



CALIFORNIA ASSOCIATION OF CRIMINALISTS

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Membership Handbook

- THE BYLAWS OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS
-As Amended – May 2009

- THE CODE OF ETHICS OF THE CALIFORNIA ASSOCIATION OF
CRIMINALISTS

- THE CODE OF ETHICS ENFORCEMENT OF THE CALIFORNIA
ASSOCIATION OF CRIMINALISTS

THE BYLAWS OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS

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ARTICLE I Purposes

The objects and purposes of this Corporation shall be to:

SECTION 1: Foster an exchange of ideas and information within the field of criminalistics.

SECTION 2: Foster friendship and cooperation among the various laboratory personnel.

SECTION 3: Encourage and, if possible, financially support worthy research projects.

SECTION 4: N/A

SECTION 5: Encourage the compilation of experience data of value in the field.

SECTION 6: Promote wide recognition of the practice of criminalistics as an important phase of jurisprudence.

SECTION 7: Promote a high level of professional competence among criminalists.

SECTION 8: Encourage uniform qualifications and requirements for criminalists and related specialists.

SECTION 9: Disseminate information to the law profession concerning minimum qualifications for physical evidence consultants.

SECTION 10: Provide a board of review in cases involving differences of professional opinion when requested.

SECTION 11: Encourage the use of improved testing procedures and methods of presentation of conclusions.

SECTION 12: Encourage the recognition of this Association and its purposes among other appropriate groups and societies.

SECTION 13: Lend assistance, whenever possible, in the formulation of college curricula and law enforcement programs.

SECTION 14: When appropriate, to review and act upon any pending legislation which appears to be related to the field of criminalistics.

SECTION 15: Establish, maintain, and enforce a code of ethics for criminalists.

SECTION 16: Establish, maintain and manage an Endowment Fund to fund scholarships, research projects, special classes and other activities in keeping with the

objects and purposes of this Corporation.

A. Endowment Fund principal, income or other assets will not be used to offset CAC expenses, routine or extraordinary.

B. Endowment Fund principal will not be used for any purpose.

SECTION 17: Support certification testing programs for individuals engaged in the practice of criminalistics.

ARTICLE II Members

SECTION 1: Membership in this Corporation shall be limited to persons who:

A. Are presently employed as laboratory scientists professionally engaged in one or more fields directly related to the forensic sciences; have demonstrated ability to conduct work requiring college level education in appropriate physico-chemical or biological sciences; and have been elected to membership by three-fourths of the members present and eligible to vote at a regular business meeting of the Corporation.

B. Are college-level students pursuing a course of study toward a career in a forensic science and have been elected to Affiliate membership by the Board of Directors. Affiliate Members who have completed their course of study may retain their membership status while actively seeking employment for 3 years after the completion of their degree and for six months after beginning employment in the forensic sciences. Interns, laboratory technicians, and volunteers employed in a forensic science laboratory may be affiliate members as long as they are employed by a forensic laboratory.

C. Have been a Full Member or Corresponding Member for at least 5 years and who have retired from active full time professional activities.

SECTION 2: There shall be five classes of membership in the Corporation:

A. Full Members: Persons entitled to be classified as Full Members are all those persons who were classified as members in the unincorporated association, the California Association of Criminalists, or those persons who have subsequently been elected to the class of Member.

B. Provisional Members: All persons who were formerly provisional members of the predecessor unincorporated association, the California Association of Criminalists, and all persons elected to membership other than as Corresponding Member, shall be classified as Provisional Members for not less than one year. A Provisional Member may be proposed for a class of Full Member after one year. After three years of membership, a Provisional Member not elected a Full Member will become a Corresponding Member.

C. Life Member:

1. All persons who were Life Members of the predecessor unincorporated association, the California Association of Criminalists, or those persons who were subsequently elected to the class of Life Member.

2. Any Full or Corresponding Member who has an exemplary record of service to the CAC and the Field of criminalistics and who has been elected a Life Member by the Board of Directors.

3. Life Members shall retain all rights and privileges of a Full Member but shall be excused from all assessments, dues and registration fees.

