

CODE OF ETHICS ENFORCEMENT OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS

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I. STATEMENT OF PRINCIPLES

It shall be the duty and responsibility of the California Association of Criminalists (hereafter "CAC") to supervise, investigate, and enforce its members' adherence to the Code of Ethics. Such enforcement shall be fair and impartial, and shall be conducted in accordance with the procedures specified in Section II.

II. THE ALLEGATION AND ITS INVESTIGATION

A. The Allegation:

1. An allegation of ethical violation (hereafter "allegation") must be submitted in writing to the President. An allegation sent to an officer or member other than the President shall be forwarded immediately to the President and shall not be officially deemed received by the CAC until it is received by the President. ("President", as used herein, shall mean that person then serving as President or such person who shall assume the duties of the President in his or her absence.)
2. An allegation may be submitted by any person, whether or not they are a member of the CAC.
3. An allegation, while it need not be in any particular format, must refer to facts and circumstances as specifically as possible. If the Accuser is a CAC member, the allegation should include a reference to the wording of the specific standard of the CAC Code of Ethics which has been violated (as interpreted by the Accuser) and his or her reasons for concluding that a violation was committed.
4. It shall be proper for the President to contact the Accuser in order to clarify an allegation and to contact the Ethics Committee Chairperson for consultation on the interpretation of the cited section or wording of the CAC Code of Ethics. All discussion between the President and Ethics Committee Chairperson shall remain confidential.
5. If an allegation does not, in the President's opinion, constitute a potential ethical violation, the President may discontinue its further consideration, provided that he or she first obtains the written concurrence of the President-Elect and the Chairperson of the Ethics Committee in such discontinuation. The person making this allegation shall be advised in writing (by

certified mail, return receipt requested) within 30 days of the discontinuation and the reason(s) therefore.

6. Within 15 days from receipt of the Notice of Discontinuation, the Accuser may send to the President a written, signed request for appeal from this decision. This appeal shall be heard by the Board of Directors (hereafter "Board") within 30 days following its receipt. The following procedures shall be followed during this 30 day period.
 - (a) The President shall convene the Board in order to consider the propriety of the allegation and accompanying Notice of Discontinuation; for the purposes of this paragraph, the President may "Convene" the Board by poll, in such manner as he or she deems appropriate.
 - (b) Board members must vote on the Notice of Discontinuation by responding in writing to the President. If two-thirds of the total membership of the Board vote to overrule the Notice of Discontinuation, the allegation shall be forwarded to the Ethics Committee for investigation. A vote of less than two-thirds of the total Board membership is a denial of the appeal.
 - (c) The President shall advise the Accuser in writing (by certified mail, return receipt requested) of the Board's decision. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.

B. Referral to the Ethics Committee:

1. The President shall forward (by certified mail, return receipt requested) the allegation to the Chairperson of the Ethics Committee for investigation within 30 days of receipt, provided that a Notice of Discontinuation has not been issued. If a Notice of Discontinuation has been issued and successfully appealed, the President shall forward the allegation to the Chairperson of the Ethics Committee within 75 days of receipt.
2. Upon receiving an allegation, the Chairperson shall send (by certified mail, return receipt requested) a "Notice of Referral" to the President, the Accuser, and the person against whom the allegation has been made (hereafter "Accused"). The Notice need not be in any particular format, but shall contain the following: (1) the entire text of the allegation; (2) indication that the allegation is under investigation by the Ethics Committee; (3) the apparent Ethics Code section(s) involved; (4) an invitation to the Accused to provide the Ethics Committee with any written statement or other documentation which the Accused might deem appropriate, and a specification of the date (which shall be no later than 90 days from the date of the Notice, subject to the provisions of Paragraph II, C,4) by when the Chairperson shall forward the Report of Investigation to the President.
3. If at any time following the issuance of the Notice of Referral, an Accused resigns from the membership, the President shall forthwith issue an "Order of Exclusion", which shall bar the Accused from membership in the CAC until said Order is rescinded thereafter by 75% vote of the Board, and all proceedings or investigations then being conducted with reference to the Accused shall be suspended. Upon notification of the Order of Exclusion, the Ethics Committee will prepare and submit a signed Interim Report of Investigation to the

President. Should the Accused be reinstated to membership, all proceedings then being conducted with reference to the Accused shall proceed forward from that point at which they were suspended. The Interim Report of Investigation will meet with the format guidelines stated in Section II, D, 1.

