

NASW
PROCEDURES
for
PROFESSIONAL
REVIEW

Revised

*Fourth
Edition*



NASW
PROCEDURES
for
PROFESSIONAL
REVIEW
Revised

*Fourth
Edition*

*Approved by the Board of Directors
October 6, 1970*

*Revised by the Board of Directors
June 1972, June 1978, September 1988, July 1991, April 2001, and June 2005*

Effective July 1, 2005

National Association of Social Workers
750 First Street, NE, Suite 700
Washington, DC 20002-4241

Elvira Craig de Silva, DSW, ACSW, *President*
Elizabeth J. Clark, PhD, ACSW, MPH, *Executive Director*

©2005 by the National Association of Social Workers

All rights reserved. No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without permission in writing from the publisher. Copyright restrictions do not apply to photocopying of Request for Professional Review forms.

Library of Congress Cataloging-in-Publication Data

National Association of Social Workers

NASW procedures for professional review

ISBN 0-87101-368-1 (alk. paper)

1. Social workers—United States—Professional ethics. 2. Social case work—

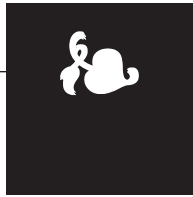
Moral and ethical aspects. I. Title.

HV10.5.N355 2005

331.88'966—dc22

2005020713

Printed in the United States of America

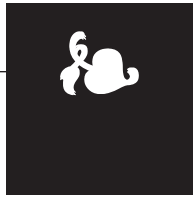


CONTENTS

PREFACE	vii
INTRODUCTION	ix
Purpose of Professional Review	
Authority	
Full Disclosure	
Goals of Professional Review	
Expected Outcomes of Professional Review	
1 REQUEST FOR PROFESSIONAL REVIEW (RPR)	1
A. Who May File an RPR	
B. How to File an RPR	
C. RPR Requirements for Child Custody and Child Welfare Matters	
D. Self-Reporting	
E. Responsibility for Management of Professional Review	
F. Acknowledgment of the RPR	
2 CONFIDENTIALITY	5
A. Responsibilities	
B. Exceptions	
C. Alleged Breaches of Confidentiality	
D. Use of Confidential Information During the Professional Review Process	
3 NONPARTICIPATION IN THE PROFESSIONAL REVIEW PROCESS	8
A. Failure of Chapter to Act	
B. Failure of NEC to Act	
C. Complainant’s Failure to Participate in the Professional Review Process	
D. Respondent’s Failure to Participate in the Professional Review Process	
E. Resignation from NASW by Respondent	
F. Withdrawal of the Complaint	
4 ACCEPTING/REJECTING THE RPR	10
A. Criteria for Acceptance	
B. Rejection of an RPR	
C. Definition of the Scope of the Professional Review	
D. Special Circumstances	
E. Personal Safety	
F. Right to Appeal Acceptance or Rejection	
5 REFERRAL TO ADJUDICATION OR MEDIATION	13
A. Matters That Will Be Referred to Adjudication	
B. Matters That May Be Referred to Mediation	
C. Matters That May Be Referred to Adjudication or Mediation	

6	PREMEDIATION ACTIVITIES	15
	A. OEPR Activities Following Receipt of the RPR	
	B. NEC Activities Following Acceptance or Rejection of the RPR	
	C. Chapter Activities Following Acceptance of the RPR	
	D. Complainant’s and Respondent’s Activities Following Acceptance of the RPR	
	E. Mediator’s Activities Following Acceptance of the RPR	
	F. Termination of the Process	
7	MEDIATION	18
	A. Steps in the Mediation Process	
	B. The Mediator	
	C. The NASW Representative	
	D. The Mediation Session(s)	
	E. The Mediation Agreement	
	F. Activities Following the NASW Representative’s Indication of Concern Regarding the Mediation Agreement	
	G. Disposition of Information and Documents	
	H. Taping of Mediation Session(s)	
8	PREADJUDICATION ACTIVITIES	23
	A. OEPR Activities Following Receipt of the RPR	
	B. NEC Activities Following Acceptance or Rejection of the RPR	
	C. Chapter Activities Following Acceptance of the RPR	
	D. Complainant’s and Respondent’s Activities Following Acceptance of the RPR	
	E. Hearing Preparation	
9	ADJUDICATION	26
	A. The Adjudication Hearing	
	B. Attendance at the Hearing	
	C. Taping of the Adjudication Hearing	
	D. Report of the Adjudication Hearing	
	E. Review of Draft Report by the OEPR	
	F. Review by Chapter Executive Committee or NEC	
	G. Distribution of the Report	
	H. Complainant’s and Respondent’s Use of the Report	
	I. Implementation of the Final Report Recommendations	
	J. Authorization to Publish the Final Report	
10	CORRECTIVE ACTIONS AND SANCTIONS	31
	A. Guidance for the Decision-Making Process	
	B. Recommendations for Corrective Actions	
	C. Plan for Monitoring of Corrective Actions	
	D. Responsibility for Monitoring of Corrective Actions	
	E. Reporting of Monitoring of Corrective Actions	
	F. Recommendations for Sanctions	
	G. Request for Implementation of Sanctions	
	H. Removal of Sanctions	
	I. Determination of Fitness	
11	APPEALS	35
	A. Appellate Bodies	
	B. Appeals—Mediation	
	C. Appeals—Adjudication	
	D. Grounds for Appeal—Adjudication	
	E. Filing an Appeal	

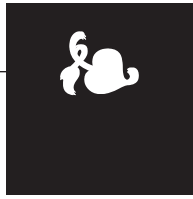
F. Response to the Appeal	
G. NEC Action on Appeals of Chapter Decisions	
H. National Executive Committee Action on Appeals of NEC Decisions	
I. Issuance of the Final Report	
J. Notification of Action on Appeals	
K. Finality of Decisions on Appeals	
12 CLOSING OF CASES	39
A. Criteria for Closing Mediation Cases	
B. Criteria for Closing Adjudication Cases	
C. Reopening of Cases	
D. Maintenance of Records	
PROFESSIONAL REVIEW TIMETABLE	40
GLOSSARY	41
APPENDIX 1. Delegate Assembly Policy Statements	45
APPENDIX 2. Ethics Committees	47
APPENDIX 3. Forms for Use in Professional Review	49
A. Request for Professional Review (RPR): Ethics	50
B. Request for Professional Review (RPR): Self-Reporting Form	51
C. Professional Review: Appeal Form	53
D. Professional Review: Confidentiality Pledge/Statement of Understanding	54
E. Professional Review: Agreement to Mediate	56
F. Professional Review: Mediation Agreement	57
INDEX	59



PREFACE

These *Procedures* delineate the steps that guide the National Association of Social Workers' (NASW's) professional review process approved by the NASW Board of Directors. NASW has established a peer review process that permits two methods (mediation or adjudication) of reviewing grievances pertaining to professional conduct. Chapters 1 and 2 describe the introductory steps and the rules of confidentiality that are common to both adjudication and mediation. Chapter 3 describes steps taken to address nonparticipation of all parties involved in the professional review process. Chapters 4 and 5 outline the steps involved in accepting a grievance for review and determining

whether a grievance will be settled through mediation or adjudication. Chapters 6 through 9 describe the procedures that guide mediation and adjudication. Chapter 10 outlines guidelines for selecting, monitoring, and implementing corrective actions and sanctions. Chapters 11 and 12 describe the policies for appeals and closing of cases. A reference guide for timeframes and a glossary with definitions of terms used (which readers are encouraged to review before reading the *Procedures*) follow the chapters. Appendices contain NASW Delegate Assembly policy statements, a description of the Ethics Committee, and forms to be used in the professional review process.



INTRODUCTION

PURPOSE OF PROFESSIONAL REVIEW

The National Association of Social Workers (NASW) promotes the quality and effectiveness of social work practice. This mission encompasses the maintenance of ethical conduct with respect to race, ethnicity, national origin, color, gender, sexual orientation, age, marital status, political belief, religion, and mental or physical disability.

To fulfill this part of its mission, NASW has the responsibility of reviewing and resolving complaints of alleged violations of the *NASW Code of Ethics*. The *NASW Procedures for Professional Review* describes the procedures that NASW uses in considering such complaints. NASW's professional review involves an examination of professional behavior by members of NASW. This is a peer review process that seeks to uphold the standards of social work practice. It also affords a means of redress for aggrieved participants.

This process is designed to correct and improve social work practice as needed. It is not intended to serve as an opportunity for participants to prepare for litigation. Participants pledge confidentiality, thus providing an environment in which the parties can present their positions with an emphasis on resolution and restoration. Although on occasion the process may result in financial remuneration, it is not designed to create an avenue for assessing monetary damages.

NASW has a serious responsibility to conduct its peer review process in a fair and just manner. NASW fulfills this responsibility within the guidelines for due process that the courts have established for peer review proceedings.¹

1. NASW's peer review procedure is discussed at length in *Swatch v. Treat*, 41 Mass. App. Ct. 559, 671 N.E. 2d 1004 (1996). See also, *Ayash v. Dana Farber Cancer Institute*, 8 Mass L. Rptr. 216, 1998 WL 77854 (Mass Super Ct., Feb. 19, 1998); *Shapiro v. Butterfield & NASW*, 921 S.W. 2d 649, 109 Mo. App. E.D., May 7, 1996; *Quinones v. NASW*, 2000 WL 744146 (S.D. NY, June 6, 2000).

To meet this responsibility, the NASW Board of Directors has adopted these procedures, and the association has implemented them. *NASW's Procedures for Professional Review* outlines the steps in NASW's peer review process. This peer review process offers two avenues of redress: mediation and adjudication.

AUTHORITY

NASW's professional review is a collaborative process between individual Chapters and the Office of Ethics and Professional Review to carry out the responsibilities outlined in the Bylaws for monitoring compliance with the *NASW Code of Ethics*. NASW meets this responsibility the Bylaws, which states: "The Board of Directors shall create a standing Ethics Committee with the responsibility of hearing and determining complaints filed in accordance with the policy approved by the Delegate Assembly and with the further responsibility of making recommendations to the Board of Directors for the improvement of such procedures and for the development of new procedures." (See appendix 1 for the policy statements of the Delegate Assembly and appendix 2 for a description of the Ethics Committees.)

FULL DISCLOSURE

NASW expects all parties within a professional review process to provide and reveal any and all facts and information that are material and necessary to the issues or allegations at hand, so long as doing so does not violate any applicable laws. Although a mediation session does not involve testimony from witnesses as an adjudication hearing does, mediation requires full disclosure as a hearing does. Both procedures review and assess the same information/documentation. It is only the process for reviewing and assessing the material that is different. In mediation, as in adjudication, it is important that any and all information that is directly related to the allegations in the scope of the case be part of the professional review process.

GOALS OF PROFESSIONAL REVIEW

The NASW professional review process endeavors to promote the quality and effectiveness of social work practice and to protect the public from unprofessional, unfair, or unscrupulous conduct. This process provides aggrieved participants with an opportunity for redress under conditions of nondiscrimination and with a focus on professional standards of practice as defined by the *NASW Code of Ethics*.

EXPECTED OUTCOMES OF PROFESSIONAL REVIEW

Protection of the Public

NASW uses the professional review process to take actions that protect clients, consumers, agencies, colleagues, and the public from practices that violate the *NASW Code of Ethics*.

NASW's actions are intended to be constructive and educative rather than punitive. However, in cases of serious misconduct, NASW may impose penalties, including, but not limited to, termination of member-

ship in NASW or removal of NASW-issued credentials, notification to state regulatory boards, and/or publication of findings as a necessary interruption, restriction, or preclusion of practice.

Protection of Members

NASW is committed to protecting its membership primarily through ethics education and consultation as preventive measures. In cases of ethics violations, NASW recognizes the importance of appropriate corrective and educative resolutions that not only will serve as redress for a violation, but also will enhance the quality and effectiveness of the member's future practice.

Protection of the Profession

The NASW professional review process protects the profession in three ways: (1) by upholding the *NASW Code of Ethics* through ethics education and consultation, (2) by reviewing allegations of unethical practice, and (3) by recommending corrective actions and sanctions when appropriate.

REQUEST FOR PROFESSIONAL REVIEW (RPR)

This chapter identifies those who may submit a Request for Professional Review (RPR) to the National Ethics Committee (NEC), details the procedures for filing an RPR, describes special requirements for child custody and child welfare matters and self-reporting, specifies the NEC's responsibility for management of the professional review process, and delineates the procedures for acknowledgment of the RPR.

The NEC has primary administrative responsibility in all professional review matters. Therefore, the Office of Ethics and Professional Review (OEPR) administers all matters related to decisions regarding RPRs.

A. WHO MAY FILE AN RPR

The following parties may submit an RPR in the event of an alleged violation of the NASW *Code of Ethics*:

1. An individual who has engaged in a professional social work relationship with an NASW member may submit an RPR.
2. A group of individuals in an agency or organization who have direct knowledge of an NASW member's professional conduct within a professional social work relationship or setting may submit an RPR.
3. An individual may submit an RPR on behalf of another person as long as that person is either mentally or physically incapacitated, or is a minor child, and the person filing has proper standing to bring such an action on behalf of either the incapacitated adult or minor child.
4. An NASW member who has concerns that his or her own actions in a situation may have violated the NASW *Code of Ethics* may submit an RPR.

B. HOW TO FILE AN RPR

1. The steps for submitting an RPR are as follows:
 - a. RPR forms may be obtained from NASW Chapters or the OEPR and are contained in these *Procedures* (see appendix 3). They are also available online at www.socialworkers.org.
 - b. After receiving an inquiry about filing an RPR, the President of the Chapter in which the ethical violation(s) allegedly occurred (or the Chairperson of the NEC in national cases) will offer a consultant to the Complainant and to the Respondent in order to provide assistance in the professional review process. In the event that a particular Chapter does not have qualified individuals available, the NEC will assist the Chapter in assigning consultants. The participants are not required to accept the assistance of a consultant.
 - c. The Complainant must send the original RPR, supporting statement (no more than three pages), and the Confidentiality Pledge/Statement of Understanding, to the Chairperson of the NEC at the OEPR.
2. The Complainant must describe in the supporting statement how the alleged misconduct violated the *NASW Code of Ethics*. Specific standards from the *NASW Code of Ethics* must be cited. The statement is limited to three pages and must include:
 - a. a list and detailed description of sources of evidence to be used that will support the allegations including witnesses, documentation, etc.

- b. a summary of any other actions taken to correct this matter
 - c. the status of any legal actions under way related to this matter.
3. Individuals filing RPRs are responsible for complying with the time limits for filing as stated in these *Procedures*. Submissions must be legible. (Time limits and specific criteria are described in chapter 4.)

C. RPR REQUIREMENTS FOR CHILD CUSTODY AND CHILD WELFARE MATTERS

Requests for Professional Review involving child custody or child welfare matters often present complex issues that require additional information for review. Such cases will continue to be reviewed for acceptance by the NEC Intake Subcommittee in spite of their complexity, as there may be important ethical issues to be considered and addressed. The guidelines for the submission of an RPR that involves child custody or child welfare matters are outlined as follows.

1. Only the person who is legally responsible for the child at the time the RPR is filed may serve as the Complainant.
2. At the time of filing, the Complainant must provide documentation that establishes legal custody and standing to file an RPR. This must include signed copies of court orders, agreements, divorce decrees, separation agreements, or other relevant legal documentation. Parents with joint or shared custody both have standing to file an RPR.
3. The Complainant must have pursued appropriate remedies within the venue in which the Respondent's actions occurred before the NEC Intake Subcommittee will review the RPR. For example, if the complaint arose from actions taken related to a court case, the court complaint or grievance process should be used before an RPR is filed, if such avenues for remedy are available.
4. The Complainant must provide documentation that other appropriate remedies for the complaint

have been pursued within the venue in which the Complainant's action occurred and that there is no other action related to this complaint that is active or pending in another venue.

5. In the event that an action is active or pending, the RPR will be placed in pending status until the reviews in other venues are concluded.
6. The participants should provide information on applicable state laws, administrative procedures, and policies when the custody documents are not sufficiently clear for the NEC Intake Subcommittee to determine custody status.
7. The Respondent should document his or her standing in the case. In other words, the Respondent should provide documentation to clarify his or her role as a social worker in the case. For example, was the social worker employed as an agent of the court or hired by one or both of the parties to the child custody case?
8. The participants must provide all documentation requested by the Intake Subcommittee before the matter is reviewed. The Intake Subcommittee may decide to defer consideration of the matter until any outstanding information is provided. All documents must contain the appropriate signatures or seals.

D. SELF-REPORTING

Self-reporting is a process by which members report possible unethical conduct in which they have engaged. Such conduct may have been found to have been a violation of an ethics codes, professional misconduct, unprofessional conduct, incompetence, or negligence in any state or country.

