Code of Ethics, and that if the conduct or related misconduct is repeated in the future, it may be cause for more serious sanctions. The CPC will inform the complainant(s) that an ethical violation was determined and as appropriate and, in its discretion, may inform that complainant(s) that appropriate action was taken. Notification will also be provided to the Certifying body if the sanctioned Members are also Certified Economic Developers (Ec.D. and/or CEcD).
2. Public Censure – The CPC will notify the violator(s) and their employer(s), and the complainant(s) that the individual(s) were found to have violated the EDA Code of Ethics, and that if the conduct or related misconduct is repeated in the future, it may be cause for more serious sanctions. The nature of sanction(s) imposed will also be included. Notice may also be distributed to the membership through EDA resources such as newsletters or members section of the website. Notification will also be provided to EDAC and IEDC.
3. Suspension of Membership – Temporary suspension of the violator's membership privileges with EDA. While the violator's employer(s) will continue to be a member of EDA, the individual(s) will be barred from participation in any EDA events. The duration of the period of suspension and any other conditions will be set at the time it is imposed. Notification will also be provided to EDAC and IEDC.
4. Termination of EDA Membership / Removal from EDA Board of Directors – A prohibition against reinstatement of the violator's membership and participation in EDA. While the employer(s) can continue to be a member of EDA, the individual(s) will be barred from participation in any EDA events. Notification will also be provided to EDAC and IEDC.

The CPC will regularly report on the number of cases filed with EDA and types of sanctions in the EDA newsletter. Reasonable efforts will be made to keep the identity of the respondent(s) and organization(s) involved in the case confidential, consistent with the policies and procedures set out herein.

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Exceptions

Provided that the affected member promptly brings the circumstance to the attention of the CPC and provides updates as required, no private or public censure will be carried out against a violator in the event of a pending civil or administrative proceeding against the violator arising from the same circumstances. Publication of any such decision will be held in abeyance pending the closure of the other pending proceeding or investigation.

Criminal Actions

As indicated above any member facing criminal prosecution will not be subject to a CPC review of the criminal activity until the conclusion of the prosecution. However, it is an ethics violation for an individual facing criminal prosecution to not advise the CPC that they are facing criminal prosecution, if that member is also either;

- 1) a Member of the EDA Executive, or
- 2) an EDA Board Member, or
- 3) a corporate member, or
- 4) a professional member (Ec.D. and/or CEcD).

Appeals Process

A respondent may appeal a decision of the CPC finding a violation by submitting a written appeal to the EDA Board of Directors within 10 business days of receiving the decision from the CPC. The respondent should provide reasons why the respondent disagrees with the decision and may need to provide additional information for further review.

The Board of Directors will review the appeal as well as the summary report submitted by the CPC. The Chair of the CPC will be engaged in the review process by the EDA Board of Directors but will not participate in any vote taken. The EDA Board of Directors may accept or modify the findings and/or sanction imposed on the respondent. A decision by the EDA Board of Directors will be delivered within 5 business days and their decision will be considered final.

Conflict of Interest

In case of an actual or apparent conflict of interest, member(s) of the CPC and EDA Board of Directors will recuse themselves from participation in the review of the alleged violation(s). If a complaint is brought against a member of the CPC or EDA Board of Directors, s/he will not be a part of the review process. The EDA Board Chair or the CPC Chair may appoint an additional EDA board member to participate in the review and investigation process, on their discretion.