C. Investigation by the Ethics Committee:

1. The investigation shall be one of fact-finding, not advocacy. The investigation shall be as thorough, objective and comprehensive as possible. During the investigation, the Ethics Committee may investigate any potential ethical violations which come to its attention.
2. It shall be proper for the Ethics Committee to change the section of the Code of Ethics which the Accused is accused of violating or to bring additional charges based upon considerations of the same or other events encountered during the investigation, whether or not such other events were originally contained in the allegation. Any such changes in the charges require that an amended Notice of Referral be sent, within seven days of the decision to effect such changes, to the President, the Accuser, and the Accused.
3. Determination of the manner of investigation and of investigative assignments within the Ethics Committee shall be the responsibility of the Chairperson.
4. The Chairperson shall provide the President with the "Report of Investigation" no later than 90 days after the date of the Notice of Referral, except that the Chairperson shall receive a 60-day extension by sending a Notice of Extension to the President and the accused: the Notice of Extension shall specify the new date when the Report of Investigation shall be forwarded to the President. Further extensions may be granted thereafter by the President, at his or her discretion, but only for good cause.
5. While an allegation is under investigation by the Ethics Committee, the allegation shall not be discussed by the President or by members of the Ethics Committee except as their official duties might require.
6. In no event shall an investigation be discontinued by changes in the membership of the Ethics Committee or the identity of the Chairperson. Once an investigation has commenced, the term of any Ethics Committee member whose term has expired may be extended by the Chairperson until the submission of the Report of Investigation. If the Chairperson's term expires, he or she shall, with his or her consent, be appointed "Investigating Officer" by the President and shall have, for such investigation, all the duties and powers of Chairperson; if this appointment is declined, these powers and duties shall be assumed by the new Chairperson. If members are appointed to the Ethics Committee during an investigation, such additional members shall not be made privy to details of investigations commenced prior to their appointment to the committee.
7. No members of the Ethics Committee shall serve in that capacity in any matter pertaining to an accusation of ethical violations when the Accused or the Accuser is employed in the same laboratory as that member. In the event that a member of the Committee is disqualified from serving by the provisions of this paragraph, the President shall appoint another individual to the Committee to serve in all aspects of Committee activities

pertaining to the relevant individual. The regularly appointed member shall continue to serve on the Committee in other matters. The provisions of this paragraph shall not serve to disqualify any member who shares a common employer with the Accused, but who's place of employment is in a different laboratory from that of the Accused.

8. When a request is made by the Ethics Committee, acting in its official fact-finding capacity, it shall be the duty of every member to assist the Committee to the extent that the member is reasonably able to do so.

D. Report of Investigation:

1. The report need not be in any particular format, but shall contain the following in separate sections: 1) a summary of each purported ethical violation investigated (with specific reference to applicable Code of Ethics sections); 2) facts in support of each allegation; and 3) facts in contravention of each allegation.
2. The report of Investigation shall be comprehensive and shall contain all relevant facts and topics discovered by the Ethics Committee, notwithstanding the extent to which, if at all, such facts or topics were addressed in the allegation.
3. The Report of Investigation shall contain a recommendation(s) to the Board regarding whether or not a basis for consideration of Ethics violation exists. In addition, the Report shall include a recommended sanction in instances where a basis for consideration does exist.
4. Statements from persons interviewed by the Ethics Committee should be in the form of "Declarations" whenever possible. Declarations add importance to the statements made and help pinpoint issues. In addition, there is no personal liability for a person who in good faith testifies under the penalty of perjury to something he/she believes is true. Further questions to Declaration authors, by the Board or Accused, should also be answered through the use of Declarations.
5. The Report of Investigation shall be sent to the President within the time limits heretofore specified and shall be signed by the Chairperson or Investigating Officer. At the same time, a copy of the Report shall be sent to the Accused (by certified mail, return receipt requested).
6. In addition to the Report of Investigation, the Ethics Committee shall provide the President with an addendum or addenda containing 1) a listing of the names of all persons contacted by the Ethics Committee (including addresses and telephone numbers); 2) a listing of, and copies of, supporting documents (if any) possessed by the Ethics Committee; 3) a listing and location of other documents (if any) referred to by the Committee during its investigation; and 4) a chronology of events such as interviews, continuances (with the reason(s) why), the receipt and distribution of documents, etc. Copies of the Report of Investigation and of these supplemental documents shall be sent by the President to all members of the Board of Directors.