1. It is in a member's best interest to self-report a possible ethics violation in order to ensure that he or she is adhering to the *NASW Code of Ethics*, which is a requirement of NASW membership. Self-reporting also demonstrates the member's good faith effort in seeking NASW's review and recommendations on ethical practice.
2. The Chapter is responsible for completing a Surrogate complaint, based on information

found in the public domain. Once a Chapter receives this information (usually from a licensing board action), the social worker will be notified of the Surrogate RPR and given thirty (30) days to submit a Self-Reporting RPR prior to the NEC review of the Surrogate RPR. Once a Surrogate RPR has been accepted for adjudication or mediation, self-reporting is no longer an option.

3. Self-reporting is not the process for members who wish to request an ethics consultation regarding an ethical dilemma or who have questions regarding standards of practice. For an ethics consultation, please contact the NASW Office of Ethics and Professional Review at (800) 638-8799.
4. An NASW Self-Reporting RPR form may be obtained from the following sources:
 - Appendix 3 of this publication
 - NASW Office of Ethics and Professional Review: (800) 638-8799
 - NASW dedicated Web page:
www.socialworkers.org/oepr/selfreport
5. After the completed Self-Reporting RPR (with attachments) has been received, the matter will be scheduled for review by the NEC at its next regularly scheduled meeting. The NEC will make a recommendation on the RPR within sixty (60) days. The NEC will provide the affiliated Chapter(s) with pertinent communications regarding these cases and the final NEC recommendation.

E. RESPONSIBILITY FOR MANAGEMENT OF PROFESSIONAL REVIEW

Whenever possible, hearings and mediation sessions will be conducted by members of the NASW Chapter where the violations under review were alleged to have occurred. The NEC, however, shall retain the right to decide whether or not it will assume responsibility for conducting a hearing or mediation. Circumstances in which the NEC will assume responsibility may include the following:

1. **Issues of national significance or delays or irregularities in the Professional Review process that appear to jeopardize the rights of either participant to a fair and timely hearing.** The NEC may assume responsibility for conducting the hearing or mediation. If the NEC decides not to assume responsibility, the Chapter will proceed with the professional review process.
2. **RPRs regarding alleged violations of the NASW *Code of Ethics* filed by, or naming Chapter staff, board members, officers, or Chapter Ethics Committee (CEC) members as Respondents.** Jurisdiction shall be assumed by the NEC. Participants will be informed of changes in jurisdiction.
3. **Complaints against those administering or conducting a professional review.** (See chapter 4, D.8.)
4. **RPRs regarding NASW staff or appointees.** (See chapter 4, D.9.)
5. **Request for a change of jurisdiction.** A CEC or participant may apply to the NEC for a change of jurisdiction if the CEC or participant is convinced that a judicious handling of the RPR cannot be achieved at the Chapter level. In requesting a change, the CEC or the participant must give specific reasons for the request. The NEC may deny the request, accept responsibility, or identify another Chapter that would assume responsibility.

F. ACKNOWLEDGMENT OF THE RPR

RPRs must be acknowledged in a timely fashion:

1. Within ten (10) days of receipt of the RPR, the OEPR shall write to the Complainant to acknowledge receipt.
2. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Respondent of the RPR. Included with the notification to the Respondent will be a copy of these *Procedures*, the applicable NASW *Code of Ethics*, the RPR, its supporting statement, and the Confidentiality

-
- Pledge/Statement of Understanding signed by the Complainant.
3. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Chapter in which the alleged violations occurred of the RPR. The notification to the Chapter will include a copy of the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant.
 4. Within ten (10) days of receipt of notification of the RPR (see chapter 2), the Respondent must sign and submit the Confidentiality Pledge/Statement of Understanding to the OEPR. Failure to do so will result in additional action.
 5. Within ten (10) days of receipt of the Respondent's signed Confidentiality Pledge/Statement of Understanding, the NEC shall send a copy to the Chapter and to the Complainant.
 6. Within fourteen (14) days of receipt of the notification of the RPR, the Respondent will have an opportunity to submit any documents that are pertinent to the criteria for acceptance of the RPR. Submissions by the Respondent must not address the merits of the case, but must show reasons that the criteria for acceptance have not been met. The response to the RPR should not exceed one (1) page, excluding supporting documents.

CONFIDENTIALITY

This chapter is designed to define the responsibilities pertaining to confidentiality of all parties in the professional review process. It also details specific exceptions to confidentiality, the consequences of breaches of confidentiality, and the use of confidential information during the professional review process.

All parties involved in the professional review process are required to maintain strict standards regarding confidentiality.

A. RESPONSIBILITIES

1. Confidentiality requirements are described in the Confidentiality Pledge/Statement of Understanding form (see appendix 3).
2. The confidentiality requirement pertains to, but is not necessarily limited to, the following persons: Complainant, Respondent, consultants, witnesses, and NASW staff and appointees.
3. The confidentiality requirement also pertains to all documents and proceedings, including information that the Request for Professional Review (RPR) has been filed, the substance and content of the RPR, the Final Report, appeals, associated discussions, correspondence, and outcomes.
4. All communications about the professional review process and outcomes must be restricted to the Complainant, Respondent, witnesses, consultants, and NASW staff and appointees with defined responsibilities. All Chapter and national volunteers and staff involved in the professional review process are bound by the principles of confidentiality.
5. Confidentiality restrictions do not apply to a participant's right to confer with legal counsel. However, the participant must advise the legal counsel of the confidentiality requirements of the NASW professional review process. Legal counsel may not participate directly in the professional review process.

B. EXCEPTIONS

Conditions under which exceptions to the confidentiality requirement may occur are limited to the following:

1. **Research purposes.** Professional Review data may be accessed by approved researchers and reported in aggregate form. Research must be approved by the NEC following a review of research proposals from qualified researchers. Identifying information will be removed from any shared data.
2. **Acquisition of relevant evidence.** If it becomes necessary to provide information regarding the proceedings to acquire relevant evidence, the following are the guidelines:
 - a. Participants may disclose the fact that professional review is under way.
 - b. Participants must disclose the least amount of information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.
 - c. Participants shall not disclose identities of other participants or any other identifying features.

-
- d. The RPR and supporting statement may not be given to witnesses or to any parties not directly involved with the professional review matter.

Any exceptions to these policies require written approval by the NEC.

3. **Disclosure of involvement by the Respondent prior to issuance of the Final Report or conclusion of mediation proceedings.** Respondents may acknowledge their involvement in professional review when required to do so by employers, provider panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as an acknowledgment of the existence of an RPR, a summary of the allegations, an explanation of the status of the proceedings, and a copy of the Respondent's response (if submitted) to the allegations contained in the RPR. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.
4. **Disclosure of Hearing Panel conclusions.** Respondents may report the conclusions of a Hearing Panel when required to do so by employers, provider panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as the following sections of the Final Report: the Summary of the Complaint and the Summary of Findings, Conclusions, and Recommendations. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.
5. **Disclosure of Hearing Panel conclusions to consultants and/or witnesses.** The Complainant or Respondent may inform consultants and/or witnesses who testified on his or her behalf of

the Conclusions and Recommendations. Consultants and/or witnesses are expected to keep this information confidential.

6. **Mediation agreements.** A final mediation agreement may include permission to release specific information. Only the information specified in this agreement may be released. Furthermore, the agreed on content may be given only to individuals or agencies specifically identified in the final agreement.
7. **Applicable state or federal law.** Information regarding professional review proceedings may be released when disclosure is required by state or federal law or regulation.

C. ALLEGED BREACHES OF CONFIDENTIALITY

Either participant may inform the Chapter if he or she believes information is being revealed unnecessarily. The Chapter will then take whatever action it deems appropriate to remedy the concern, including referring the matter to the NEC for further review and recommendations.

A breach of confidentiality may result in a letter of warning, a termination of proceedings, or the voiding of the case. Participants may not appeal a decision to terminate proceedings.

1. A breach of confidentiality by a Respondent may result in a new RPR filed against the Respondent under sections 1.07a, 1.07b, 2.02, 5.01a, or 5.01b of the *NASW Code of Ethics*.
2. If the NEC determines that the Complainant has breached confidentiality, the NEC may demand that all confidential materials be immediately removed from the sources to whom they were given or made unavailable for use by any other source. This must be done within ten (10) days of the Complainant's receipt of the demand letter. Proof of the actions taken to withdraw documents or have them sealed must be sent to the NEC. If such proof is not delivered to the NEC within thirty (30) days of the date of the demand letter, the NEC may take action to terminate or void the professional review process.

D. USE OF CONFIDENTIAL INFORMATION DURING THE PROFESSIONAL REVIEW PROCESS

1. **Complainant's agreement to release confidential documents.** By engaging in this process, the Complainant agrees to release relevant confidential treatment records for review by the Hearing Panel Chairperson, who will determine if that evidence will be used in the proceedings.
2. **Documents submitted as evidence by either participant.** With the exception of confidential treatment records as noted in item 1, all other documents submitted as evidence must be

accompanied by a signed permission to release information.

3. **Discussion of pertinent confidential records.** The Complainant's RPR represents permission for the Hearing Panel or the Mediator, Respondent, and consultants to discuss confidential records approved for consideration at the hearing or mediation session for the Respondent's defense. With the exception of confidential treatment records as noted in item 1, all other documents submitted as evidence still must be accompanied by written permission to release information.

NONPARTICIPATION IN THE PROFESSIONAL REVIEW PROCESS

This chapter describes the procedures to be followed in the event of a failure to act in the professional review process by the Chapter or the NEC, or in the event of the nonparticipation in the process of the Complainant and/or the Respondent. This chapter also deals with resignation from NASW by a Respondent and withdrawal of a complaint.

Chapters are expected to fully participate in the professional review process. They are also expected to follow up on nonparticipation of the Complainant and/or the Respondent.

A. FAILURE OF CHAPTER TO ACT

If the Chapter fails to take timely action, the NEC may assume jurisdiction. Any concerns regarding the timeliness of Chapter actions should be put in writing to the NEC and sent to the Office of Ethics and Professional Review.

Parties should be aware that many circumstances may affect the timeliness of action, including requests for additional information by the Chapter or the NEC, extension requests by parties, appeals, and scheduling problems.

B. FAILURE OF NEC TO ACT

If the NEC fails to take timely action, the Executive Committee of the NASW Board of Directors may assume jurisdiction. Any concerns regarding the timeliness of NEC actions should be put in writing to the Executive Committee and sent to the OEPR.

C. COMPLAINANT'S FAILURE TO PARTICIPATE IN THE PROFESSIONAL REVIEW PROCESS

1. **Adjudication.** If a Complainant refuses to participate in a hearing or fails to appear

without adequate and documented reason, the hearing will not be held unless the Respondent requests that a hearing be held or the CEC decides to proceed against the wishes of the Complainant and Respondent. A Complainant who refuses to participate shall lose the right to appeal.

2. **Mediation.** If a Complainant refuses to participate in a scheduled mediation session or fails to appear without adequate and documented reason, mediation will not be conducted. The Mediator will report the Complainant's refusal or failure to participate in mediation to the CEC and to the NEC Intake Subcommittee. Upon reviewing the matter, the NEC Intake Subcommittee will decide whether to close the case or refer the complaint to adjudication.

D. RESPONDENT'S FAILURE TO PARTICIPATE IN THE PROFESSIONAL REVIEW PROCESS

NASW members are required to cooperate in the implementation of the NASW *Code of Ethics* and to abide by any disciplinary rulings based on it. Failure to participate in the professional review process may, in itself, be a violation of the NASW *Code of Ethics* and may result in additional action being taken. The Chapter or Complainant may file a RPR based on the Respondent's refusal to participate.

If a Respondent cannot be located, the Chapter must submit a letter to the OEPR describing efforts made to locate him or her and may request the case be closed.

1. **Adjudication.** If a Respondent refuses to participate in the proceedings or fails to appear at the hearing without adequate and documented

reason, the Respondent shall lose the right to appeal. A hearing may go forward in the absence of a Respondent. The report will note the difficulties occasioned by the Respondent's lack of cooperation.

2. **Mediation.** If a Respondent refuses to participate in a scheduled mediation session or fails to appear without adequate and documented reason, mediation will not be conducted. The Mediator will report the Respondent's refusal or failure to participate in mediation to the CEC and to the NEC Intake Subcommittee. Upon reviewing the matter, the NEC Intake Subcommittee will decide whether to close the case or to refer the case to adjudication.

E. RESIGNATION FROM NASW BY RESPONDENT

If a Respondent resigns from NASW at any time after receipt of the RPR, NASW shall continue with the professional review process. If a report is issued, it shall note the circumstances of the Respondent's resignation.

F. WITHDRAWAL OF THE COMPLAINT

1. If a Complainant does not take required action subsequent to acceptance of a complaint, the Chapter shall notify the Complainant that the proceedings may be terminated and offer the Complainant the opportunity to withdraw the complaint.
2. A Complainant may request withdrawal of the complaint; however, termination of the process

cannot take effect without approval of both the CEC (or the NEC) and the Respondent.

3. If the Complainant in a matter referred to mediation requests withdrawal of the complaint, mediation will not continue.
4. If the Respondent agrees to the Complainant's request to withdraw the complaint, the process will be terminated and the case closed unless the CEC (or the NEC) decides to continue the process without the participants.
5. If the Respondent does not agree to the decision of the CEC (or the NEC) to terminate the process in response to a Complainant's request to withdraw the complaint, the CEC (or the NEC) will proceed with adjudication based on available evidence. The Complainant will have no right to appeal.
6. If both the Complainant and the Respondent agree to the withdrawal of the complaint, the CEC (or the NEC) may decide to proceed with adjudication. The Hearing Panel may complete the process based on the evidence provided by the Complainant and the Respondent. Neither the Complainant nor the Respondent shall have the right to appeal the outcome of the hearing.
7. If both participants agree to the withdrawal of the complaint, and the CEC (or the NEC) decides to terminate the proceedings and close the case, the decision to do so will be noted in the file. All participants will receive copies of this decision.

ACCEPTING/REJECTING THE RPR

This chapter deals with issues pertaining to the following: specific criteria for acceptance or rejection of a RPR, definition of the scope of the proceedings for an accepted RPR, and special circumstances pertaining to a specific RPR.

The NEC Intake Subcommittee makes decisions to accept or reject the RPR, sets the scope, and refers the complaint to mediation or adjudication. The Intake Subcommittee will be composed of two members from the Chapter where the alleged violation took place, two NEC alternates, and one NEC member who will serve as Chairperson.

A. CRITERIA FOR ACCEPTANCE

An RPR may be submitted in the event of an alleged violation of the NASW *Code of Ethics* by a member of NASW if it meets the following criteria:

1. Phase One: Are the initial requirements met?
 - a. The Respondent was a member of NASW at the time of the alleged violation.
 - b. The Complainant alleges specific misconduct that is addressed by the NASW *Code of Ethics*.
 - c. The Complainant was engaged in a professional social work relationship with the NASW member and was directly affected, personally or professionally, by the alleged violation of the NASW *Code of Ethics*, or the Complainant has direct knowledge of the alleged violation stated in the RPR. Surrogate RPRs and self-referred RPRs are exempt from this requirement.

- d. The alleged unethical conduct occurred no more than one (1) year before the date on which the RPR was filed. (See this chapter, D.7.)
- e. The Complainant signed and agreed to abide by the Confidentiality Pledge/Statement of Understanding form, and it is included with the RPR.
- f. The Complainant is willing to testify and to furnish additional information upon request.

2. Phase Two: Is there sufficient evidence for the Intake Subcommittee to make a decision on acceptance?
 - a. The Respondent and the Chapter have both been given an opportunity to submit information/material that is pertinent to the criteria for acceptance of an RPR.
 - b. Does the complaint rise to the level of an ethical violation requiring consideration by NASW's professional review process?

B. REJECTION OF AN RPR

The Intake Subcommittee shall reject an RPR that does not meet all the required criteria. (see this chapter, A.)

C. DEFINITION OF THE SCOPE OF THE PROFESSIONAL REVIEW

The Intake Subcommittee will define the scope of the proceedings by listing the sections of the NASW *Code of Ethics* to be reviewed by NASW. The Intake

Subcommittee may extend the scope beyond items listed in the RPR. Any such changes shall be based on careful review of the substance of the allegations.