D. Corresponding Member: All persons who were corresponding members of the predecessor unincorporated association, the California Association of Criminalists, and applicants who, because of their place of residence or employment, are unable to regularly attend meetings and seminars, and who meet the basic qualifications for membership in the Corporation, shall be classified as Corresponding Members. Corresponding Members will not be required to attend seminars and they shall not be eligible to hold office. They shall be subject to all dues and assessments levied against a Full Member or Provisional Member.

E. Affiliate Member:

1. Any college-level student, intern, laboratory technician, or volunteer employed in a forensic science laboratory pursuing a course of study or a career in a forensic science. Any application for Affiliate Membership shall be submitted by, and with the recommendation of, a full, life, or provisional member of the Corporation.

2. Any person meeting the requirements of Article II, Section 1(C), and who has been elected an Affiliate Member by the Board of Directors.

SECTION 3: Change in Membership Classification: It shall be the function of the Board of Directors to propose the acceptance of new Provisional Members or the advancement of Provisional or Corresponding Members to the class of Full Member. Proposals for acceptance or advancement shall be voted on by the membership as soon as practicable at a regular business meeting.

Proposals for change in the class of membership of a member shall be based upon consideration of the member's efforts and attainments in the field of forensic science, his attendance at seminars and his participation in the activities of the Corporation. Provisional or Corresponding Members must complete one of the following requirements to be eligible for consideration for Full Member status:

During two consecutive years or less, obtain at least six points from the list below:

(or)

During three consecutive years or less, obtain at least nine points from the list below:

Points are awarded as follows:

CAC Workshop or Seminar attendance – one point/day
CAC Study Group Meeting attendance – one point/day
Active participation on CAC committee – two points (to be determined by chair)
Active participation as a CAC study group chairperson – two points (to be determined by the regional director)
Presentation of a paper at CAC seminar – three points
Publishing a paper in Science and Justice – three points
Publishing a technical paper in the CAC News – one point
Other CAC related activity – points to be determined by CAC Board of Directors

Should a member in good standing no longer be able to participate actively in the Corporation, he may apply to the Board of Directors for permission to become a Corresponding Member.

SECTION 4: Each member of those classifications other than Affiliate present at a regular business meeting shall be entitled to one vote. Life Members and Full Members shall be entitled to one vote by proxy if such proxy is exercised by any Full Member or Life Member at a regularly scheduled meeting. (See Article III, Section 12.)

SECTION 5: A membership is not transferable or assignable.

SECTION 6: Termination of Membership

A. Termination Upon Request of Member: A member may terminate his membership in the Corporation by a written request directed to the president of the Corporation. The president shall inform the membership of the Corporation of such termination at the next regular business meeting.

Any member who resigns while charges of the Association's Code of Ethics are pending against the member shall be excluded from future membership unless such membership is approved by a vote of three-fourths of the Board of Directors.

B. Termination for Failure to Pay Dues: Membership may be automatically terminated upon failure of a member to pay dues as prescribed by the Board of Directors, or any regular assessment prescribed by the Board of Directors.

C. Termination for Cause: A member may be suspended or expelled from the Corporation for unethical conduct, conduct detrimental to the profession of criminalistics or conduct detrimental to the welfare of the Corporation. Any member or non-member of the Corporation may initiate proceedings to discipline a member of the Corporation for cause by petitioning the Ethics Committee of the Corporation.

The Ethics Committee shall be a standing committee of three Full Members or Life Members appointed by the President. Each member shall serve a three-year term and the terms shall be staggered.

If any member of the Ethics Committee works in the same laboratory as a member accused of an ethical violation or for any other reason desires not to participate in the investigation of an accused member the President shall appoint a replacement member of the Ethics Committee. Such replacement shall serve only for that particular investigation from which the regular member withdraws, and the regular member shall continue to serve on the Ethics Committee for all other Committee business.

Claims of unethical conduct on the part of any member shall be directed to the President and shall be decided by the Board of Directors after investigation by the Ethics Committee. When the Board of Directors determines that an ethical violation has occurred, the accused member may appeal the decision of the Board of Directors to the general membership.

The Board of Directors shall establish a policy for the allegation, investigation, hearing, and appeal of charges of unethical conduct by any member and the sanctions to be imposed should violations be found to have occurred. Such policy shall be approved by a majority of the members present and eligible to vote at a regular meeting of the Association.