III. Powers and Procedures of Enforcement of Ethics by the Board

A. Board Consideration of Report of Investigation:

1. Within the first 30 day period following receipt of the Report of Investigation, questions may be directed by Board members, through the President, to the Chairperson of the Ethics Committee. Written responses to such questions shall appear as addenda to the Report of Investigation. A copy of this addenda will be sent by the Ethics Committee Chairperson to the Accused and to each Board Member at the closure of the 30 day period. Within 90 days following receipt of the Report of Investigation, the President shall convene the Board in Executive session (closed to non-Board members except the Ethics Committee) in order to consider the Report and any addenda. For the purposes of this paragraph, the President may "convene" the Board by poll or in such manner as he deems appropriate.
2. After consideration of the Report, the Board in its sole discretion by a vote of its membership, shall determine the action to be taken.
 - (a) If the Board, by a two-thirds vote, determines that a basis for consideration of ethics violation exists, it shall issue a "Notice of Ethics Hearing", signed by the President, to the "Accused"(by certified mail, return receipt requested). The Notice of Ethics Hearing shall specify the time, date, and place of the hearing, shall include a copy of Paragraphs III A-3, III A-4, and III B of the Article, and shall itemize the acts or omissions for which the accused is to be held to account. It is appropriate for the Board to consult with the Accused and the Chairperson regarding available dates prior to issuing the Notice of Ethics Hearing. The date of the Ethics Hearing shall not be sooner than 60 days nor later than 120 days from the date of the Notice. However, the President may grant such earlier or later date as deemed appropriate upon written request from the Accused (provided that no later date shall be greater than 180 days from the date of the Notice) or such later date as deemed appropriate upon written notice from the Chairperson (provided that no later date shall be greater than 180 days from the date of the Notice). In addition, the Board shall issue a Notice of Ethics Hearing to the membership at least 30 days prior to the date of the Ethics Hearing, which Notice shall specify only the time, date, and place of the hearing.
 - (b) If a two-thirds vote is not obtained, the Board thus determines that a basis for consideration of ethics violation does not exist. It shall then issue a "Notice of Dismissal of the Allegation" signed by the President, to the Accused and the Accuser, and further consideration of the allegations shall terminate forthwith. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.
 - (c) The Board of Directors can also elect to take a course of action other than that described above in III A-2a and 2b. It may use the discretion given to it (Via a motion made and passed at the May 17, 1985 Business Meeting, Oakland, CA.) that parallels the discretion individual members have pursuant to Ethics Code Section V-F (revised May, 1985). The Board of Directors may therefore, evaluate the Report of Investigation and determine by a two-thirds vote that the incident(s) reported on has (have) been dealt with in a constructive manner and, as such, causes it not to require the application of additional procedures of the Enforcement of the Code of Ethics. It shall then issue a

"Notice of Procedural Termination of the Allegation" signed by the President, to the Accused and further consideration of the Allegations shall terminate forthwith. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.

3. Within 14 days of receipt of a "Notice of Ethics Hearing", the Accused may inform the President, in writing, that he/she elects to accept as true, the acts or omissions detailed in the Notice of Ethics Hearing for which the Accused is to be held to account and that he/she elects to accept the sanctions recommended by the Ethics Committee in their Report of Investigation. Within 14 days of receipt of written notification from the Accused that he/she accepts that the acts or omissions are true and that he/she accepts the recommended sanctions, the Board in its sole discretion by a vote of its membership, shall determine the action to be taken.
 - a) The Board may, by a two-thirds vote, agree to impose the sanctions recommended by the Ethics Committee. The Board's finding(s) of ethical violation and determination of sanctions shall be final; there shall be no right of appeal or of reconsideration. Sanctions shall go into effect within 35 days. Within 14 days of the Board's determination, the President shall inform the Accused of the cancellation of the Ethics Hearing (by certified mail, return receipt requested). The membership shall be informed of the cancellation of the Ethics Hearing and shall be informed of the results of the investigation per paragraph III, C.
 - b) If a two-thirds vote is not obtained, the President shall, within 14 days, inform the Accused (by certified mail, return receipt requested) that the Ethics Hearing will continue as scheduled.
4. At any time at least 14 days prior to the date of the hearing, upon written request to the Chairperson of the Ethics Committee, the Accused shall be supplied with copies of the names (and last known address and telephone number) of all persons contacted by the Ethics Committee during the investigation, copies of all documents (including affidavits or declarations) obtained by the Ethics Committee during the investigation, and a specification of the last known location of all other documents or things examined by the Ethics Committee during its investigation that have not already been provided as attachments to the Report of Investigation. Such written request shall be honored by the Chairperson within 10 days from the receipt thereof. Requests for discovery shall be honored, in a spirit of openness and fairness, whenever practical to do so.