D. SPECIAL CIRCUMSTANCES

1. **More than one RPR against the same Respondent.** If more than one RPR is filed against the same Respondent or is related to the same situation, the Intake Subcommittee shall determine which RPR to consider first or whether the matters can be integrated into the same hearing, while protecting the rights to due process and confidentiality for all parties involved.
2. **Delays in professional review.** Professional Review must proceed unless the same issues are being reviewed in another forum. If professional review is delayed, the Intake Subcommittee Chairperson shall provide the participants with a written explanation of the reasons for the delay.
3. **Incorrect submission or additional information required.** After the review of an RPR, it may be determined that the RPR has been executed incorrectly or that additional information is required. In these cases, the RPR may be returned to the Complainant either for revision or for further information. The time limit of forty-five (45) days between the filing of an RPR and the screening by the Intake Subcommittee may be extended in such circumstances.
4. **Deferred acceptance of an RPR.** The Intake Subcommittee, upon its review, may defer acceptance of an RPR if additional information or clarification of the information received is necessary. The Intake Subcommittee may set a specific deadline by which additional materials must be received.
5. **Failure by Complainant to comply with conditions.** The CEC (or the NEC in national cases) may, at its own discretion, recommend termination of the proceedings at any stage if the Complainant fails to comply with these *Procedures*.
6. **Matters to be settled in mediation through NASW.** Mediation participants may, by mutual consent, address issues in addition to the scope determined by the Intake Subcommittee. However, participants must address the issues identified by the Intake Subcommittee as the scope of the proceedings.
7. **Time limits waiver.** An exception to time limits noted previously may be granted by the NEC upon review of a time limits waiver request. Either the Complainant or the Chapter may request a time limits waiver. An approved time limits waiver will extend the time limit for submitting an RPR for one (1) additional year from the time that the alleged unethical conduct occurred.
8. **Complaints against those administering or conducting professional review.** No one administering or conducting professional review can be named as a Respondent under the *NASW Procedures for Professional Review* as a result of a decision, action, or exercise of discretion arising directly from the conduct of the professional review process. Thus, participants in the professional review may not file an RPR against members of the NASW Board of Directors, NEC, CEC, Chapter Board of Directors, or NASW staff or appointees because of their conduct of the Professional Review process. Concerns regarding misconduct by these persons may be dealt with as follows:
 - a. A complaint (in the form of a letter) about an individual employed by NASW must be directed to the person's administrative superior. The complaint will be reviewed according to pertinent guidelines for review of staff conduct.
 - b. A complaint about an appointee (such as a consultant, monitor, committee member, or Mediator) must be directed to the President of the Chapter or the national President (in national cases). The President will review the complaint and determine the appropriate action.

9. RPRs regarding NASW staff or appointees.

Alleged violations of the *NASW Code of Ethics* by NASW staff or appointees regarding conduct not associated with professional review responsibility should be addressed in accord with these *Procedures*.

10. Attempts to obstruct proceedings. The following actions may be taken in response to a participant's action to threaten or intimidate participants, or otherwise obstruct professional review:

- a. A participant who believes that the Respondent engaged in obstructive or threatening behavior may file an RPR on the basis of the Respondent's alleged misconduct.
- b. The Hearing Panel or the Mediator may suspend, terminate, or recommend to the NEC that the proceedings be voided in the event of a Complainant's alleged engagement in obstructive or threatening behavior.
- c. The Hearing Panel or the Mediator may alter, suspend, or terminate proceedings as needed in response to participant misconduct.
- d. No action can be taken against a participant for threatening to sue NASW or other participants.

E. PERSONAL SAFETY

1. Concerns regarding a participant's personal safety should be addressed in writing with supporting documentation unless circumstances warrant a review based on verbal reports.
2. Information on personal safety concerns should be forwarded to the Chapter President, who will determine the appropriate action.
3. The Chapter should inform the OEPR of concerns and forward any information regarding any action taken by the Chapter or any recommendations to the NEC.
4. Recommendations to close a matter or change venue must be made by the Chapter to the NEC. The Chapter cannot close a matter or change a venue because of safety concerns.

F. RIGHT TO APPEAL ACCEPTANCE OR REJECTION

The NEC Intake Subcommittee's decision to accept or reject an RPR may not be appealed.

NOTE: Please refer to chapters 6 and 8 for premediation and/or preadjudication activities.

REFERRAL TO ADJUDICATION OR MEDIATION

This chapter addresses the criteria considered when selecting the appropriate venue for review of a RPR.

As part of the peer review process, it is the responsibility of the National Ethics Committee (NEC) Intake Subcommittee to determine whether professional review will be conducted through adjudication or mediation. The decision to send the matter to mediation or adjudication cannot be appealed.

A. MATTERS THAT WILL BE REFERRED TO ADJUDICATION

1. If the Intake Subcommittee's approved scope of the proceedings includes any of the following citations from the NASW *Code of Ethics*, the matter will be referred to adjudication:

- 1.09 Sexual Relationships
- 1.10 Physical Contact
- 1.11 Sexual Harassment
- 2.07 Sexual Relationships
- 2.08 Sexual Harassment

2. Matters involving Respondents who have previously participated in Professional Review with NASW to resolve a grievance will be referred to adjudication (regardless of the current alleged code violations).

B. MATTERS THAT MAY BE REFERRED TO MEDIATION

1. If the approved scope of the proceedings includes any of the following citations from the NASW *Code of Ethics*, the matter may be referred to mediation:

- 1.03 Informed Consent
- 1.04 Competence
- 1.05 Cultural Competence and Social Diversity
- 1.08 Access to Records
- 1.12 Derogatory Language
- 1.13 Payment for Services
- 1.14 Clients Who Lack Decision-Making Capacity
- 1.15 Interruption of Services
- 1.16 Termination of Services
- 2.01 Respect
- 2.02 Confidentiality
- 2.03 Interdisciplinary Collaboration
- 2.04 Disputes Involving Colleagues
- 2.05 Consultation
- 2.06 Referral for Services
- 3.01 (a,b,d) Supervision and Consultation
- 3.02 Education and Training
- 3.03 Performance Evaluation
- 3.06 Client Transfer
- 3.07 Administration
- 3.08 Continuing Education and Staff Development
- 3.09 Commitments to Employers
- 3.10 Labor-Management Disputes
- 4.01 Competence

-
- 4.02 Discrimination
 - 4.08 Acknowledging Credit
 - 5.01 (a,b,c) Integrity of the Profession
 - 5.02 Evaluation and Research
 - 6.01 Social Welfare
 - 6.02 Public Participation
 - 6.03 Public Emergencies
 - 6.04 Social and Political Action
2. Although all matters under section B should be referred to mediation, mediation may not be the appropriate venue under certain circumstances. The following should be considered when making this determination:
- a. the severity, quantity, and/or repetitive nature of the allegations (for example, , multiple complaints against the same Respondent, previous complaints)
 - b. issues related to safety/security of the parties
 - c. the availability of resources through the Chapter or national organization for processing the case
3. Exception: Any approved scope that includes code sections listed in section A.1, will be referred to adjudication.

C. MATTERS THAT MAY BE REFERRED TO ADJUDICATION OR MEDIATION

1. If the approved scope of the proceedings includes any of the following citations, the matter may be referred to either adjudication or mediation:
- 1.01 Commitment to Clients
 - 1.02 Self Determination
 - 1.06 Conflicts of Interest
 - 1.07 Privacy and Confidentiality
 - 2.09 Impairment of Colleagues
 - 2.10 Incompetence of Colleagues
 - 2.11 Unethical Conduct of Colleagues
 - 3.01c Supervision and Consultation
 - 3.04 Client Records
 - 3.05 Billing
 - 4.03 Private Conduct
 - 4.04 Dishonesty, Fraud, and Deception
 - 4.05 Impairment
 - 4.06 Misrepresentation
 - 4.07 Solicitations
 - 5.01e Integrity of the Profession
2. Exception: If the approved scope includes code sections listed in section A.1, the matter will be referred to adjudication.

PREMEDIATION ACTIVITIES

This chapter outlines pre-mediation activities for the following: the Office of Ethics and Professional Review, the National Ethics Committee, the Chapter in which the violation allegedly occurred, the Complainant and the Respondent, and the Mediator. This chapter also provides guidelines to be followed in the event that mediation following a RPR is terminated.

As noted previously (see chapter 1, B.1.b), the Chapter in which the violation(s) allegedly occurred (or the Chairperson of the NEC in national cases) will offer consultants to both the Complainant and the Respondent. In the event that a Chapter does not have a qualified person available, the OEPR will assist the Chapter in assigning consultants. For the Complainant, the consultant's role is to help him or her in identifying each alleged violation. For the Respondent, the consultant may assist him or her in formulating a written statement (optional) in response to the complaint. For both the Complainant and the Respondent, the consultant will assist in interpreting and using these *Procedures*.

In keeping with the *NASW Code of Ethics* and the *NASW Standards of Practice for Social Work Mediators*, no one who has either a professional or personal interest in the case may serve as a consultant, a Mediator, or an NASW Representative for that case.

Except as noted, the responsibility for managing the mediation process rests with the Chapter, working in collaboration with the OEPR.

A. OEPR ACTIVITIES FOLLOWING RECEIPT OF THE RPR

1. Within ten (10) days of receipt of the RPR, the OEPR shall write to the Complainant to acknowledge receipt.
2. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Respondent of the RPR.

The notification to the Respondent will include a copy of these *Procedures*, the applicable *NASW Code of Ethics*, the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant. It will also include a copy of the Confidentiality Pledge/Statement of Understanding to be signed by the Respondent.

3. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Chapter in which the alleged violation(s) occurred of the RPR. The notification to the Chapter will include a copy of the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant.
4. Within ten (10) days of receipt of the Respondent's signed Confidentiality Pledge/Statement of Understanding, the OEPR shall send a copy to the Chapter and to the Complainant.
5. Within fourteen (14) days of receipt of the notification of the RPR, the Respondent will have an opportunity to submit any documents that are pertinent to the criteria for acceptance of the RPR. Submissions by the Respondent must not address the merits of the case, but must show reasons that the criteria for acceptance have not been met. The response to the RPR should not exceed one (1) page, excluding supporting documents.

B. NEC ACTIVITIES FOLLOWING ACCEPTANCE OR REJECTION OF THE RPR

1. The Chapter (or the NEC in national cases) shall first evaluate whether it is necessary to classify a complaint as pending because of concurrent or anticipated legal actions, other ongoing dispute

resolution processes, or in-process grievance procedures. Proceedings may be delayed only if the scope of the proceedings and the matter being considered in another venue are the same (see chapter 4).

Such legal action, other dispute resolution processes, or grievance procedures include, but are not limited to, suits in court, arbitration, union and organizational grievances, and complaints before government regulatory bodies (for example, state licensing boards or the National Labor Relations Board).

2. Within forty-five (45) days of receipt of the properly prepared RPR, the Complainant and the Respondent must be notified by the NEC, in writing, of
 - a. the acceptance or rejection of the RPR
 - b. the scope of the proceedings
 - c. a decision to refer the matter to mediation
 - d. the address and telephone number for the Chapter office (or for the NEC in national cases) responsible for scheduling and administering the mediation session(s).

C. CHAPTER ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. Within forty-five (45) days of the Intake Subcommittee's acceptance of the RPR and the referral of the case to mediation, the President of the Chapter in which the violation allegedly occurred (or the Chairperson of the NEC in national cases) will
 - a. appoint the Mediator for the case
 - b. appoint the NASW Representative for the case
 - c. send a copy of the properly prepared RPR and Respondent's comments and submissions to the Mediator and NASW Representative
 - d. schedule the mediation session.

2. No fewer than forty five (45) days in advance of the mediation session, the Chapter in which the violation allegedly occurred (or the NEC in national cases) shall notify all participants in writing, of
 - a. the date, time, place, and other arrangements for the session
 - b. the name(s) and employment of the Mediator(s)
 - c. the name and employment of the individual responsible for representing NASW in the mediation session
 - d. the names and employment of approved observers (see glossary) and professional review consultants

Upon agreement of all parties involved, the thirty (30) days' notice can be waived.

D. COMPLAINANT'S AND RESPONDENT'S ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. **Complainant's and Respondent's submissions.** After the RPR is accepted, the Respondent may submit a written statement to the Chapter conducting the mediation (or to the NEC in national cases) outlining his or her view of the conduct addressed in the complaint. The Complainant also has the opportunity to submit any additional documentation. All submissions should be received at least thirty (30) days before the mediation session to enable the Chapter to prepare for mediation. A copy of all submissions will then be sent to the Complainant, to the Respondent, to the NASW Representative, and to the OEPR.
2. **Challenge of NASW participants.** Both the Complainant and the Respondent shall have the right to challenge the participation of the Mediator or NASW Representative, if they believe either of these individuals to be prejudiced with respect to the matter to be reviewed.

- a. Such a challenge, stating reasons, must be submitted in writing to the Chapter President. The Mediator and/or the NASW Representative will be advised of any such challenges and will be provided the opportunity to relinquish their role(s) in the mediation.
- b. The NEC has final authority to disqualify a Mediator or NASW Representative.
- c. Any challenge by either participant in mediation must be made within twenty (20) days of receipt of the names of the Mediator and the NASW Representative.

E. MEDIATOR'S ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

The Mediator may contact the Chapter (or the NEC in national cases), the NASW Representative, and consultants prior to the mediation session(s).

- 1. During the mediation session(s), at which all participants and the NASW Representative must be present, the Mediator will
 - a. describe the mediation process and the Mediator's role in it
 - b. clarify the NASW Representative's role
 - c. Clarify associated paperwork, including the signing of the agreement to mediate
 - d. clarify the issues involved in the grievance with both participants (Complainant and Respondent)

- e. facilitate a mutually acceptable resolution of the issues and the signing of a Mediation Agreement

- 2. If more than one mediation session is necessary, the Mediator will be responsible for scheduling all subsequent sessions to ensure that all participants and the NASW Representative will be present.

F. TERMINATION OF THE PROCESS

If mediation is discontinued for any reason, including those listed below, the Mediator(s) will notify the NEC Intake Subcommittee and the Chapter. The Intake Subcommittee will review the matter and decide whether to close the case or refer the complaint to adjudication (see chapter 3).

- 1. The Mediator may determine either that mediation should not commence or that it should be discontinued. In either situation, mediation can be terminated once the participants have been notified. Furthermore, termination shall be confirmed in writing, stating the reasons for such action.
- 2. If the Complainant, Respondent, or the Mediator(s) decides to terminate the mediation, the Mediator will notify the Chairperson of the NEC. The NEC Intake Subcommittee will then inform both the Complainant and the Respondent whether the case will be closed or referred to adjudication.
- 3. If either the Complainant or the Respondent should decide to withdraw from mediation at any time, best efforts will be made to discuss this decision in the presence of both participants, the NASW Representative, and the Mediator(s).

MEDIATION

Outlined in this chapter are the steps in the mediation process, the role of the Mediator, the role of the NASW Representative, the format of the mediation session(s), the purpose and suggested content of the mediated agreement, final disposition of related documents, and the prohibition of taping of the mediation session(s).

Mediation is a collaborative problem-solving process in which a neutral third party guides a discussion intended to help the parties in the dispute define the issues, obtain relevant information, and generate reasonable options for resolution. As part of the process, a Mediator approved by NASW will aid the participants both in reaching a mutually acceptable resolution and in drafting a written version of that agreement. As previously noted (see chapter 1, B.1.b), consultants may be appointed for each party to assist them in understanding the procedures and in preparing for mediation.

Mediation is a conflict resolution process that is valued both as an element of social work practice and as a way to resolve grievances related to violations of ethics. Because mediation is a conflict resolution process in which the participants themselves decide on the outcome, NASW does not determine whether specific violations of the *NASW Code of Ethics* have or have not occurred.

The procedures for mediation following a RPR, which follow, are based on the *NASW Standards of Practice for Social Work Mediators*.

A. STEPS IN THE MEDIATION PROCESS

1. The Mediator(s) and the NASW Representative are appointed by the Chapter.
2. A mediation session is scheduled.

3. An agreement to mediate, which also specifies ground rules for the process (see appendix 3), is prepared and signed.
4. Subsequent mediation session(s) are conducted as needed.
5. The agreement reached between the Complainant and the Respondent is drafted and reviewed by the parties and by the NASW Representative during the mediation.
6. The NASW Representative indicates, in writing on the mediation agreement, whether or not the mediation agreement addresses NASW's responsibility to protect clients, consumers, agencies, colleagues, and the public.
7. The mediation agreement is implemented according to its provisions.
8. A copy of the mediation agreement is filed with NASW's Office of Ethics and Professional Review and the Chapter. Access to this agreement will be limited and will be allowed only for purposes related to research and consultation approved by the National Ethics Committee. Identifying information will be removed from any shared data.

B. THE MEDIATOR

1. **Appointment.** Once the RPR has been accepted for review and it has been determined that the case will go to mediation, the President of the Chapter in which the violation allegedly occurred (or the Chairperson of the NEC in national cases) will appoint a Mediator. To be

approved by NASW, the Mediator must meet the required standards for Mediators in professional review cases as described in the *NASW Standards of Practice for Social Work Mediators*. In the event that the Chapter does not have qualified persons available, the OEPR will assist the Chapter in appointing the Mediator.