D. Termination Following Conviction: A member may be expelled from the Corporation following his conviction of a criminal offense. Such expulsion would follow official verification of the conviction, exhaustion of all appeals and a three-fourths vote of the members present and eligible to vote at a regular business meeting.

E. Termination for Lack of Participation: A member may be expelled for demonstrated lack of participation, interest in, or support of the Association. Expulsion will follow a three-fourths vote of the members present and eligible to vote at a regular business meeting.

F. Affiliate Members who are students who fail to furnish required proof of student status will be automatically dropped from membership in the Corporation.

SECTION 7: The Board of Directors may determine from time to time the amount, time and manner of payment of dues, if any, and the amount, time and manner of payment of any assessments payable to the Corporation by members of each class of membership.

SECTION 8: All rights and privileges of membership in the Corporation shall be granted to all classes of membership except as specifically provided for by these Bylaws and any amendments hereto. When used herein, all references to the word "member" shall imply any membership classification.

ARTICLE III

Meeting of the Members

SECTION 1: All meetings of the membership, except as herein otherwise provided, shall be held as directed by the Corporation or by the Board of Directors of said

Corporation.

SECTION 2: The regular meetings of the membership shall be held on the second Friday of the months of May and October at the hour of 1:30 P.M., beginning with the October meeting, 1970. Should said day in any year fall on a holiday, the regular annual meeting of the membership in such a year be held on said hour on the next business day thereafter.

The Board of Directors may vary the time and place of the regular meetings of the membership so long as two regularly noticed meetings are held during any particular year.

SECTION 3: Notice of the annual meeting of the membership shall be given in writing to membership entitled to vote by the Secretary by sending a copy of the notice through the mail, charges prepaid, to the address of each member as the same appears on the records of the Corporation, or as supplied by a member for the purpose of notice, not less than 30 days before such meeting. The notice shall include the following information:

- A. The date, time and place of the meeting.
- B. The names of proposed new members and names of members being proposed for elevation to the class of Full Member or Life Member.
- C. The agenda of the meeting specifying any items of business to be conducted which will require a vote of the general membership of the Corporation.

SECTION 4: Special meetings of the membership may be called at any time for any lawful purpose by:

- A. The President or any two other members of the Board of Directors.
- B. By 5% or more of the members of the Association entitled to vote.

SECTION 5: Notice of special meetings of the membership, stating the item, and in general terms the purpose or purposes thereof, shall be mailed by the Secretary to each member entitled to vote at his address, as the same appears on the records of the Corporation, or as supplied by the member for the purpose of notice, at least 15 days prior to the date of the special meeting.

SECTION 6: When all of the members are present at any meeting, however called or noticed, and sign a written consent thereto, or when the members present, and the members not present at such meeting, give their written consent thereto and such written consent is made part of the records of such meeting the proceedings had at such meeting are valid, irrespective of the manner in which the meeting is called, or the place where it is held.

SECTION 7: Quorum.

- A. A quorum at any regular meeting of the membership shall be equal to the number of members present.

B. A quorum at any special meeting of the membership shall be equal to one-third of the number of Full Member and Life Members of the Corporation, represented either in person or by proxy.

SECTION 8: Any regular or called meeting of the membership may adjourn from day-to-day, or from time-to-time without further notice, if for any reason there not be present a quorum to transact business, in person or by proxy, such adjournment and the reasons therefore being recorded in the journal of the proceedings of the members and when a quorum shall attend, any business may be transacted which might have been transacted at any meeting had the same been held on the day on which the same was originally appointed or called.

SECTION 9: The President, or, in his absence, the President Elect, or, in the absence of the President and President Elect, a Chairman, elected by the members present, shall call the meetings of the members to order, and shall act as the presiding officer thereof.

SECTION 10: The Secretary of the Corporation shall act as Secretary of all meetings of the members and in his absence the presiding officer may appoint any person to act as Secretary.

SECTION 11: At the regular annual meeting of the members held in the month of May, the members entitled to vote shall elect by Ballot, a Board of Directors as constituted by these Bylaws and the Articles of Incorporation of the Corporation.