B. Ethics Hearing:

1. The Hearing shall be conducted by no less than two-thirds of the entire membership of the Board exclusive of the President who presides over the hearing.
2. Members of the CAC may attend the hearing except as otherwise stated herein. Such attendance shall be that of an observer, not a participant.

3. The hearing shall be conducted in accordance with the following rules:
- (a) The Accused may be represented by one counsel of his choice, which counsel may be a member of the State Bar of California. Questions of witnesses and statements to the Board may be made by either the Accused or his counsel, but not by both. Unless the President specifically so allows; the designation of the Accused or counsel shall be made by the Accused at the beginning of the hearing upon request from the President. Requests made by the Accused during the hearing to change attorneys or questioning rights shall be considered by the President.
 - (b) The evidence developed in the Report of Investigation shall be presented by such person ("Moderator") who is designated to do so by the President; a member of the Ethics Committee shall be so designated and the President is encouraged, but not required, to so designate the person who signed the Report of Investigation.
 - (c) The Accused may summon and present evidence in his or her own behalf after the Moderator has concluded his or her presentation of evidence. Upon the written request given in the same manner specified in "Discovery" (Paragraph III, A, 3), the Moderator shall cooperate with the Accused in arranging for the appearance at the hearing of any witness contacted by the Ethics Committee when it is practical to do so and when it creates no extreme hardship on any other person.
 - (d) Evidence considered by the Board must be relevant; it may be real, Testimonial, and documentary. Written declarations, if given under penalty of Perjury, may be received and considered with the same force and effect as if given orally under oath at the hearing. Oral testimony shall be given under oath. Real and documentary evidence shall be required to be authenticated by the person who presents such evidence.
 - (e) The admissibility of evidence shall be determined solely by the President, whose determination may be guided but shall not be governed by the Evidence Code of the State of California. The President may, in his or her discretion, exclude relevant evidence or prevent questioning which is cumulative, unduly prejudicial to the Accused, misleading, or dilatory. It shall be proper for the moderator to advocate the propriety of the investigation by the Ethics Committee.
 - (f) Both the Moderator and the Accused shall have the right to examine and cross-examine the evidence of the other, subject to the restrictions stated herein. The Moderator may call the Accused as a witness, provided that the Accused has not already testified orally in his or her own behalf and further provided that the Accused has concluded his or her presentation, if any, of evidence pursuant to Paragraph III, B, 3c herein.
 - (g) Both the Moderator and the Accused, in that order, shall have the right to present a summation, or closing argument, for a reasonable length of time which shall be generally specified, in advance, by the President; the Moderator shall have a right to present a rebuttal argument for a length of time no greater than one-half of the time of the Accused's summation.
 - (h) The President shall exclusively determine the format and conduct of the hearing,

including, but not limited to, number and duration of recesses, presence of spectators and witnesses, decorum, times of adjournment, marking of the exhibits, ruling on objections. etc. However, the President shall not adjourn the proceedings during normal business hours except to accommodate Sunday and legal holidays or for such period as that to which both the Moderator and the Accused may agree.