2. **RPR materials.** The Chapter will provide the Mediator(s) with a copy of the Complainant's RPR, the Respondent's comments and submissions, and the contact information for the consultants.
3. **Role.** The Mediator is a neutral third party, trained both in generic mediation and in mediation for social workers acting in the NASW Professional Review process.
 - a. The Mediator assists the disputing parties to clarify issues, obtain relevant information, and generate reasonable options for resolution. The Mediator is specifically responsible for guiding the mediation process, but not for deciding the outcome.
 - b. The Mediator also serves as a moderator of the disputants' discussions so that all parties are given the opportunity to express opinions and points of view, while no party is allowed to use coercion, deceit, or other questionable practices to bring about a particular resolution of the issues.

C. THE NASW REPRESENTATIVE

1. **Appointment.** The *NASW Code of Ethics* states that there are specific "ethical standards relevant to the professional activities of all social workers." These standards concern social workers' ethical responsibilities to clients, to colleagues, in practice settings, to other professionals, to the social work profession, and to the broader society.

As a consequence, NASW has a vested interest in the outcome of professional review as the case relates to these areas. Therefore, once the RPR has been accepted for review, a member of

NASW will be appointed to attend mediation as the NASW Representative. This Representative must be an NASW member with professional review experience.

The President of the Chapter in which the violation allegedly occurred (or the Chairperson of the NEC in national cases) will appoint this Representative. In the event that a qualified person is not available within the Chapter, the OEPR will assist the Chapter in appointing this Representative.

2. **RPR materials.** The Chapter will provide the NASW Representative with a copy of the Complainant's RPR and the Respondent's comments and submissions.
3. **Role.** The NASW Representative's role is to ensure that any resolution reached through mediation is consistent with the *NASW Code of Ethics* (see also this chapter, E.8).
 - a. The NASW Representative is expected to ensure that the mediation session(s) adequately address issues and standards relevant to the mission of social work. Thus, the NASW Representative may contribute to any final agreement.
 - b. Any actions of the NASW Representative pertaining to the mediation of a Professional Review matter must be consistent with both the *NASW Code of Ethics* and the *NASW Standards of Practice for Social Work Mediators*.

D. THE MEDIATION SESSION(S)

1. The format of the mediation session(s) allows the Complainant and the Respondent to describe the issue(s), state their perceived interests, and work toward a mutually acceptable resolution of the matter. In addition, the format allows the NASW Representative to help the Mediator and participants ensure that the outcome is consistent with the *NASW Code of Ethics*.

-
2. The consultants appointed for the Complainant and the Respondent, as well as observers approved by NASW, may attend the mediation session(s), but they may not participate directly. In addition, a support person may accompany each party—if permission is granted by the CEC, or NEC in national cases—although this person must remain outside the mediation session. Furthermore, although each party may retain his or her own attorney to be properly counseled about his or her legal interests, rights, and obligations, such legal Representatives may not attend the mediation session(s).

E. THE MEDIATION AGREEMENT

The Mediation Agreement is a signed document specifying the terms of the agreement reached by the Complainant and the Respondent. In addition, the agreement should be signed by the NASW Representative with regard to whether or not the outcome is consistent with the NASW *Code of Ethics*. When appropriate, the agreement should specify any actions necessary to correct the behavior of the individual social worker and any actions necessary to prevent future harm to others.

Although individual agreements may contain additional items, suggested contents of the written agreement include the following:

1. Specific actions required of the Complainant and Respondent to address issues raised and resolved in mediation. For the Respondent in professional review, these are referred to as corrective actions.

Suggested questions to guide consideration of corrective actions for the Respondent could include, but are not limited to, the following:

- a. What, if any, training, supervision, or consultation will be required? How and where will this be obtained?
- b. Will there be private censure by the NASW?
- c. Will there be restitution (including financial restitution) by the Respondent to an

individual, group, or organization harmed by the Respondent's unethical behavior?

- d. Will there be correction of a record?
- e. Shall an NASW member be appointed to monitor any corrective actions? The appointment of such a monitor is strongly recommended. The Mediation Agreement should include provisions for notifying the Chapter of the need to appoint a monitor, as well as details regarding any information to be given to the monitor.

2. Conditions under which there will be a return to mediation, for example, if it appears that one party has failed to comply with the signed agreement. One purpose of a return to mediation in such an instance is to clarify whether there has been noncompliance or a difference in interpretation of the terms of the agreement.
3. Conditions and reasons for referring the grievance to adjudication, for example, if a participant fails to attend the scheduled mediation without sufficient notice.
4. Specific actions to be taken (other than, or in addition to, a return to mediation) in the event of any party's noncompliance with the terms of the agreement. In professional review, consequences for noncompliance by the Respondent are known as contingent sanctions.

Any sanctions requiring implementation by NASW must first be approved by the national Executive Committee. The Mediation Agreement should include provisions for requesting approval from the national Executive Committee.

Suggested questions to guide consideration of consequences for noncompliance by the Respondent (contingent sanctions) could include, but are not limited to, the following:

- a. Will there be publication in the *NASW News* and/or in the Chapter newsletter of the mediated corrective actions and sanctions?

- b. Will there be suspension of membership or expulsion from membership in NASW?
 - c. Will there be suspension of NASW-issued credentials (including forfeiture of dues or fees paid)?
 - d. Will there be revocation of NASW-issued credentials (including forfeiture of dues or fees paid)?
 - e. Will there be notification to state regulatory boards of the mediated corrective actions and sanctions?
 - f. Will there be removal from the *Register of Clinical Social Workers*?
 - g. Will there be notification to credentialing bodies, societies, and specialized practice groups in which the individual may hold membership of the mediated corrective actions and sanctions?
 - h. Will there be a public letter of censure?
5. Specific identification of all individuals or entities that will receive a copy of the Mediation Agreement.

The OEPR and the Chapter must receive a copy of the final agreement. Access to this agreement will be limited to purposes related to NEC-approved research and consultation. Identifying information will be removed from any shared data.

- 6. Specific language that clearly shows the mutual acceptability of the Mediation Agreement.
- 7. Signatures of both the Complainant and Respondent, signifying that they are agreeing to the terms contained in the written agreement, and the dates of the signatures.
- 8. Signature of the NASW Representative that the mediation agreement, in his or her opinion, adequately addresses NASW's responsibility to protect clients, consumers, agencies, colleagues, and the public from practices that violate the *NASW Code of Ethics*.

F. ACTIVITIES FOLLOWING THE NASW REPRESENTATIVE'S INDICATION OF CONCERN REGARDING THE MEDIATION AGREEMENT

1. In the event that the NASW Representative believes that the Mediation Agreement does not adequately address NASW's responsibility, the Representative will provide the NEC Intake Subcommittee with a written explanation of his or her concerns. Such action by the NASW Representative will in no way preclude the participants from implementing their mediation agreement, unless doing so would be a further violation of the *NASW Code of Ethics*.
2. After receiving notification of the NASW Representative's belief that the Mediation Agreement does not adequately address NASW's responsibility, the NEC Intake Subcommittee may decide that the matter should be returned to mediation, sent to adjudication, or closed. If the matter is returned to mediation, the original Complainant, the original Respondent, and the original NASW Representative will be directed to resume sessions with the original Mediator. The purpose of these additional mediation sessions shall be to consider those practices that may violate the *NASW Code of Ethics* and were not, in the opinion of the NASW Representative, adequately addressed in the previously mediated agreement.
3. If either or both of the participants refuse to return to mediation or if the NEC Intake Subcommittee decides not to send the matter back to mediation, the NEC Intake Subcommittee may then decide to refer the matter to adjudication. Both the Complainant and the Respondent shall have the right to appeal the outcome of the hearing under these conditions in accordance with the normal adjudication procedures.
4. In the event that the Complainant and the Respondent refuse to participate in adjudication, the Hearing Panel may conduct the adjudication hearing based on the materials originally provided by the Complainant and Respondent. Guidelines regarding nonparticipation in adjudication (see chapter 3) will apply.

-
5. If either or both of the participants refuse to return to mediation or if the NEC Intake Subcommittee decides not to send the matter back to mediation or to proceed with adjudication, the NEC Intake Subcommittee may decide to terminate the process and close the case. In that event, the decision to do so will be noted in the file, and all participants will receive copies of this decision.

G. DISPOSITION OF INFORMATION AND DOCUMENTS

1. A copy of the agreement to mediate and a copy of the Mediation Agreement will be filed with the OEPR and the Chapter. Access to the Mediation Agreement will be limited and will be allowed only for purposes related to NEC-approved research and consultation. Identifying information will be removed from any shared data.

2. No additional information from the mediation process will be forwarded to the Chapter or the NEC, unless the mediation agreement specifies directions to the contrary.
3. At the time the final Mediation Agreement is signed, all documents and duplicates (except the agreement to mediate and the Mediation Agreement) related to the mediation process will be returned to the participants who provided the documents.
4. The Mediator will notify the Chapter and the NEC that an agreement has been reached and whether or not the case can be closed.

H. TAPING OF MEDIATION SESSION(S)

Audiotaping and videotaping of mediation sessions are not permitted.

PREADJUDICATION ACTIVITIES

This chapter outlines preadjudication activities for the following: the Office of Ethics and Professional Review, the National Ethics Committee, the Chapter in which the violation allegedly occurred, the Complainant and the Respondent, and the Hearing Panel.

After receiving a RPR, the Chapter in which the violation(s) allegedly occurred (or the Chairperson of the NEC in national cases) will offer a consultant to the Complainant and to the Respondent to provide assistance in the professional review process. In the event that a Chapter does not have a qualified person available, the OEPR will assist the Chapter in assigning a consultant. The consultant's role for assisting the Complainant will be to help him or her in identifying each alleged violation. For the Respondent, the consultant may assist him or her in formulating a written statement (which is optional) in response to the complaint. For both the Complainant and the Respondent, the consultant will assist in interpreting and in using these *Procedures*.

A. OEPR ACTIVITIES FOLLOWING RECEIPT OF THE RPR

1. Within ten (10) days of receipt of the RPR, the OEPR shall write to the Complainant to acknowledge receipt.
2. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Respondent of the RPR. The notification to the Respondent will include a copy of these *Procedures*, the applicable NASW *Code of Ethics*, the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant. It will also include a copy of the Confidentiality Pledge/Statement of Understanding to be signed by the Respondent.

3. Within ten (10) days of receipt of the RPR, the OEPR shall notify the Chapter in which the alleged violation(s) occurred of the RPR. The notification to the Chapter will include a copy of the RPR, its supporting statement, and the Confidentiality Pledge/Statement of Understanding signed by the Complainant.

B. NEC ACTIVITIES FOLLOWING ACCEPTANCE OR REJECTION OF THE RPR

1. The NEC shall first evaluate whether it is necessary to delay the professional review process because of concurrent or anticipated legal actions or other ongoing dispute resolution processes. Proceedings may be delayed only if the scope of the proceedings and the matter being considered in another venue are the same (see chapter 4). Such legal action or other dispute resolution processes include, but are not limited to, suits in court, arbitration, and complaints in government regulatory bodies (for example, state licensing boards).
2. As soon as possible, but within forty five (45) days of receipt of the properly prepared RPR, the Complainant and the Respondent must be notified by the NEC, in writing, of
 - a. the acceptance or rejection of the RPR
 - b. the scope of the proceedings
 - c. the decision to refer the matter to adjudication
 - d. any decision to hold a pre-hearing conference and its time

-
- e. the address and telephone number for the Chapter office (or for the NEC in national cases) responsible for scheduling and administering the hearing.

C. CHAPTER ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. Within forty five (45) days of the NEC Intake Subcommittee's acceptance of the RPR and the referral of the case to adjudication, the President of the Chapter in which the violation allegedly occurred (or the Chairperson of the NEC in national cases) will
 - a. appoint the Hearing Panel Chairperson and members
 - b. schedule the hearing.
2. Within forty-five (45) days of the decision to accept the RPR, the Chapter in which the violation allegedly occurred (or the NEC in national cases), shall notify all participants in writing, of
 - a. the date, time, place, and other arrangements for the hearing.
 - b. the names and employment of approved observers, alternates, consultants, and members of the panel who will conduct the hearing. No person who has a personal or professional conflict of interest in the case may serve on a Hearing Panel.
 - c. the right to present witnesses or other evidence.
3. Participants shall be notified in writing of the approved witnesses and documents fourteen (14) days before the hearing.

D. COMPLAINANT'S AND RESPONDENT'S ACTIVITIES FOLLOWING ACCEPTANCE OF THE RPR

1. **Identification of evidence.** Either participant may introduce evidence that will help establish facts at the hearing.

- a. **Documents.** At least thirty (30) days before the hearing, each participant will submit a list of documentary evidence accompanied by required releases to the Chapter (or to the NEC in national cases). The Chapter is responsible for ensuring that the other party receives a copy of the submitted documents.

When submitting documentary evidence, participants must provide legible copies in the number required by the Hearing Panel.

- b. **Witnesses.** At least thirty (30) days before the hearing, each participant will submit a list of witnesses to the Chapter or Hearing Panel (or to the NEC in national cases) and to the other participant. This list should be sent to the office of the Chapter that is conducting the hearing (or to the NEC in national cases).

Witnesses must have direct knowledge of the facts pertinent to the complaint being reviewed. Character witnesses will not be heard.

2. **Challenge of NASW participants.** Both the Complainant and the Respondent have the right to challenge the participation of any member of the Hearing Panel, whom they believe to be prejudiced with respect to the matter to be reviewed.
 - a. Such a challenge, stating reasons, shall be submitted in writing to the Chairperson of the CEC or the Chapter President (or to the Chairperson of the NEC or the NASW President in national cases). The Chapter President (or the NEC Chairperson or the NASW President) will inform the CEC (or the NEC) member or the hearing panelist of the challenge and provide an opportunity for his or her voluntary disqualification.
 - b. The NEC has final authority to disqualify a Hearing Panel member.
 - c. Any challenge by either participant of a member of the Hearing Panel must be made within twenty (20) days of receipt of the names of the hearing panelists.

-
3. **Written testimony in lieu of oral testimony.** If the Complainant or Respondent is unable to appear for reasons acceptable to the CEC (or to the NEC in national cases), the committee may accept written statements in lieu of oral testimony. The participant submitting the written testimony must send the statement to the Chapter and the other participant at least fourteen (14) days in advance of the hearing.

E. HEARING PREPARATION

1. The Chapter shall assign preparatory duties to the CEC Chairperson, Hearing Panel Chairperson, or other appointee. These preparatory duties may include, but are not limited to, the following:
 - a. reviewing the issues to be adjudicated
 - b. clarifying the procedures for the conduct of the hearing
 - c. identifying the evidence to be reviewed at the hearing, as established by the scope. This may include information not

submitted by either participant, but requested by the Hearing Panel

- d. informing participants of the appropriate role of consultants
- e. establishing the ground rules, which may include:
 - i. who may be present
 - ii. which witnesses may appear
 - iii. the timing associated with the process.
2. The Chapter may assign the CEC Chairperson, the Hearing Panel Chairperson, or other appointee to ascertain whether the matter can be resolved without a hearing by asking each participant to state a desired outcome and by exploring whether another more appropriate form of redress or resolution can be pursued. If the matter is settled without a hearing, a report of the effort must be filed with the Chapter and the OEPR, listing the participants and summarizing the agreement.

ADJUDICATION

This chapter is designed to clarify the procedures that apply to adjudication in Chapter and national cases. The following areas are addressed: the conduct of the hearing, those who may attend the hearing and guidelines for their attendance, and the prohibition of audio/ videotaping of hearings.

NASW has established a peer review process that permits two methods of reviewing grievances pertaining to professional conduct: mediation (see chapter 7) or adjudication. When a RPR is referred for adjudication, a hearing is held to determine if the social worker's action was indeed a violation of the applicable code of ethics, a report of the Hearing Panel's conclusions is issued, and any appropriate recommendations are made.

A. THE ADJUDICATION HEARING

The purpose of an adjudication hearing is to determine the facts and decide whether such facts constitute a violation of the *NASW Code of Ethics*.