SECTION 12: All proxies must be in writing, dated and executed by the eligible member themselves or by their duly authorized attorneys, and must be filed with the Secretary of the Corporation at or before the meeting of the members.

SECTION 13: At any meeting at which the number of voting members present, in person or by proxy, is less than one third of the number of voting members of the Corporation (see Article II, Section 4), no matters requiring a general vote of the membership of the Corporation can be voted upon, unless such matters were specifically contained in the Agenda of the meeting sent to the membership pursuant to Article III, Section 3(B) and 3(C).

ARTICLE IV

Directors

SECTION 1: The corporate powers, business and affairs of the Corporation shall be exercised, conducted and controlled by a Board of Directors consisting of the President, the President Elect, the Immediate Past President, the Secretary, the Treasurer, a Regional Director-North, a Regional Director-South, a Membership Secretary, an Editorial Secretary, all of whom shall be either Full Members or Life Members. All of the Directors with the exception of the President and Immediate Past President shall be elected by the membership of the Corporation for the terms of office set forth.

The President Elect shall be elected to a three year term to be served one year as President Elect, one year as President and one year as Immediate Past President.

The Secretary, Treasurer, Membership Secretary, Regional Director-North, Regional Director-South and Editorial Secretary shall be elected to two year terms.

SECTION 2: Each director shall hold office until his successor shall have been elected and qualified.

SECTION 3: Any vacancy occurring in the office of the director by reason of death, resignation, recall or otherwise except vacancies caused by removal of the Board of Directors pursuant to the provisions of Section 310 of the Civil Code of the State of California, shall be filled as prescribed.

A vacancy in the office of President will be filled by the President Elect who will serve the remainder of the vacated term and the term to which he was elected.

A vacancy in the office of President Elect will be filled by election at the next regular meeting of the members or at any special meeting duly called for that purpose prior thereto. The President Elect so elected shall serve the remainder of the term of President Elect, the one year as President, and the one year term as Immediate Past President.

Other vacancies in the office of director shall be filled by an appointee of the majority of the remaining directors though less than a quorum. Such director, so appointed shall hold office during the remainder of the term of that office until his successor is elected at the next appropriate annual meeting of the members.

SECTION 4: All the directors of the Corporation shall be elected by ballot by the membership of the Corporation at the annual meeting. A President Elect shall be elected at each annual meeting. A Secretary, a Regional Director-North and a Membership Secretary shall be elected at annual meetings held in even numbered years. A Treasurer, a Regional Director-South and an Editorial Secretary shall be elected at annual meetings held in odd numbered years.

SECTION 5: Immediately after the election of directors at the annual meeting of the members the directors shall meet for the purpose of organization and the transaction of other business.

SECTION 6: All meetings of the Board of Directors shall be held as directed from time to time by the board.

SECTION 7: Special meetings of the Board of Directors may be called at any time on the order of the President or on the order of two (2) or more directors.

SECTION 8: A majority of the whole number of directors shall constitute a quorum for the transaction of business, and every act or decision of a majority of the directors present at a meeting at which a quorum is present, made or done when duly assembled, shall be valid as the act of the Board of Directors; but a majority of those present at the time and place of any stated or special meeting, although less than a quorum, may adjourn the same from time to time, or from day to day, without further notice, until a quorum shall attend, and when a quorum shall attend, any business may be transacted which might have been transacted at the meeting had the same been

held on the day on which the same was originally appointed or called.

SECTION 9: The Board of Directors shall have full power and authority to borrow money on behalf of the Corporation, including the power and authority to borrow money from any of the members, directors, or officers of the Corporation, and otherwise to incur indebtedness on behalf of the Corporation, and to authorize the execution of promissory notes, or other evidence of indebtedness of the Corporation, and to agree to pay interest thereon to sell, convey, alienate, transfer, assign, exchange, lease, and otherwise dispose of, mortgage, pledge, hypothecate, and otherwise encumber the property real and personal, and the franchises of the Corporation to purchase, lease, and otherwise acquire property, real and personal, on behalf of the Corporation, and generally to do and perform, or cause to be done and performed, and every act which the Corporation may lawfully do and perform, provided said total indebtedness does not exceed the sum of \$50,000.00.