- (i) Witnesses called to testify on behalf of the Moderator and/or the Accused may be excluded by the President from attending the Ethics Hearing prior to and after their testimony. It shall be appropriate for all members of the Board and the Ethics Committee to remain present during the entirety of the Ethics Hearing. A Board member may only be called as a witness if approved by the President in advance of the hearing. Neither the President nor the Moderator shall be called as witnesses. If the President approves the appearance of a Board member as a witness and the Board member testifies at the hearing, the Board member shall be recused from the voting on the outcome of the hearing.
 - (j) The President may elect to have legal counsel present throughout any stage of the ethics enforcement process, including the ethics hearing.
 - (k) The President may, at his or her discretion, allow the moderator to have one or more individuals at the Ethics Hearing to assist him or her in the organization of documents, evidence, witnesses, displays, etc. in order to complete the Ethics Hearing in an expedient manner.
4. The Ethics Hearing shall be divided into an "Accusation Phase" and a "Sanction Phase."
- (a) During the Accusation Phase, the Board shall consider all properly admitted evidence and, having so considered, shall determine if one or more ethical violations have been demonstrated by clear and convincing proof. It shall determine each such ethical violation by a number of votes no less than two-thirds of the entire then-serving membership of the Board, Exclusive of the President, who shall not be empowered to vote.
 - (b) If there is no such determination of ethical violation, the Hearing shall be terminated by order of the President and the President shall issue and sign a "Notice of Exoneration" to the Accused and the Accuser, and further consideration of the allegation, and investigation thereof, shall cease forthwith. This Notice shall be sent within 14 days by certified mail, return receipt requested. The Notice of Exoneration, while it need not be in any particular format, must contain a complete and detailed description of the allegation. There shall be no right of appeal or of reconsideration by any person whomsoever from this decision.
 - (c) If the Board does determine that one or more ethical violations have been committed by the Accused, then it shall forthwith convene the Sanction Phase. During the Sanction Phase, the Board may also consider such additional evidence as the Moderator or the Accused may wish to present, subject to the hearing rules aforesaid, concerning the Accused's prior acts, professional background, character, or mitigating circumstances, which may be instructive to the Board in determining any appropriate sanction; the

Moderator is discouraged from doing so unless such evidence is first offered by the Accused. Upon request of the Accused, all members who are present at the hearing pursuant to Paragraph III, B, 2. shall be excluded during the Sanction Phase.

5. Determination and Notification of Sanctions:

(a) The Board will determine, based on the ethical violation proven and other evidence as presented pursuant to paragraph III, B, 4, (c), which of the following sanctions shall be imposed:

(1) Letter of Reprimand.

(2) Suspension of the rights and privileges of Membership in the Association for a period of time determined by the Board.

(3) Expulsion of the Member from the Association.

(b) The sanction shall be determined by two-thirds of the entire membership of the Board, but, if two-thirds of the Board do not approve sanction (2) or (3), sanction (1) shall be imposed.

(c) Within ten days following the determination of sanctions, the Board shall send (by certified mail, return receipt requested) a "Finding of Ethical Violation and Specification of Sanctions", signed by the President, to the Accused. Said Finding shall state the ethical violation(s) determined and shall specify all terms and conditions imposed on the Accused by the sanctions; it shall also state, verbatim, the provisions of Paragraph IV, A, 1 and 2 pertaining to the Accused's right of appeal from the Finding.

(d) The Board's finding(s) of ethical violation and determination of sanctions shall be final; there shall be no right of appeal or of reconsideration, except as stated in Paragraph IV, A, 1 and 2.

6. Sanctions will go into effect after 35 days if no appeal is filed. If an appeal is filed, the sanctions shall be stayed until the disposition of the appeal hearing.

C. Notification of Results to Membership:

Following the disposition of the case by the Board or the membership (in the event of an appeal), a summary of the facts and sanctions, if any, in each case will be prepared by the Board and distributed to the membership. Specific names, places, and like identifying information will not be included, except at the written request of the Accused, in the summary of a case where either the Board determines that an ethics violation has not occurred or where the matter is Procedurally Terminated. But this information shall be so included where the Board or membership has determined that an ethics violation has occurred.