1. The hearing should be completed within seventy-two (72) days of acceptance of the RPR, unless the CEC, or the NEC in national cases, has decided to defer the matter pending the conclusion of other actions.
2. The Chapter will assign Hearing Panel duties to CEC members or to other appointees. In national cases, the NEC and/or NEC appointees will conduct the hearing.
3. The Hearing Panel shall consist of three or more individuals, who must be members of NASW. This Panel will have the responsibility not only to question the Complainant, the Respondent, and their witnesses, but also to examine documentary evidence in the course of the hearing.
4. The Complainant and the Respondent shall be notified of, and requested to be present at, each session.
5. The hearing format must allow the Complainant and the Respondent to state their positions, ask questions of witnesses, answer questions posed by the Hearing Panel, and make closing statements. The following lists the sequence for the hearing:
 - a. **Hearing Panel Chairperson** introduces panelists and participants and explains the purpose of the hearing, as well as the procedures.
 - b. **Complainant** gives statement of allegations.
Panel asks questions of Complainant for clarification.
Respondent asks questions of Complainant for clarification.
 - c. **Respondent** gives statement of response to allegations (refutation).
Panel asks questions of Respondent for clarification.
Complainant asks questions of Respondent for clarification.
 - d. **Complainant** gives response to refutation.
Respondent gives statement of rebuttal.
 - e. **Witness for the Complainant.**
Respondent asks questions of witness. (Repeat for each witness.)
Panel asks questions of witness. (Repeat for each witness.)

- f. **Witness for the Respondent.**
Complainant asks questions of witness.
(Repeat for each witness.)
Panel asks questions of witness. (Repeat for each witness.)
- g. **Panel** asks final questions of Complainant and of Respondent.
- h. **Complainant** gives closing statement.
- i. **Respondent** gives closing statement.
- j. **Chairperson** gives closing statement regarding action to be taken.

6. The Hearing Panel may request additional information or documentation at any time from either the Complainant or the Respondent. If either is unable or unwilling to comply with this request, the Panel may, with notice to the Complainant and the Respondent, call additional witnesses or request access to other evidence.
7. The Hearing Panel must determine what documentation is pertinent and necessary and may limit the quantity of material that it will consider.

B. ATTENDANCE AT THE HEARING

1. The following will participate in the hearing, as directed by the Hearing Panel Chairperson: Complainant, Respondent, Hearing Panel members, and witnesses.
2. The following may attend the hearing, but may not participate directly in the proceedings: the Complainant's consultant, the Respondent's consultant, alternate Hearing Panel members, observers approved by the Hearing Panel Chairperson, and support persons as permitted by the Hearing Panel Chairperson.
3. If the Complainant or the Respondent is unable to appear for reasons acceptable to the CEC (or to the NEC in national cases), the committee may accept written statements in lieu of oral

testimony. The participant submitting the written testimony must send the statement to the Chapter (or the NEC in national cases) and the other participant at least fourteen (14) days in advance of the hearing.

4. Although each party may retain his or her own attorney to be properly counseled about his or her legal interests, rights, and obligations, such legal Representative may not attend the hearing that is held as part of the professional review process.
5. The following guidelines apply to those in attendance at the hearing:
 - a. A consultant, in attendance at a hearing, may have only an indirect role, conferring with the participant whom he or she advises. The consultant may not participate directly, in any way, in the process unless specifically requested by the Hearing Panel Chairperson.
 - b. The Complainant and the Respondent shall present only information that is relevant to the complaint and that has been obtained in accordance with these *Procedures* (see chapter 8).
 - c. Approved witnesses may provide oral testimony. Witnesses may be present only while presenting their own testimony.

C. TAPING OF THE ADJUDICATION HEARING

Audiotaping and videotaping of adjudication hearings are not permitted.

D. REPORT OF THE ADJUDICATION HEARING

After the completion of the adjudication hearing, a report will be drafted by the Hearing Panel.

1. The Report will include the following items:
 - a. a summary of the complaint.
 - b. a summary of the Panel's findings, its conclusions regarding whether or not a

violation of the *NASW Code of Ethics* was found, and its recommendations for corrective actions and/or sanctions

- c. a chronology of submissions and CEC (or NEC in national cases) activities, including pre-hearing conferences; the complaint; statement of the scope of the hearing; the date, time, and place of the hearing; and the identification of the participants in the hearing
- d. the position of the Complainant and a summary of evidence and his or her witnesses' testimony
- e. the position of the Respondent and a summary of evidence and his or her witnesses' testimony
- f. the findings of fact, which are detailed listings of the facts related to each alleged violation. The findings must include references to the oral or documentary evidence on which the findings are based
- g. the detailed conclusions of the Panel and its reasoning as to whether each allegation included in the scope of the hearing represents a violation of the *NASW Code of Ethics*
- h. the Panel's detailed recommendations and timetable for corrective actions and sanctions
 - i. If the Hearing Panel finds that the Respondent's conduct has not violated the *NASW Code of Ethics*, no corrective actions or sanctions will be imposed.
 - ii. If the Panel finds the Respondent's conduct to have been a violation of the *NASW Code of Ethics*, it shall make recommendations for corrective actions and sanctions as appropriate (see chapter 10).
- i. an appendix that lists and includes documents submitted and those considered as evidence.

- 2. The Report must be signed and dated by the Hearing Panel Chairperson and the Chapter President.

E. REVIEW OF DRAFT REPORT BY THE OEPR

- 1. The Chapter (or the NEC for national cases) shall submit the Report to OEPR for technical review. This technical review is to ensure that recommendations are in keeping with adjudication precedent and that the Report is consistent in format. The Report must be submitted for review within twenty-one (21) days of the conclusion of the hearing.
- 2. Within fourteen (14) days of receipt of the Report, the OEPR will complete its review and return the Report to the CEC (or the NEC) for revisions and approval.

F. REVIEW BY CHAPTER EXECUTIVE COMMITTEE OR NEC

The CEC (or the NEC in national cases) shall revise the Report as needed and submit it to the Chapter Executive Committee (or the NEC). The Chapter Executive Committee (or the NEC) has the responsibility to review and release the Report within fifty (50) days of the conclusion of the hearing.

- 1. Once reviewed by the OEPR and approved by the CEC, the Hearing Panel's Report shall be submitted for review by the Chapter Executive Committee (or the NEC).
 - a. Confidentiality should be maintained at all times.
 - b. When the Chapter Executive Committee (or the NEC) reviews the Report, the Hearing Panel Chairperson may be present at the meeting to discuss the Report.
 - c. No Executive Committee officer or NEC member who has a personal or professional conflict of interest may participate in the review.
 - d. If the Chapter Executive Committee (or the NEC in national cases) does not agree with

the findings or conclusions of the Report, they may send the Report back to the Hearing Panel for reconsideration, with an explanation of the committee's reasons for their disagreement.

e. If the Hearing Panel, after reconsideration, does not revise the Report findings, the Report shall stand. Under no circumstances may the Chapter Executive Committee (or the NEC in national cases) reverse the Hearing Panel's findings and conclusions.

f. If the Chapter Executive Committee (or the NEC in national cases) does not agree with the recommendations of the Panel, they may modify those recommendations, but may not increase their severity. When differences arise among the Executive Committee members, the majority opinion shall prevail.

2. Within thirty (30) days of receipt of the Report, the Chapter Executive Committee (or the NEC) must complete its review (and any revisions) of the Report. The Chapter (or the NEC) must notify participants of a legitimate delay in a scheduled review.
3. The Report shall not be submitted to, nor be considered by, the full board or membership of the Chapter.

G. DISTRIBUTION OF THE REPORT

1. Copies of the approved Report (including appendices) and information about appealing the decisions shall be sent by certified mail (with return receipt requested) to the participants within eighty (80) days of the hearing.
2. A copy of the Final Report (without appendices) shall be sent to every member of the Hearing Panel who heard the case.
3. The Complainant or the Respondent may share a copy of the Final Report with his or her consultant. In addition, the Complainant or the Respondent may inform his or her witnesses of the conclusions and recommendations. Witnesses shall not receive a copy of the Final Report.

4. Recipients of the Final Report should be informed that the matter is still confidential.

5. Any other publication of the Final Report and its contents or distribution to third parties requires authorization by the Executive Committee of the NASW Board of Directors.

H. COMPLAINANT'S AND RESPONDENT'S USE OF THE REPORT

1. The Complainant is not authorized to use, refer to, or distribute the Final Report or its contents.
2. For purposes that relate to his or her professional standing as described in chapter 2, Confidentiality, the Respondent may use only the following sections of the Final Report: the Summary of the Complaint and the Summary of Findings, Conclusions, and Recommendations. All identifying information must be removed before these sections of the Final Report are released.

I. IMPLEMENTATION OF THE FINAL REPORT RECOMMENDATIONS

Once all the appeal opportunities have been exhausted, this Report is considered **FINAL**. When the Report is final, the Chapter (or the NEC) shall implement its recommendations.

1. **Corrective action.** When a Final Report requires corrective action, the Chapter (or NEC) shall appoint an NASW member who will be responsible for monitoring and reporting on the Respondent's compliance with recommendations. The monitor shall provide a quarterly report to the Chapter (or NEC).
2. **Sanctions.** Following approval by the national Executive Committee:
 - a. The Chapter may distribute sections of the Final Report and/or notify insurers, credentialing bodies, regulatory boards, in accordance with Report recommendations.
 - b. The OEPR shall take action on sanctions involving NASW membership, credentials, certification, or professional listings.

-
- c. The OEPR shall prepare and submit text for publication in the *NASW News* and/or the Chapter newsletter.

J. AUTHORIZATION TO PUBLISH THE FINAL REPORT

- 1. The Final Report may be distributed to the Complainant, the Respondent, their consultants, the Hearing Panel, and the NEC. Further access to the Final Report, and/or to information about its contents, is restricted to the following circumstances:

- a. when authorization is granted by the national Executive Committee after the advice of legal counsel

- b. as allowed under the exceptions noted in chapter 2

- c. in response to applicable state law

- 2. The national Executive Committee shall decide in what manner, if at all, such publication or distribution shall be made and shall designate that task to the appropriate Chapter and/or to the OEPR.

CORRECTIVE ACTIONS AND SANCTIONS

This chapter provides guidance in making recommendations for appropriate corrective actions and/or sanctions, ensuring timely implementation of the recommendations, and monitoring and reporting on compliance or noncompliance with the corrective actions and/or the sanctions. Further, it addresses the removal of sanctions and the determination of an NASW member's fitness to return to practice.

Recommendations for corrective action(s) and/or sanction(s) in Professional Review come from the finding of a violation(s) of the NASW *Code of Ethics* through adjudication or as the result of a Mediation Agreement. The guiding principle in formulating recommendations for corrective actions is that they be appropriately educational and corrective; therefore, such recommendations are to focus on actions, activities, and events that are designed to educate, remediate, and/or prevent repeat ethics violations. Sanctions can be imposed in two ways:

1. All corrective actions are accompanied by sanctions that are to be implemented in the event that there is a failure to comply with the corrective actions.
2. In some situations of ethical violations, corrective actions are deemed not to be appropriate, and the recommendation is for sanctions only.

The Office of Ethics and Professional Review must review all recommendations for corrective actions and sanctions for technical clarity prior to final Chapter approval. In addition, the NASW Executive Committee must approve any proposed sanctions.

A. GUIDANCE FOR THE DECISION-MAKING PROCESS

1. The following two questions should be used to guide the decision-making process regarding recommendations for corrective actions and sanctions:

- a. Will the corrective action(s) result in the Respondent's being more aware of and compliant with appropriate ethical practice principles than he or she was before the infraction?
 - b. What is the rationale for the specific corrective action(s) in relation to the found ethics violations? What is the rationale for the sanction(s)?
2. Recommendation(s) for any corrective actions and/or sanctions should be fair and proportional to the infraction. The rationale for recommendations, as well as a specific timeframe for initiation and completion, must be articulated and included in the report containing the recommendations.
 3. Because most corrective actions and/or sanctions recommended in a Chapter report or in a mediation report are implemented through the Chapter office, consideration should be given to the Chapter resources required to implement them. Such necessary resources may include (but are not limited to) the availability of volunteers to monitor corrective actions, the availability of individuals to provide consultation, and the availability of appropriate training and/or continuing education events.
 4. The Chapter should be able to respond to the following questions as they review their final recommendations for corrective action(s) and sanction(s):
 - a. Is there a clear rationale for the specific recommendations? For example—

- Do the corrective action(s) provide an opportunity for the Respondent to learn about and to remediate her or his ethical misconduct?
 - Do the sanction(s) provide appropriate consequence(s) based on the Respondent's ethical misconduct?
 - Are the recommendations fair and proportional to the Respondent's ethical misconduct?
- b. Is there a clearly stated timeframe for the initiation and completion of the recommendations, and is that timeframe reasonable?

B. RECOMMENDATIONS FOR CORRECTIVE ACTIONS

Corrective actions include both actions intended to correct the behavior of the individual social worker and actions intended to prevent future harm to others. Although on occasion, the process may result in financial remuneration, it is not designed to create an avenue for assessing monetary damages.

1. Possible corrective action recommendations may include, but are not limited to, any or all of the following:
 - a. Training, supervision, or consultation, as appropriate.
 - b. Notification of Respondent's supervisor or employer when such notification is necessary in order to provide information needed for supervision recommendations contained in the Report.
 - c. Private censure by theNASW.
 - d. Restitution (including financial restitution) by the Respondent to an individual, group, or organization harmed by the Respondent's unethical behavior.
 - e. Corrections of a record.

C. PLAN FOR MONITORING OF CORRECTIVE ACTIONS

1. If recommended corrective actions are to be monitored and/or sanctions implemented—after any necessary approval by the NASW Executive Committee—the Chapter (or the NEC in national cases) shall prepare a plan for monitoring compliance, which is to be forwarded to the OEPR to be retained in the case file.
2. The plan must designate by role or name the monitor responsible for overseeing implementation of the plan.
3. The Chapter (or the NEC in national cases) must review the implementation plan at least quarterly. Reviews should be retained in the case file.

D. RESPONSIBILITY FOR MONITORING OF CORRECTIVE ACTIONS

1. For cases adjudicated at the Chapter level, the Chapter is responsible for monitoring the Respondent's compliance with recommendations.
2. For cases adjudicated at the national level, the NEC is responsible for monitoring the Respondent's compliance with recommendations.

E. REPORTING OF MONITORING OF CORRECTIVE ACTIONS

1. For cases adjudicated at the Chapter level, the monitor shall report to the Chapter on a quarterly basis on the Respondent's compliance or noncompliance with recommendations. A copy of this report shall be sent to the Chapter, to the Respondent, and to the OEPR.
2. For cases originating at the national level, the monitor shall report to the NEC on a quarterly basis on the Respondent's compliance or noncompliance with recommendations. A copy of this report shall be sent to the OEPR and to the Respondent.

F. RECOMMENDATIONS FOR SANCTIONS

Sanctions are intended to impose negative consequences on the social worker who fails to comply with recommended corrective actions or who has committed serious violations of the *NASW Code of Ethics*. These sanctions are designed to protect the public and the profession. Sanctions shall be specified in the Final Report as part of the “Recommendations.” Sanctions may be recommended as immediate measures and/or as a consequence of noncompliance with corrective actions.

Possible sanction, recommendations may include and/or combine, but are not limited to, the following:

1. Publication in the *NASW NEWS* and/or the Chapter newsletter of the adjudication findings, conclusions, and sanctions imposed.
2. Suspension of membership or expulsion from membership in NASW.
3. Suspension of ACSW standing or other NASW issued credentials, including forfeiture of dues or fees paid.
4. Revocation of ACSW standing or other NASW issued credentials, including forfeiture of dues or fees paid.
5. Notification to state regulatory boards, of adjudication findings, conclusions, and sanctions imposed.
6. Removal from the Register of Clinical Social Workers.
7. Notification to credentialing bodies, societies, and specialized practice groups in which the individual may hold membership, of adjudication findings, conclusions, and sanctions imposed.
8. Letter of censure.

9. Notification to Respondent’s malpractice insurer of findings and conclusions.
10. Notification to the Disciplinary Action Reporting System (administered by the Association of Social Work Boards) of findings and conclusions.

G. REQUEST FOR IMPLEMENTATION OF SANCTIONS

1. **Immediate sanctions.** The Chapter (or the NEC) shall request approval by the NASW Executive Committee to implement immediate sanctions. The OEPR shall forward Final Reports that include immediate sanctions to the NASW Executive Committee for a decision on whether or not to approve the sanctions. Depending on the type of sanction, responsibility for final implementation of sanctions shall rest with the Chapter President, the NEC, or the OEPR staff.
2. **Contingent sanctions.** Reports may include sanctions that are contingent upon the Respondent’s failure to comply with corrective action. The Chapter (or the NEC) shall request approval by the NASW Executive Committee to implement the sanctions if the Respondent has not completed the corrective action as outlined in the Final Report or if the Respondent’s compliance is not satisfactory to the Chapter (or the NEC). Depending on the type of sanction, responsibility for final implementation of sanctions shall rest with the Chapter President, the NEC, or the OEPR staff.

H. REMOVAL OF SANCTIONS

The Executive Committee, representing the national Board of Directors, must authorize the removal of sanctions.