SECTION 10: The directors of this corporation shall serve without compensation, except their actual expenses.

SECTION 11: Any director may be recalled for nonfeasance, misfeasance or malfeasance of office by a three fourths vote of a constituted quorum of the membership attending a business meeting of the Corporation.

Any Full Member or Life Member may initiate a recall election by presenting, at any meeting of the Board of Directors, a petition stating the reason(s) for recall signed by ten Full Members or Life Members of the Corporation and an affidavit certifying a copy of the petition was served either personally or by certified mail on the director sought to be recalled.

The Board of Directors will vote to accept the affidavit of notification and the signatures on the petition. Finding a petition in order, the Board of Directors shall place the recall election on the new business agenda for the next scheduled business meeting of the Corporation.

Section 12: The Board shall review applications for new membership or change in membership status as presented by the Membership Secretary. Approved applications shall be dealt with as detailed in Article II. Applicants who are not approved shall be informed of the reason for denial and shall have the opportunity to appeal to the Board.

ARTICLE V President

SECTION 1: The President shall be the chief executive officer of the Corporation, he shall preside at all meetings of the members and of the Board of Directors. He shall have general charge of the business of the Corporation, shall execute, with the Secretary, in the name of the Corporation, all deeds, bonds, contracts, and other obligation and instruments authorized by the Board of Directors to be executed.

SECTION 2: The President shall also have such other powers and shall perform such other duties as may be assigned to him by the Board of Directors.

ARTICLE VI President-Elect

SECTION 1: The President-Elect shall be vested with all the powers and shall perform all the duties of the President, in case of the absence or disability of the President.

SECTION 2: The President-Elect shall also have such other powers and shall perform such duties as may be assigned to him by the Board of Directors.

ARTICLE VII Secretary

SECTION 1: The Secretary shall keep a full and complete record of the proceedings of the Board of Directors and of the meetings of the members; shall keep the seal of the Corporation and affix the same to such papers and instruments as may be required in the regular course of business; shall make service of such notices as may be necessary or proper; and shall discharge such other duties as pertain to the office or as prescribed by the Board of Directors.

ARTICLE VIII Treasurer

SECTION 1: The Treasurer shall receive and safely keep all funds of the Corporation and deposit same in such bank or banks as may be designated by the Board of Directors. Such funds shall be paid out only on the check of the Corporation signed as directed by the Board of Directors.

SECTION 2: The Treasurer shall supervise and control the keeping of the books and accounts of the Corporation.

ARTICLE IX Regional Directors

SECTION 1: There shall be two Regional Directors. One will represent those members in the Southern part of the State, together with Southern Nevada, Arizona, New Mexico and Texas. The other will represent those members in the Northern part of the State, together with Northern Nevada, and all other States except Arizona, New Mexico and Texas.

SECTION 2: Each Regional Director shall be responsible for:

- A.** The assignment and direction of the regional meetings in his region.
- B.** Such other duties as may be assigned him by the Board of Directors.

ARTICLE X

Editorial Secretary

SECTION 1: The Editorial Secretary shall serve as the primary editorial liaison between the Corporation and the official journal of the Corporation, the Journal of the Forensic Science Society. The Editorial Secretary shall receive, edit and be responsible for delivery of scholarly papers to the official journal for publication.

SECTION 2: The Editorial Secretary shall edit and transmit to the official journal the Proceedings of the Semi-Annual Seminars which shall consist of the Seminar abstracts and short communications.

SECTION 3: The Editorial Secretary shall edit and publish quarterly the Newsletter of the Corporation.

ARTICLE XI

Membership Secretary

SECTION 1: The Membership Secretary shall review applications for membership for completeness

- A. Verify that the application lists job duties meeting membership requirements
- B. Verify that the application lists education meeting membership requirements
- C. Verify that recommendations by qualified references have been received
- D. Correspond with applicants for additional information if necessary
- E. Present completed applications to the Board of Directors for approval

SECTION 2: The Membership Secretary shall maintain the membership files of the Association and perform related duties.