IV. Procedures for Appeal and Hearing of Appeal

A. Appeal from Ethics Hearing:

1. Within 35 days from the date of the Finding, the Accused may send to the President, a written, signed request for appeal from all, or any part of, the Finding. The request for appeal need not be in any particular form, but must specify exactly from what findings or sanctions the appeal is made, if it is not made from all findings or sanctions; absent such specificity, the appeal shall be treated as an appeal from all findings or sanctions.
2. No person other than the Accused shall have a right of appeal from, and no person shall have a right of request for reconsideration of, the Finding. The Accused shall have no right of appeal if, at the time of requesting said appeal, he is not a member of, or has resigned from, the CAC.
3. The appeal shall be heard by the general membership of the CAC. As used herein, "general membership" shall include only those who are entitled to vote in an election of officers of the CAC.
4. Within 30 days following receipt of the Accused's request for appeal, the President shall specify the time, date and place for the hearing of the appeal. The appeal shall be heard no later than the next regularly scheduled business meeting of the general membership; however, if the President received the Accused's notice of appeal within 60 days prior to said next regularly scheduled business meeting, the President may, in his or her sole discretion, postpone the hearing of the appeal until the regularly scheduled business meeting next thereafter.

B. The Hearing of the Appeal:

1. The President shall appoint a Hearing Officer, who shall not be a member of the Board, the Moderator, the Chairperson of the Ethics Committee, or the Investigating Officer. The Hearing Officer shall preside over the hearing of the appeal.
2. The hearing of the appeal shall be governed by the same rules as specified in Paragraph III, B, 3 above, except that "Hearing Officer" shall be substituted therein for "President."
3. Each general member present shall be provided with a copy of the Finding, except that any violation or sanction therein from which appeal is not made shall be deleted. Each member shall be provided with a list of all allegations which are the subject of the appeal.
4. Each general member present shall be provided with a copy of the Report of Investigation.
5. Questions from the general membership shall be permitted and are to be submitted in writing to and specifically authorized by the Hearing Officer.
6. Each general member present shall have one vote.
7. After all evidence has been received, the Hearing Officer shall declare the appeal closed.

8. Following the closing of the appeal and as to each allegation specified pursuant to Paragraph IV, B, 3, each general member shall, by written vote, answer the following: "Did the Accused violate the Code of Ethics as alleged in Allegation No. _____? Yes _____ No _____." If the "Yes" votes exceed two-thirds of the votes cast thereon, the Hearing Officer shall announce that an "Ethical Violation has been proved as to Allegation No. _____." If not, the Hearing Officer shall announce that an "Ethical Violation has not been proven as to Allegation No. _____" and further consideration thereof shall cease, except as stated in Paragraph IV, B, 9.
9. Immediately following the announcement of the Hearing Officer and prior to the commencement of the provisions of Paragraph IV, 8, 10, any member may request a recount, which must be honored. A second recount will be made only if there is a disparity between the original count and the recount.
10. Following the Finding of any or all allegations and following the completion of procedures authorized pursuant to Paragraph IV, B, 9, if applicable, the Hearing Officer shall announce the sanctions which were determined by the Board. Thereafter, each general member shall, by written vote, answer the following: "Shall the sanctions imposed upon the Accused by the Board of Directors of the CAC be sustained? Yes _____ No _____."
 - (a) If the "Yes" votes exceed two-thirds of the votes cast thereon, the sanctions shall become final and the Hearing Officer shall issue and sign a "Finding of Ethical Violation and Specification of Sanctions" in the manner described in Paragraph III, B, 5, C, except that it shall contain no reference to Paragraphs IV, A, 1 and 2.
 - (b) If the "Yes" votes do not exceed two-thirds, the Hearing officer shall request and compile nominations of sanctions from the general membership as they are defined in Paragraph III, B, 5, a. If there are more than two nominations, each such nomination shall be thereafter voted upon by show of hands as counted by the Hearing Officer and/or such other single person as he or she may designate. If there are only two nominations or following the determination of the two nominations which receive the greatest number of hands shown in the manner specified herein, said two nominations shall be identified to the general membership who shall then vote between the two of them in writing. Of the two, the one receiving more than two-thirds of the votes cast shall become final and the Hearing Officer and the Board shall treat it thereafter in the manner specified in Paragraph IV, B, 10, a. In no case shall the sanction be less than a "Letter of Reprimand" written by the President.
 - (c) Any vote conducted pursuant to this Paragraph 10, shall be subject to the provisions of Paragraph IV, B, 9.
11. The findings and sanctions, if any, by the general membership shall be final and shall not be subject to reconsideration.