1. When a sanction involving suspension of membership in NASW has been imposed, the Respondent has the right to reapply for membership in NASW after completion of the required corrective action, or once the specified minimum period of suspension has expired.

-
- a. A written request for reinstatement to membership in NASW shall be submitted to the Chairperson of the NEC with a copy to the President of the Chapter where the corrective action is being monitored.
 - b. When reinstatement of membership is under consideration, the Chapter President shall forward the Chapter's recommendations in this matter to the Chairperson of the NEC.
 - c. The NEC shall decide whether or not to recommend reinstatement by the NASW Executive Committee. The applicant shall have the right to appeal an adverse recommendation to the Executive Committee of the NASW Board of Directors.
 - d. The NASW Executive Committee shall decide whether or not to approve reinstatement of the Respondent's NASW membership.
2. When sanctions involve suspension from the ACSW or withdrawal of other NASW credentials or certifications, the Respondent has the right to request the lifting of these sanctions after completion of required corrective action, or once the specified minimum period of suspension has expired.
 - a. A written request for reinstatement in ACSW or restoration of NASW credentials or certifications shall be submitted to the Chairperson of the NEC with a copy to the President of the Chapter where the corrective action is being monitored.
 - b. When such reinstatement or restoration is under consideration, the Chapter President shall forward the Chapter's recommendations in this matter to the Chairperson of the NEC.
 - c. The NEC shall decide whether or not to recommend that the NASW Executive Committee lift these sanctions. The applicant shall have the right to appeal an adverse recommendation to the Executive Committee of the NASW Board of Directors.
 - d. The NASW Executive Committee shall make the final decision on whether or not to lift these sanctions.
 - e. The chapter that conducted the original adjudication will be informed and asked to comment.
 3. Upon NASW Executive Committee approval of recommendations to lift sanctions involving NASW membership, credentials, or certifications, the Respondent must undergo a new and complete application process for each. This will include payment of new fees, re-examination, or other steps as required by NASW.
- I. DETERMINATION OF FITNESS**
1. If recommendations for corrective action included assessment of fitness to return to practice or verification of participation in supervision, documentation shall be provided to the NEC for review.
 2. Determination of fitness to practice may require assessment by a social work supervisor or clinician approved by the Chapter. The cost of assessment, if any, shall be borne by the person seeking reinstatement.
 3. The NEC will review the terms of the suspension, compliance with recommended corrective action, and fitness for practice. A Chapter-appointed Representative may meet with the applicant or his or her supervisor or therapist. If this occurs, the necessary releases must be provided by the person seeking reinstatement.

APPEALS

This chapter deals with procedures for appeals. It describes the appellate bodies, appealable actions, and grounds for appeal in mediation and in adjudication. Furthermore, it includes guidelines concerning the form that an appeal must take, responses to an appeal by the National Ethics Committee and the Executive Committee of the national Board of Directors, as well as decisions on appeals, notification of action on appeals, and issuance of the Final Report on the appeal.

Because all appeals are based solely on written documentation, neither the Complainant nor the Respondent shall have the right to appear before the NEC or the Executive Committee of the NASW Board of Directors when appeals are being considered.

A. APPELLATE BODIES

1. **National Ethics Committee.** Appeals of actions of a Chapter Ethics Committee (CEC) shall be reviewed and acted upon by the NEC.
2. **Executive Committee of the NASW Board of Directors.** The Executive Committee acts only on appeals of national cases.

B. APPEALS—MEDIATION

1. The decision to send the matter to mediation or adjudication cannot be appealed.
2. The signed mediation settlement cannot be appealed.

C. APPEALS—ADJUDICATION

1. A decision of a Hearing Panel to proceed against the wishes of the Complainant and Respondent can be appealed.

2. The termination or voiding of the proceedings cannot be appealed.
3. The Hearing Panel Report can be appealed.
4. The Chapter Executive Committee decision not to recommend reinstatement or removal of sanctions can be appealed.
5. The decision to send the matter to mediation or adjudication cannot be appealed.

D. GROUNDS FOR APPEAL—ADJUDICATION

One or more of the following reasons are sufficient grounds for an appeal:

1. Appeals of decisions to proceed against the wishes of the Complainant or the Respondent must be based on these grounds: that the departure of the CEC (or the NEC) from the procedures was so serious as to prejudice the appellant's rights or that new evidence was discovered that would justify a reversal of the decision.
2. Appeals of Reports must be based on the following grounds:
 - a. The departure of the CEC (or the NEC) from the procedures was so serious as to prejudice the appellant's rights.
 - b. The findings of fact stated in the Report were so inaccurate as to prejudice the appellant's rights.
 - c. The conclusions reached by the Panel were inconsistent with the findings of fact.

-
- d. New evidence was discovered after the Report was issued that would justify a reversal of the decision. Except for newly discovered evidence, no participant may offer additional evidence in support of his or her position on the appeal.
 - e. The recommendations of the Hearing Panel for corrective actions were inconsistent with, or disproportional to, the violations found.
 - f. The sanctions were inconsistent with, or disproportional to, the violations found.

E. FILING AN APPEAL

1. An appeal of a Chapter decision must be directed to the Chairperson of the NEC at the Office of Ethics and Professional Review.
2. Appeals to the NASW Executive Committee of actions taken on national cases must be directed to the President of NASW at the OEPR.
3. All appeals must be in writing, accompanied by the properly prepared Professional Review Appeal Form (see appendix 3). Incomplete submissions will be returned to the sender without being reviewed. Revised appeals must conform to the timeline specified below. The appeal documentation should not exceed three (3) pages, and the person submitting the appeal must provide three (3) legible copies of all appeal documents.
4. Appeals must be sent within thirty (30) days of receipt of the decision being appealed. The letter of appeal shall contain the following:
 - a. If the appeal is based on a procedural error, it must cite the error and the reasons for believing that the alleged error influenced, or will influence, the results of the Professional Review process.
 - b. If the appeal is based on new evidence, the new evidence must be stated and an explanation given as to why it was not submitted before the hearing.

- c. If the appeal of a Report is based on an allegation of inappropriate conclusions or recommendations, the appeal must present supporting reasoning.
- d. If the appeal of a Report is based on alleged serious inaccuracies in the findings of fact, the appeal must specifically state the inaccuracies and the evidence that supports these allegations. The appeal must also state the reasons why these inaccuracies are serious enough to be prejudicial to the outcome of the hearing or to the rights of the person making the appeal.
- e. Within ten (10) days of receipt of the appeal, copies shall be sent by the OEPR staff to the CEC (or the NEC) and to the other participant in order to ensure that they have an opportunity to respond.

F. RESPONSE TO THE APPEAL

1. The Chapter (or the NEC) will be given an opportunity to comment on the appeal prior to the meeting of the appellate body.
2. Within thirty (30) days of receipt of the appeal from one participant, the other participant may submit a written rebuttal. The rebuttal documentation should not exceed three (3) pages, and the person submitting the rebuttal must provide three (3) legible copies of all rebuttal documents.
3. Within ten (10) days of receipt of the rebuttal, the OEPR staff will send copies to the Chapter (or the NEC) and to the participant filing the appeal. The participants will have no further opportunity to comment.

G. NEC ACTION ON APPEALS OF CHAPTER DECISIONS

1. Within ten (10) days of the NEC Chairperson's receipt of the appeal from one participant, the OEPR shall transmit copies of the appeal to the other participant and to the Chapter.

2. The Chapter is urged to submit a comment on or explanation of any actions that are being appealed to the NEC.
3. The NEC shall consider an appeal at its next meeting that occurs more than thirty (30) days after the opportunity for rebuttal was given. The NEC may review the entire case record during their deliberations on appeal. However, any actions taken on the appeal may not result in actions or decisions to the detriment of the appellant. After considering the appeal, the NEC may
 - a. deny the appeal, upholding the Chapter decision.
 - b. uphold the decision in its entirety, uphold the decision in part, and do one of, or a combination of, the following:
 - i. request further information from the participants and/or from the CEC
 - ii. return the case to the CEC for a revision of the Report
 - iii. return the case to the CEC for a new hearing and a revision of the Report
4. If the NEC does not find sufficient information in the Chapter Hearing Panel Report to process the appeal, it may request that the Chapter obtain additional information from the Complainant and/or the Respondent. Other sources also may be contacted, provided that the Complainant and the Respondent are informed. The information may be presented either at a new hearing, at which both participants are present, or in writing. The Chapter must provide the participants with copies of any new materials being considered.
5. If the Chapter is asked to submit a revised Report incorporating the additional information and changing the original conclusions and recommendations, the Report should not be revised to the detriment of the participant appealing (assuming only one participant has

appealed). The revised Report must be issued within forty-five (45) days of the Chapter's receipt of the NEC's decision on the appeal. Both parties have the right to submit an appeal of the revised Report to the NEC (except as noted in chapter 3). The decision on appeal of the revised Report will be considered final.

H. NATIONAL EXECUTIVE COMMITTEE ACTION ON APPEALS

The NASW Executive Committee acts only on appeals of national cases.

1. Within ten (10) days of the NASW President's receipt of an appeal from one participant, the OEPR shall transmit copies of the appeal to the other participant and to the NEC Chairperson.
2. The NEC is urged to submit to the NASW Executive Committee a comment or explanation of any actions that are being appealed.
3. The Executive Committee representing the NASW Board of Directors shall consider an appeal at its next meeting that occurs more than thirty (30) days after the opportunity for rebuttal was given. The Executive Committee may review the entire case record during their deliberations on appeal. However, any actions taken on the appeal may not result in actions or decisions to the detriment of the appellant. After considering the appeal, the Executive Committee of the national Board of Directors may
 - a. deny the appeal, upholding the NEC decision
 - b. uphold the appeal in its entirety, uphold the decision in part, or do one of, or a combination of, the following:
 - i. request further information from the participants and/or from the NEC
 - ii. return the case to the NEC for a revision of the Report
 - iii. return the case to the NEC for a new hearing and a revision of the Report.

-
4. If the NASW Executive Committee does not find sufficient information in the NEC Hearing Panel's report to process the appeal, it may request that the NEC obtain additional information from the Complainant and/or the Respondent. Other sources also may be contacted, provided that the Complainant and the Respondent are informed. The information may be presented either at a new hearing, at which both participants are present, or in writing. The NEC must provide the participants with copies of any new materials being considered.
 5. If the NEC is asked to submit a revised Report incorporating the additional information and changing the original conclusions and recommendations, the Report should not be revised to the detriment of the participant appealing (assuming only one participant has appealed). The revised Report must be issued within forty-five (45) days of the NEC's receipt of the NASW Executive Committee's decision on the appeal. Both parties have the right to submit an appeal of the revised Report to the Executive Committee (except as noted in chapter 3). The decision on appeal of the revised Report will be considered final.

I. ISSUANCE OF THE FINAL REPORT

The Report may be revised in accordance with these *Procedures*. However, the Report shall be considered

the Final Report at the conclusion of all appeal opportunities. Once the Report is considered Final, there are no further opportunities for appeal.

Panelists and consultants shall destroy all case documents when the Final Report is issued.

J. NOTIFICATION OF ACTION ON APPEALS

Within thirty (30) days of the action taken by the appellate body, the participants and the CEC shall be notified of the decision, in writing. This correspondence will be sent by certified mail, return receipt requested. The decisions shall include notice of any right of further appeal. Copies of the decision stating the outcome of the appeal process shall be sent to the Chapter President, the CEC, and the Chapter Executive Director. If no violation has been found, Hearing Panel members shall be provided copies of the Final Report on request.

K. FINALITY OF DECISIONS ON APPEALS

By using the professional review process, the participants agree that they will accept the decision on the appeal as final and binding. They further agree that they will not challenge the final outcome or the process of achieving the outcome, except for the following reasons: gross misconduct by the Hearing Panel, serious violation of procedural requirements that negatively affected the outcome, and violation of applicable public law or policy.

CLOSING OF CASES

This chapter deals with the criteria for closing professional review cases. Also included are guidelines for the maintenance of records pertaining to such cases.

Only the Office of Ethics and Professional Review has the authority to close professional review cases.

A. CRITERIA FOR CLOSING MEDIATION CASES

The OEPR shall close a mediation case when

1. a complaint or RPR has been terminated by NASW or withdrawn in accordance with these *Procedures*
2. there is a record of a signed mediation agreement authorizing case closure, to which there was no objection from the NASW Representative, or there has been satisfactory completion of a mediation agreement.

B. CRITERIA FOR CLOSING ADJUDICATION CASES

The OEPR shall close an adjudication case when

1. a complaint or RPR has been terminated by NASW or withdrawn in accordance with these *Procedures*
2. a Final Report with no recommendations for corrective action or sanctions has been issued and has not been appealed, or all appeals have been exhausted
3. recommended corrective actions have been completed, and the Chapter so reports
4. Sanctions have been implemented and, with appropriate justification, a Chapter has recom-

mended and the NASW Executive Committee has decided to remove sanctions.

C. REOPENING OF CASES

The National Ethics Committee shall have the authority to reopen cases based on the grounds that procedural errors were made by the NEC or the Chapter and discovered within one (1) year of the date that the case was closed.

A Complainant may not submit a new RPR naming the same Respondent and addressing the same issues once the matter has been closed.

D. MAINTENANCE OF RECORDS

1. In mediation cases, the OEPR, under the supervision of the NEC, shall maintain copies of all RPRs, the Respondent's comment on the RPR, agreements to mediate, and mediation agreements.
2. In adjudication cases, the OEPR, under the supervision of the NEC, shall maintain copies of all RPRs, the Respondent's comment on the RPR, and all other correspondence and documents related to adjudication.
3. Chapters shall maintain case files for three (3) years after the participants have been notified that the case has been closed. Before Chapter records are destroyed, Chapter staff shall verify that adequate records exist at the OEPR. Cases with active sanctions cannot be closed unless the Executive Committee of the NASW Board of Directors has taken action to close the case or to lift the sanctions.



PROFESSIONAL REVIEW TIMETABLE

Task	Timeframe
Acknowledgment of RPR	Within 10 days of receipt
Notice of RPR to Respondent and Chapter	Within 10 days of receipt
Submission of signed Confidentiality Pledge/Statement of Understanding by Respondent	Within 10 days of receipt of notification of RPR
Response to notice of incorrect submission or need for additional information	30 days from receipt of notice
Opportunity for Respondent to submit any documents that are pertinent to the criteria of acceptance	Within 14 days of receipt of notification of RPR
Decision to accept/reject/set venue	Within 45 days of receipt of RPR
Appointment of Mediator or Hearing Panel	Within 45 days of decision to accept
Notice of mediation or adjudication	Within 45 days of decision to accept
Submissions for mediation or adjudication	30 days prior to mediation session or adjudication hearing
Submission of witness list for adjudication	30 days prior to adjudication hearing
Notice of approval of witnesses	14 days prior to adjudication hearing
Receipt of written evidence in lieu of appearance (in adjudication process)	14 days prior to adjudication hearing
Challenge of hearing panelist	Within 10 days of notice of names for adjudication hearing
Challenge of NASW participants (that is, Mediator, NASW Representative) in the mediation	Within 10 days of notification of names for mediation
Notice of approval of documents	14 days prior to mediation or hearing
Mediation agreement sent to Chapter and OEPR by Mediator	10 days from the mediation
Draft Report sent to OEPR for review	21 days from date of hearing
OEPR comments sent to Report writer	14 days of receipt of Report
Release of Report	10 days after acceptance by Chapter Executive Committee
Appeal	Within 30 days of receipt of decision
Rebuttal	Within 30 days of receipt of appeal
Decision on appeal	Within 45 days of receipt of appeal
Final Report	When all levels of appeal have been exhausted

These timeframes are used as guides in the professional review process. Certain circumstances may require adjustments to the timeframes. Such circumstances include, for example, requests for extensions to submit information or appeals, difficulty locating a party, NEC or NEC Intake Subcommittee requests for additional information, and scheduling conflicts. Parties are expected to comply with all timeframes unless there are extenuating circumstances. Any request for an extension must be done in writing to the NEC Chairperson prior to the deadline date.



GLOSSARY

Adjudication: for the National Association of Social Workers, the process of determining whether a professional action is in violation of the NASW *Code of Ethics*, or in a professional organization, the process of determining whether an action taken by a professional is in violation of a code of ethics or other standard of conduct.

Advisor: anyone from whom a Complainant or Respondent seeks advice in conjunction with the professional review process, such as an attorney.

Agency: an institution established to provide service for others. In the context of the professional review process, an agency is an institution that employs social workers.

Agreement to mediate: a document, signed by the participants, that specifies ground rules for the process.

Allege: to state details of a situation or action before proving; to make a statement or assert.

Alternate: an NASW member appointed by the Chapter to replace a member of a Hearing Panel.

Amend: to change.

Appeal: to seek a review of a decision, action, or Report.