ARTICLE XII

Seal

SECTION 1: The Board of Directors shall provide a suitable seal for the Corporation, which shall be in circular form, and which shall contain the following inscription:
California Association of Criminalists Incorporated 1970

ARTICLE XIII

Fiscal Year

SECTION 1: The fiscal year of the Corporation shall be from July 1 to June 30.

ARTICLE XIV Amendments

SECTION 1: Amendments of these By-Laws may be proposed at any meeting of the Board of Directors or of the Corporation. To become effective they must receive a three-fourths vote of the members voting in person or by proxy at a meeting of the members or by the written consent of three-fourths of the members eligible to vote in person or by proxy.

SECTION 2: Members must receive notice of proposed changes not less than thirty days prior to the vote.

ARTICLE XV Rules of Order and Procedure

SECTION 1: Meetings of the Corporation shall be conducted according to Robert's Rules of Order, Revised.

SECTION 2: A parliamentarian and a sergeant at arms shall be appointed by the President at each meeting of the Corporation.

Ratified: May 14, 2009

Amended: 10/7/55, 11/20/56, 6/17/57, 11/4/60, 10/28/61, 5/23/64, 10/18/68, 2/11/72, 6/29/74, 5/12/78, 11/7/80, 5/15/81, 5/14/82, 10/20/82, 10/20/83, 5/84, 10/84, 5/85, 10/89, 5/90, 10/90, 5/94, 5/06, 10/08, 5/09

The Code of Ethics of the California Association of Criminalists

Adopted May 17, 1957

Revised April 11, 1958 and May 17, 1985 (section V.F)

Preamble

This Code is intended as a guide to the ethical conduct of individual workers in the field of criminalistics. It is not to be construed that these principles are immutable laws nor that they are all-inclusive. Instead, they represent general standards which each worker should strive to meet. It is to be realized that each individual case may vary, just as does the evidence which the criminalist is concerned, and no set of guides or rules will precisely fit every occasion. At the same time the fundamentals set forth in this Code are to be regarded as indicating, to a considerable extent, the conduct requirements expected of members of the profession and of this Association. The failure to meet or maintain certain of these standards will justifiably cast doubt upon an individual's fitness for this type of work. Serious or repeated infractions of these principles may be regarded as inconsistent with membership in the Association. Criminalistics is that professional occupation concerned with the scientific analysis and examination of physical evidence, its interpretation, and its presentation in court. It involves the application of principles, techniques and methods of the physical sciences, and has as its primary objective a determination of physical facts which may be significant in legal cases.

It is the duty of any person practicing the profession of criminalistics to serve the interests of justice to the best of his ability at all times. In fulfilling this duty, he will use all of the scientific means at his command to ascertain all of the significant physical facts relative to the matters under investigation. Having made factual determinations, the criminalist must then interpret and evaluate his findings. In this he will be guided by experience and knowledge which, coupled with a serious consideration of his analytical findings and the application of sound judgment, may enable him to arrive at opinions and conclusions pertaining to the matters under study. These findings of fact and his conclusions and opinions should then be reported, with all the accuracy and skill of which the criminalist is capable, to the end that all may fully understand and be able to place the findings in their proper relationship to the problem at issue.

In carrying out these functions, the criminalist will be guided by those practices and procedures which are generally recognized within the profession to be consistent with a high level of professional ethics. The motives, methods, and actions of the criminalist shall at all times be above reproach, in good taste and consistent with proper moral conduct.

I. ETHICS RELATING TO SCIENTIFIC METHOD:

A. The criminalist has a truly scientific spirit and should be inquiring, progressive, logical and unbiased.

B. The true scientist will make adequate examination of his materials, applying those tests essential to proof. He will not, merely for the sake of bolstering his conclusions, utilize unwarranted and superfluous tests an attempt to give apparent greater weight to his results.

- C.** The modern scientific mind is an open one incompatible with secrecy of method. Scientific analyses will not be conducted by "secret processes", nor will conclusions in case work be based upon such tests and experiments as will not be revealed to the profession.
- D.** A proper scientific method demands reliability of validity in the materials analyzed. Conclusions will not be drawn from materials which themselves appear unrepresentative, atypical, or unreliable.
- E.** A truly scientific method requires that no generally discredited or unreliable procedure be utilized in the analysis.
- F.** The progressive worker will keep abreast of new developments in scientific methods and in all cases view them with an open mind. This is not to say that he need not be critical of untried or unproved methods, but he will recognize superior methods, if and when, they are introduced.