Appellant: the person who makes the appeal.

Breach: failure to comply with the terms of an agreement or intentional violation of terms.

Case record: the file of materials gathered for an individual case.

Censure: a statement that conveys a judgment that the Respondent has violated the NASW *Code of Ethics*.

Chapter: a legal entity of the National Association of Social Workers (NASW). There are currently 56 NASW Chapters, including one for each state and for the

District of Columbia, New York City, Puerto Rico, the Virgin Islands, Guam, and an international chapter located in Europe.

Chapter Ethics Committee (CEC): a group of members appointed by the Chapter President to hear and to determine the outcome of alleged ethics violations.

Client: a person who is served by or uses the services of a social worker or social services agency; a person who engages a social worker.

Closed case: the status of a professional review matter once the Chapter has notified the participants of case closure.

Comment: a note that explains one's position or illustrates a point in the case.

Ethics Committee: a group of members appointed by the NASW President (to the NEC) or the Chapter President (to the CEC) to hear and to determine the outcome of alleged violations. Each Chapter is required to support an Ethics Committee; the President of the NASW Board of Directors appoints members to the NEC. NASW Bylaws provide further information regarding these mandated committees.

Complainant: the person who files an RPR of an alleged violation.

Complaint: a formal statement alleging misconduct.

Compliance: the act of conforming to the requirements for corrective action set forth in the Final Report.

Conclusion: the decisions reached by the Hearing Panel following their deliberations on a case.

Confidentiality: the restriction of communications about the case to those involved in the professional review process; the maintenance of privacy.

Confidentiality Pledge/Statement of Understanding: a promise to maintain strict standards of confidentiality in the professional review process and an agreement to accept final actions on appeal as final and binding.

Conflict of interest: any potential, current, or prior personal or professional relationship that could prejudice or give the appearance of prejudicing decision making.

Consider: to study to come to a judgment.

Consultant: a member of NASW who is appointed to assist a Complainant or Respondent in preparing for participation in the professional review process. Consultants may accompany Complainants and Respondents to hearings, but may not play a direct role in the proceedings.

Corrective action: an action intended to rectify the circumstances that were the result of a violation.

Criteria: standards on which complaints may be accepted or rejected.

Deny: to declare that a statement is untrue; to refute a claim.

Direct knowledge: actual knowledge, notice, or information in regard to a particular fact or allegation, which is original and does not depend on indirect information or hearsay. Typically, this information is the result of personal observation or firsthand verbal or written communication with the social worker named in the RPR.

Directly affected person: someone who experienced alleged consequences or results that are of a direct and/or personal nature resulting from a professional relationship with the social worker named in the RPR. This may include a legal guardian of a minor child, a legal Representative of a legally incapacitated or incompetent adult, or the executor of a deceased person's estate so long as he or she has direct authority and a protectable interest to bring a complaint on behalf of such person.

Evidence: a submission of information or documentation intended to demonstrate the truth of a matter.

Executive Committee: the group of NASW board members designated in Chapter or national bylaws to act on behalf of the NASW Chapter or NASW Board of

Directors. Chapter and national Boards of Directors appoint Executive Committees.

Expulsion: the act of permanently removing the privileges of membership.

Final Report: the report that stands when appeal opportunities are concluded.

Finding: the result of the adjudication proceeding; the basis for the determination of violation or no violation.

Full disclosure: the provision of any and all facts and information that is material and necessary to the issues or allegations at hand as expected of all participants in the NASW Professional Review process so long as the provision of such facts and information would not violate any applicable laws.

Hearing: a session in which appointed members hear evidence from both participants in a Professional Review. The purpose of the hearing is to determine the facts and decide whether the facts constitute a violation.

Hearing Panel: a group of three or more NASW members appointed by the Chairperson of the Committee on Inquiry to review a complaint.

Implement: to carry out plans or instructions.

Incapacity: an impairment in one's ability to understand information adequately and to reason and deliberate sufficiently to be able to make or communicate responsible decisions or choices. The lack of capacity may be temporary or permanent, and it may result from a variety of conditions, including mental illness, physical injury, age-related limitations, intellectual deficiency, dementias, organic brain syndromes, chronic drug use, and mental retardation.

Intake Subcommittee: the subcommittee delegated by the NEC to make decisions to accept or reject the RPR, set the scope for adjudication, or refer to mediation; comprised of two members of the Ethics Committee from the Chapter where the alleged violation took place, two NEC alternates, and one NEC member who serves as Chairperson.

Jurisdiction: the level of authority needed to take action on cases.

Licensing board actions: disciplinary or corrective measures taken by a licensing board toward a licensee, which could include the revocation or suspension of a license, probation, letter of reprimand or censure, voluntary surrender of a license, monetary penalty, and/or limitation or restriction of a license.

Mediation: a collaborative problem-solving process in which a neutral third party guides a discussion intended to aid the parties in the dispute define the issues, obtain relevant information, and generate reasonable options for resolution.

Mediation agreement: a signed, written document specifying the terms of the mutually satisfactory agreement reached in mediation by the Complainant and the Respondent.

Monitor: to observe or track the progress of corrective actions and sanctions.

NASW Code of Ethics: a set of values, principles, and standards to guide the conduct of social workers. Every member of NASW signs an agreement when applying for membership to abide by the standards set forth in this *Code*.

NASW Representative: an appointee with responsibility for ensuring that NASW's interests in professional review are represented in the final mediation agreement.

Notification: the act of making facts or allegations known.

Observer: an NASW member approved by NASW to attend a hearing or mediation session for the purpose of Professional Review training.

Participant: an individual or group that takes one side of a question or dispute.

Peer review: review of professional qualifications or behavior by members of one's profession.

Professional review: the process of determining whether an act is a violation of the *NASW Code of Ethics*.

Professional social work relationship: a relationship between a client and a social worker, in which the primary goal is the delivery of social work services as

described in the *NASW Code of Ethics* and formal professional responsibilities or obligations in a social work capacity can be reasonably expected.

Procedure: an established method of accomplishing something; the steps in the process of Professional Review.

Public domain: the property of the society at large and, within specified limits, legally available to all; a matter of public record.

Publication: the act of making a public announcement or of issuing a written document. Its primary purpose is to protect the public or the profession.

Rebuttal: the act of providing an opposing argument or position.

Recommendation: a statement of advice or guidance.

Reinstatement: restoration to a previous position, such as reinstatement of membership.

Relevant [testimony or evidence]: having significant or demonstrable bearing on the matter at hand and evoking confidence based on experience.

Report: a summary issued by the Chapter or a national committee to delineate the Hearing Panel's findings, conclusions, and recommendations.

Respondent: the person against whom a complaint has been registered.

Request for Professional Review (RPR): the act of requesting a peer review of an alleged violation of the *NASW Code of Ethics* by an NASW member.

Revocation: the cancellation of membership, credentials, services, or certifications, etc., offered by NASW.

Sanction: a detrimental intervention, such as the suspension of membership or the publication of a violation, that is instituted as a result of a finding of a violation or as a result of failure to comply with corrective action recommendations.

Scope: a list of the sections of the *NASW Code of Ethics* determined to be reviewed by a Hearing Panel.

Support persons: individuals who may attend adjudication hearings to provide physical or emotional assistance to Complainants or to Respondents. The Hearing Panel Chairperson must approve all requests to have such support persons attend hearings.

Supporting statement: a statement that must accompany an RPR and include a list and detailed description of materials to be used that will support the allegations; intended sources of evidence (list of witnesses, documentation, etc.); summary of any other actions taken to correct this matter, including steps within the agency; and status of legal action under way related to this matter.

Substantiate: to confirm by providing substantial proof.

Surrogate Complainant: an individual appointed by the Chapter to serve as the Complainant when the RPR is being filed on the basis of information in the public domain.

Suspension: withdrawal of membership privileges for a specific period of time.

Termination: permanent removal of membership privileges; discontinuation of the Professional Review process.

Testimony: presentation of evidence in a proceeding.

Uphold: to find in favor of; to support a claim.

Venue: the forum in which an RPR shall be reviewed; that is, either mediation or adjudication.

Void: to remove the professional review file permanently from the Chapter office; to make as though no RPR was ever filed

Violation: an offense or infringement.

Witness: an individual who has direct knowledge of something; one who provides testimony.

DELEGATE ASSEMBLY POLICY STATEMENTS

These procedures implement the Policy Statement on Adjudication of Grievances adopted by the NASW Delegate Assembly in 1967 and amended by the NASW Delegate Assembly in 1987. The amendment added a responsibility to educate the NASW membership and the larger professional community about standards of ethical professional practice and fair personnel practices, as well as to provide prospective participants in peer review the opportunity to explore alternative dispute resolution options such as mediation. These *Procedures* were last revised by NASW's Board of Directors in January 2005.

POLICY STATEMENTS OF THE 1967 AND 1987 DELEGATE ASSEMBLIES

NASW has responsibility to review and resolve complaints of practices alleged to be detrimental to the quality and effectiveness of social work practice and to do the following:

- educate NASW membership, agency leadership, and the larger professional community to standards of ethical professional practice and fair personnel practices
- ensure responsible use of facts in making judgments about agency or individual action
- protect its members against exploitation and injustice
- promote sound and equitable personnel administration
- protect the agency and the public from unethical practice by social workers
- discipline its members when unethical conduct is found to exist.

To fulfill this obligation, NASW has developed peer review procedures governing the handling of grievances

that result from alleged violations of social work personnel practices or the NASW *Code of Ethics* and alleged instances of penalties imposed as a consequence of social or political action.

These procedures are designed to do the following:

- provide the opportunity for all prospective participants to the Professional Review process to confer with a consultant, who is a member of NASW, for the purposes of exploring alternative resolution options, mediating the differences, preparing a complaint, or supporting the participant during the proceedings
- ensure reasonable promptness in filing and acting on RPRs for the protection of the participants
- ensure objective, factual, and confidential consideration of the issues in adjudication.
- ensure that mediation participants have equal access to an impartial process designed to help the participants arrive at a clearly stated, mutually acceptable agreement
- permit all participants to have reasonable opportunity to be heard and to present their positions
- provide for fair handling of appeals in adjudication.
- allow referrals of a case to the National Ethics Committee for adjudication or mediation in either one of two instances: (1) when the Chapter chooses to disqualify itself under these procedures; or (2) when the Chapter fails to comply with the recommended timeframes and procedures for acting on an RPR.

REVISIONS

Revisions in procedure growing out of the experience of NASW shall meet these previously stated criteria. Any member or group of members may initiate a revision of the procedures by submitting suggestions to the National Ethics Committee. The National Ethics Committee may

circulate these revisions to the Chapters and other groups, asking for their reactions and suggestions before making a recommendation to the national Board of Directors. The National Ethics Committee will review any information received before recommending any revisions to the national Board of Directors, who will then act to approve or not approve the revisions.

ETHICS COMMITTEES

A. NATIONAL ETHICS COMMITTEE (NEC)

1. The National Ethics Committee (referred to as the NEC) is authorized by Article XI of the NASW Bylaws and is charged with implementing NASW policies for Professional Review in accordance with these *Procedures*.
2. The NASW Bylaws require that the President shall appoint at least six members to the NEC and shall designate the Chairperson. In addition, the President generally appoints several alternate members to ensure that six persons are always available to conduct the business of the committee.
3. The NEC reports to and is subject to the authority of the NASW Board of Directors.
4. The NEC shall report to the NASW Board of Directors annually.

B. CHAPTER ETHICS COMMITTEES (CEC)

1. The composition and size of Chapter Ethics Committees (referred to as the CEC) are determined in accordance with Chapter bylaws and may vary to meet the requirements of the specific Chapter involved. The Chapter shall decide on the composition of its CEC in accordance with any applicable national standards.
2. The Chapter Ethics Committee shall reflect the makeup of the membership of the Chapter. It will be appointed by the elected governing body of the Chapter. Its roster will include enough members to serve if one or more cannot serve or are disqualified from participating in a specific inquiry. Any decision of the CEC or its Hearing Panel shall be by majority vote.

FORMS FOR USE IN PROFESSIONAL REVIEW

NASW

REQUEST FOR PROFESSIONAL REVIEW (RPR)

Ethics

One copy of this Request for Professional Review, together with a three- (3)page maximum summary statement about the issue, should be filed with the National Ethics Committee (NEC).

I, _____, hereby file a request for Professional Review by the National Association of Social Workers (NASW).

ADDRESS: _____

HOME PHONE #: _____ BUSINESS PHONE #: _____

RESPONDENT: _____

ADDRESS: _____

HOME PHONE #: _____ BUSINESS PHONE #: _____

Was Respondent an active member of NASW at the time of events to be reviewed? Yes No

DATE(S) of ALLEGED events to be reviewed: _____

DATA TO BE FURNISHED BY THE COMPLAINANT

The Complainant must provide the following information related to the Request in a separate statement to be attached to this required Request for Professional Review form.

Confidentiality Pledge/Statement of Understanding

Statement of issue. The statement (no more than 3 legible pages) must include a description of how the alleged misconduct violated the NASW *Code of Ethics* (specific standards from the *NASW Code of Ethics* must be cited); a list of and detailed description of materials to be used that will support the allegations; a list of intended sources of evidence (witnesses, documentation, etc.); a summary of any other actions taken to correct this matter, including steps within the agency; the status of legal action under way related to this matter.

Complainant's agreement to release confidential documents. By engaging in this process the Complainant agrees to release confidential records for review by the Hearing Panel Chairperson who will determine if that evidence will be used in the proceedings.

Full disclosure. It is expected that all participants in the NASW professional review process will provide any and all facts and information that is material and necessary to the issues or allegations at hand so long as the provision of such facts and information would not violate any applicable laws.

The information I have provided in this RPR and supporting statement is true and correct, and I am able and willing to assert under oath that this is true.

SIGNATURE: _____ DATE REQUEST FILED: _____

NEC Intake Subcommittee
National Association of Social Workers
750 First Street, NE, Suite 700
Washington, DC 20002

NASW

REQUEST FOR PROFESSIONAL REVIEW (RPR)

Self-Reporting Form

This form is to be completed by members for self-reporting. Please attach the public document that outlines the findings or any other supporting documentation to this request.

Note: If this complaint is being filed more than one year after the findings were released, please complete a request for a Time Limits Waiver.

NAME: _____

ADDRESS: _____

PHONE: _____

SOURCE OF INFORMATION (for example, licensing board, court, employer): please attach.

DATE information was received: _____

Were you a member of NASW at the time the violation occurred? Yes No

DATE(S) OF EVENTS as stated in supporting document(s): _____

PLEASE PROVIDE A SUMMARY OF THE FINDINGS: _____

Findings	Explanation (that is, applicable NASW code violation)
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The information and the supporting documentation provided in this RPR are true to the best of my knowledge.

SIGNATURE: _____ DATE REQUEST FILED: _____

Please forward this form, along with supporting documentation and signed Confidentiality Pledge/Statement of Understanding and a request for a Time Limits Waiver, if applicable, to:

National Ethics Committee
National Association of Social Workers
 750 First Street, NE, Suite 700
 Washington, DC 20002

NASW

PROFESSIONAL REVIEW

Appeal Form

CASE #: _____ CASE NAME: _____ vs. _____

NAME OF PERSON FILING APPEAL: _____

- 1. Check appropriate box(es) in “Type(s) of Appeal” being filed (see number 1 below)
- 2. Check the boxes that correspond with the “Grounds for Appeal” (see number 2 below). More than one “Ground for Appeal” may be marked.
- 3. Attach required documents as listed below in number 3, which lists the type of documentation that must be submitted in support of appeals on each “grounds for appeal.”
- 4. Complete this form with your signature and by noting case name, number, Chapter, and your name.

These materials will be sent by NASW’s Office of Ethics and Professional Review to the committee hearing the appeal, other participant(s) to this review matter, and to the Chapter or NEC for comment on appeal. Participants are allowed thirty (30) days from receipt of the appeal to submit a response to the appeal.

For further information, please see chapter 11 of the *NASW Procedures for Professional Review*.

1. TYPE of APPEAL
Place a check mark next to the type(s) of appeal you are filing.

- Report issued by the Chapter or NEC (N/A in mediated cases)
- Decision to proceed against wishes of the
 - Complainant or Respondent
 - Chapter denial of Respondent’s request to lift sanctions
- Decision of the NEC

2. GROUNDS for APPEAL Place a check mark next to the “grounds” on which you base your appeal.	3. REQUIRED DOCUMENTATION Include documentation listed in this column to support and explain your appeal.
<input type="checkbox"/> Departure from <i>Procedures</i>	Citation of error(s) and reason alleged error influenced the outcome
<input type="checkbox"/> Inaccurate findings of fact	Specific statement of inaccuracies, evidence to support allegations, and reasons why alleged errors influenced the outcome
<input type="checkbox"/> Conclusions were inconsistent with findings of fact	Description of inconsistencies and reason for disagreeing with findings or conclusions
<input type="checkbox"/> New evidence	Attachment of new evidence and explanation as to why it was not submitted previously
<input type="checkbox"/> Recommendations were inappropriate to conclusions	Statement of alleged inappropriate conclusions and explanation of your opinion

By submitting this form, I reaffirm my pledge to keep all professional review proceedings and documents confidential. I understand that the materials I am submitting in support of this appeal will be sent to the other adjudication participant (Complainant or Respondent) in this matter. The information I have provided in this RPR and supporting statement is true and correct, and I am able and willing to assert under oath that this is true.

SIGNATURE: _____ DATE: _____

National Ethics Committee
National Association of Social Workers
750 First Street, NE, Suite 700
Washington, DC 20002

NASW PROFESSIONAL REVIEW

Confidentiality Pledge/Statement of Understanding

All parties involved in the professional review process are required to maintain strict standards regarding confidentiality. This confidentiality requirement pertains to all products and proceedings, including information that the Request for Professional Review has been filed, the substance and content of the RPR, the Report, appeals, discussion associated correspondence, and outcomes. The restrictions do not apply to a party's right to confer with legal counsel.

ALLEGED BREACHES OF CONFIDENTIALITY

1. Either party or a Chapter may inform the NEC that he or she believes information is being revealed unnecessarily. The NEC may then take whatever action it deems appropriate to remedy the concern.
2. Breaches of confidentiality may result in letters of warning, a termination of proceedings, or the voiding of the process. A decision to terminate proceedings may be appealed by either participant.
 - a. Breaches of confidentiality by a Respondent may result in a new Request for Professional Review filed against the Respondent under sections 1.07(a) or (b), 2.02, 5.01(a) or (b) of the NASW *Code of Ethics*.
 - b. If the NEC determines that the Complainant has breached confidentiality the NEC may demand that, within ten (10) days of the Complainant's receipt of the demand letter, all confidential materials must be immediately removed from the sources to whom they were given or made unavailable for use by any other source. Proof of the actions taken to withdraw or have documents sealed must be sent to the NEC. If such proof is not delivered to the NEC within thirty (30) days of the date of the demand letter, the NEC may take action to terminate or void the Professional Review process.

EXCEPTIONS

Research purposes. Professional Review data may be accessed by approved researchers and reported in aggregate form. Research must be approved by the NEC following review of research proposals from qualified researchers. Identifying information will be removed from any shared data.

Acquiring relevant evidence. If it becomes necessary to provide information regarding the proceedings to acquire relevant evidence, the following are the guidelines:

1. Participants may disclose the fact that professional review is under way.
2. Participants must disclose the least amount of information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.
3. Participants shall not disclose identities of other participants or any other identifying features.
4. The RPR and supporting statement may not be given to witnesses, or any parties not directly involved with the Professional Review matter.

Disclosure of involvement by Respondent prior to issuance of the Final Report or conclusion of mediation proceedings. Respondents may acknowledge their involvement in professional review when required to do so by employers, provider Panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as: acknowledgment of the existence of an RPR, a summary of the allegations, an explanation of the status of the proceedings, and a copy of the Respondent's response (if submitted) to the allegations contained in the RPR. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

Disclosure of Hearing Panel conclusions. Respondents may report the conclusions of a Hearing Panel when required to do so by employers, provider Panels, insurers, licensing bodies, and others who have a legitimate need to know in order to make decisions that can affect the Respondent's ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary documentation. Minimal necessary documentation is defined as these sections of the Final Report: the Summary of the

Complaint and the Summary of Findings, Conclusions, and Recommendations. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

Disclosure of Hearing Panel conclusions to consultants and/or witnesses. The Complainant or Respondent may inform consultants and/or witnesses who testified on their behalf of the Conclusions and Recommendations. Consultants and/or witnesses are expected to keep this information confidential.

Mediation agreements: A final mediation agreement may include permission to release specific information. Only the information specified in this agreement may be released. Furthermore, the agreed upon content may be given only to individuals or agencies specifically identified in the final agreement.

Applicable state or federal law. Information regarding Professional Review proceedings may be released when disclosure is required by state or federal law or regulation.

USE OF CONFIDENTIAL INFORMATION DURING THE PROFESSIONAL REVIEW PROCESS

Complainant's agreement to release confidential documents. By engaging in this process the Complainant agrees to release confidential records for review by the Hearing Panel Chairperson who will determine if that evidence will be used in the proceedings.

Documents submitted as evidence by either participant. Any confidential documents submitted as evidence must be accompanied by a signed release of information.

Discussion of pertinent confidential records. The Complainant's RPR represents permission for the Panel, Respondent, and consultants to discuss confidential records approved for consideration at the hearing.

I understand and agree to abide by the statement regarding confidentiality as set forth above and will treat all associated materials and processes confidentially.

NAME (PRINTED): _____

SIGNATURE: _____ DATE REQUEST FILED: _____

By using the professional review process, I agree that I will accept the decision on the last appeal as final and binding. I further agree that I will not challenge the final outcome or the process of achieving the outcome, except for the following reasons: gross misconduct by the Hearing Panel, serious violation of procedural requirements that negatively affected the outcome, and violation of applicable public law or policy.

I have read, understand, and agree to abide by the above Confidentiality Pledge/Statement of Understanding.

NAME (PRINTED): _____

SIGNATURE: _____ DATE: _____

National Ethics Committee
National Association of Social Workers
750 First Street, NE, Suite 700
Washington, DC 20002

NASW PROFESSIONAL REVIEW

Agreement to Mediate

This is an agreement between _____ and _____ (the parties).

The Mediator(s) for the dispute(s) shall be _____. The NASW Representative shall be _____. The parties have entered into mediation with the intention of reaching a consensual settlement of their dispute. The provisions of this agreement are as follows:

- 1) The Mediators are neutral NASW members who will assist the parties in reaching their own settlement. They will not make decisions about “right” or “wrong” or tell the parties what to do.
- 2) The NASW Representative will engage in the process to represent NASW’s interests in protecting the client, social worker, profession, and the public.
- 3) The Mediators **do not** offer legal advice nor provide legal consultation. Each party may retain his/her own attorney in order to be properly counseled about his or her legal interests, rights, and obligations. However, such legal Representatives may not attend the mediation session(s).
- 4) It is understood that in order for mediation to work, open and honest communications are essential. Accordingly, all written and oral communications, negotiations, and statements made in the course of mediation will be treated as privileged settlement discussions and are absolutely confidential. Therefore:
 - A. The Mediators will **not** reveal anything discussed in mediation without the permission of both parties. The parties understand that mediation data may be accessed by approved researchers and reported in aggregate form without identification of the parties. The expectation that the Mediator will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person or when laws or regulations require disclosure without a client’s consent.
 - B. The parties agree that they will not at any time before, during, or after mediation, call the Mediators or anyone associated with NASW as witnesses in any legal or administrative proceeding concerning this dispute. To the extent that they may have a right to call the Mediators or anyone associated with NASW as witnesses, that right is hereby waived.
 - C. The parties agree not to subpoena or demand the production of any records, notes, work product or the like of the Mediators in any legal or administrative proceeding concerning this dispute. To the extent that they may have a right to demand these documents, that right is hereby waived.
 - D. The exception to the above is that this agreement to mediate and any written agreement made and signed by the parties as a result of mediation may be used in any relevant proceeding, unless the parties agree in writing that these documents may not be used in any other proceeding.
- 5) While both parties intend to continue with mediation until a settlement agreement is reached, it is understood that either or both parties may withdraw from mediation at any time. It is agreed that if one or both parties decide to withdraw from mediation, best efforts will be made to discuss this decision in the presence of both parties and the Mediators.
- 6) If the Mediators determine that it is not possible to resolve the issues through mediation, the process can be terminated once this has been conveyed to the parties and confirmed in writing.
- 7) If mediation is discontinued the Mediator(s) will notify the NASW, and the dispute may be referred to adjudication.

I have read, understand, and agree to each of the provisions of this document.

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

NASW PROFESSIONAL REVIEW

Mediation Agreement

This Memorandum is to confirm the understanding and agreement between _____ and _____ with regard to _____ (*the issue*).

This Memorandum has been negotiated in the context of NASW's mediation process. All parties are satisfied that all information provided is correct and that the agreement is based on full disclosure.

All parties acknowledge that they have signed this agreement voluntarily, and that they know they have a right to consult their own attorneys prior to signing.

Terms

Party 1. _____ agrees _____

Party 2. _____ agrees _____

The parties agree that they will _____

as outlined and specified in this agreement .

Implementation and Compliance

The parties agree that this agreement shall be made part of the NASW professional review file. This agreement shall not be monitored by NASW, unless specific directions to do so are included in the agreement.

The parties agree that if _____ does not comply with the conditions of this agreement within _____ (*days, months*), then _____.

Review and Future Actions

The parties agree that they will talk on or about _____ to review their compliance with this agreement or provide written substantiation of compliance.

The parties agree that in the event there is a dispute about the interpretation or implementation of this agreement, they will return to mediation if they are not able to resolve the matter themselves. If the matter cannot be resolved through mediation, the issue may be returned to the Chapter for adjudication.

Mutual Release

We intend for this agreement to be a final settlement of all issues related to this dispute and release each other from any responsibilities related to the dispute, except for those identified in this agreement.

Acknowledged:

PARTY ONE: _____ DATE: _____

PARTY TWO: _____ DATE: _____

Witnessed:

WITNESS: _____ DATE: _____

WITNESS: _____ DATE: _____

Review by NASW Representative

Upon review of this mediated settlement agreement, I am of opinion that it _____ does or _____ does not adequately address NASW's responsibility to protect clients, consumers, agencies, colleagues, and the public from practices that violate the NASW *Code of Ethics*.

NASW REPRESENTATIVE: _____ DATE: _____

(Please note: In the event that the NASW Representative believes that the mediation agreement does not adequately address NASW's responsibility, the Representative will provide the NEC with a written explanation of his or her concerns. Such action by the NASW Representative will in no way preclude the participants from implementing their mediation agreement, unless to do so would be a further violation of the NASW *Code of Ethics*. The NEC Intake Subcommittee will then determine whether the matter is to be returned to mediation, sent to adjudication, or considered closed.)



INDEX

- Adjudicated cases, criteria for closing, 39
- Adjudication. *See also* Hearing
grounds for appeal, 35–36
matters which may be referred to, 13–14
preadjudication activities, 23–25
refusal to participate, 8–9
timetable, 40
- Agreement to Mediate, Profession Review form, 56
- Appellate bodies, 35
- Appeal Form, Professional Review, 53
- Appeal(s)
of Chapter decisions, NEC action on, 36–37
decisions on, as final, 38
defined, 41
filing, 36
forms, 53
grounds for, 35–36
Executive Committee
action on, 37–38
notification of action on, 38
response to, 36
what can and cannot be appealed, 35–36
- Appellate bodies, 35
- Appointees, 18, 19
complaints about, 3
Hearing Panel duties, 26–27
- Attorneys. *See* Legal counsel.
- Chapter Ethics Committee (CEC), 1, 41
- Chapter(s)
activities following acceptance of RPRs, 24
activities regarding request for implementation of sanctions, 33
appeals of Chapter decisions, 36
appointment of mediator, 18–19
appointment of NASW Representative, 19
authority, ix
confidentiality, principles of, 5
failure to act, 8
corrective actions, 31–32
preadjudication activities for, 24
premediation activities for, 16
- Closing of cases, 39
Code of Ethics. See NASW *Code of Ethics.*
- Complainant
failure to comply with conditions, 11
failure to participate in Professional Review process, 8
- Complainant-of-Record. *See* Surrogate Complainant.
- Complaint
withdrawal of, 9
- Confidential information, use of
during professional review process, 7
- Confidential records, discussion of, 7
- Confidentiality, 5–7
alleged breaches, 6
exceptions to, 5–6
responsibilities pertaining to, 5
- Confidentiality Pledge/Statement of Understanding, Professional Review form, 54–55
- Consultants, 6, 15, 20, 23, 27
- Corrective actions, 31–32
Chapter monitoring of, 32
recommendations for and implementation of 31–32
through mediation, 20
- Delays in professional review, 11
- Delegate Assembly Policy Statements, 45–46
- Disposition of information and documents in mediation, 22
- Documentary evidence, 24
- Ethical conduct. *See also* NASW *Code of Ethics,*
unethical conduct of colleagues, 14
- Ethics, RPR form, 50
- Ethics category of RPRs, 13–14
- Evidence,
confidentiality and acquiring relevant, 5
identification of, 24, 40
- Executive Committee
Chapter, 28–29
national, 20–21, 30, 35, 36, 37–38
- action on appeals of NEC decisions, 37–38
- Fitness to practice, determination of, 34
- Hearing, 26 *See also* Report (adjudication)
attendance, 27
guidelines for those in, 29
conducting, 26–27
preparation, 25
purpose, 26
refusal to participate, 8–9
scheduling, 24
taping not permitted, 27
- Hearing Panel, 26
Chairperson, 25, 26
conclusions, disclosure of, 6
members, 26
recommendations, 28
- Jurisdiction, request for change of, 3
- Intake Subcommittee, NEC, 8–9, 10–11, 21–22
- Legal counsel, 5, 27
- Mediated agreement, 20
activities following NASW Representative indication of concern regarding, 21
noncompliance, 20
- Mediation, 18–22
Agreement to Mediate, Professional Review form, 56
matters which may be referred to, 13–14
premediation activities, 15–17
termination, 17
timetable, 40
what can and cannot be appealed, 35–36
- Mediation cases, criteria for closing, 39
- Mediation process, steps in, 18
- Mediation Agreement, Professional Review form, 57–58
- Mediation session(s), 19–20
Taping not permitted, 22

- Mediator, 18–19
 appointment, 18–19
 role, 19
- NASW Board of Directors. *See* Executive Committee, national
- NASW members, protection of, x
- NASW membership, reinstatement of, 33–34
- NASW participation, challenge of in mediation, 16–17
- NASW participants, challenge of in adjudication, 24–25
- NASW Representative,
 appointment, 19
 indication of concern regarding mediated settlement, activities following, 21
 role, 19
- NASW staff and appointees, RPRs regarding, 12
- National Ethics Committee (NEC)
 appeals reviewed by, 36–37
 failure to act, 8
 Intake Subcommittee, 8–9, 10–11
- National Ethics Committee (NEC) activities
 following acceptance/rejection of RPR, 23–24
- Preadjudication activities, 23–25
- Professional Review
 authority, ix
 complaints against those administering or conducting, 3
 definition of scope, 10–11
 expected outcomes, x
 forms, 50–58
 purpose, ix
 responsibility for management of, 3
- Professional Review proceedings,
 attempts to obstruct, 12
- Professional Review Process, failure to act or participate in, 8–9
- Protection
 of NASW members, x
 of public, x
- Public, protection of, x
- Records, maintenance of, 39
- Refusal to participate, 8–9
- Report (adjudication)
 Complainant’s and Respondent’s use of, 29
 conclusions and recommendations, 27–28
 distribution, 29
 Final, authorization to publish, 30
 items to be included in, 27–28
 review by Chapter Executive Committee, CEC, or NEC, 28–29
 review of draft by OEPR, 28
 revised, 29
- Report (appeals), 35–36
- Report recommendations, final implementation, 29–30
- Requests for Professional Review (RPRs)
 acceptance of, 10
 Chapter/NEC activities following, 15–16
 Complainant’s and Respondent’s activities following, 16–17
 criteria for, 10
 Mediator’s activities following, 17
 acknowledgment of, 4
 appealing decision to accept/reject, categories, 13–14
 forms, 50–58
- how to file, 1–2
 rejection of, 10
 NEC activities following, special circumstances, 11–12
 who may file, 1
- Research
 use of professional review data in, 5
- Respondent,
 comment and submissions, 16
 failure to participate in Professional Review process, 8–9
 multiple RPRs against same, 11
 resignation from NASW, 9
- Sanctions
 contingent, 33
 immediate, 33
 implementation, 33
 recommendations for, 29–30, 33
 removal, 33–34
- Statement of Understanding. *See* Confidentiality Pledge/Statement of Understanding, 54
- Supporting statement, information that should be contained in,
- Surrogate Complainant, 2–3
- Suspension, 33
- Taping not permitted, 22, 27
- Testimony, written in lieu of oral, 27
- Time limits for filing RPRs, 10, 11
 waiver of, 11
- Timetable
 adjudication, 40
 appeals, 40
 mediation, 40
- Witnesses, 6, 24, 40, 56



National Association of Social Workers

750 First Street NE, Suite 700
Washington, DC 20002-4241
www.socialworkers.org

ISBN 0-87101-358-1