II. ETHICS RELATING TO OPINIONS AND CONCLUSIONS:

- A.** Valid conclusions call for the application of proven methods. Where it is practical to do so, the competent criminalist will apply such methods throughout. This does not demand the application of "standard test procedures", but, where practical, use should be made of those methods developed and recognized by this or other professional societies.
- B.** Tests are designed to disclose true facts and all interpretations shall be consistent with that purpose and will not be knowingly distorted.
- C.** Where appropriate to the correct interpretation of a test, experimental controls shall be made for verification.
- D.** Where possible, the conclusions reached as a result of analytical tests are properly verified by re-testing or the application of additional techniques.
- E.** Where test results are inconclusive or indefinite, any conclusions drawn shall be fully explained.
- F.** The scientific mind is unbiased and refuses to be swayed by evidence or matters outside the specific materials under consideration. It is immune to suggestion, pressures and coercions inconsistent with the evidence hand, being interested only in ascertaining facts.
- G.** The criminalist will be alert to recognize the significance of a test result as it may relate to the investigative aspects of a case. In this respect he will, however, scrupulously avoid confusing scientific fact with investigative theory in his interpretations.
- H.** Scientific method demands that the individual be aware of his own limitations and refuse to extend himself beyond them. It is both proper and advisable that the scientific worker seek knowledge in new fields; he will not, however, be hasty to apply such knowledge before he has had adequate training and experience.
- I.** Where test results are capable of being interpreted to the advantage either side of a case, the criminalist will not choose that interpretation favoring the side by which he is employed merely as a means of justify his employment.
- J.** It is both wise and proper that the criminalist be aware of the various possible implications of his opinions and conclusions and be prepared to weigh them, if called upon to do so. In any such case, however, he will clearly distinguish between that which may be regarded as scientifically demonstrated fact and that which is speculative.

III. ETHICAL ASPECTS OF COURT PRESENTATION:

- A. The expert witness is one who has substantially greater knowledge of a given subject or science than has the average person. An expert opinion is properly defined as "the formal opinion of an expert." Ordinary opinion consists of one's thoughts or beliefs on matters, generally unsupported by detailed analysis of the subject under consideration. Expert opinion is also defined as the considered opinion of an expert, or a formal Judgment. It is to be understood that an "expert opinion" is an opinion derived only from a formal consideration of a subject within the expert's knowledge and experience.
- B. The ethical expert does not take advantage of his privilege to express opinions by offering opinions on matters within his field of qualification which he has not given formal consideration.
- C. Regardless of legal definitions, the criminalist will realize that there are degrees of certainty represented under the single term of "expert opinion." He will not take advantage of the general privilege to assign greater significance to an interpretation than is justified by the available data.
- D. Where circumstances indicate it to be proper, the expert will not hesitate to indicate that while he has an opinion, derived of study, and judgment within his field, the opinion may lack the certainty of other opinions he might offer. By this or other means, he takes care to leave no false impressions in the minds of the jurors or the court
- E. In all respects, the criminalist will avoid the use of terms, and opinions which will be assigned greater weight than are due them. Where an opinion requires qualification or explanation, it is not only proper but incumbent upon the witness to offer such qualification.
- F. The expert witness should keep in mind that the lay juror is apt to assign greater or less significance to ordinary words of a scientist than to the same words when used by a lay witness. The criminalist, therefore, will avoid such terms as may be misconstrued or misunderstood.
- G. It is not the object of the criminalist's appearance in court to present only that evidence which supports the view of the side which employs him. He has a moral obligation to see to it that the court understands the evidence as it exists and to present it in an impartial manner.
- H. The criminalist will not by implication, knowingly or intentionally, assist the contestants in a case through such tactics as will implant a false impression in the minds of the jury.
- I. The criminalist, testifying as an expert witness, will make every effort to use understandable language in his explanations and demonstrations in order that the jury will obtain a true and valid concept of the testimony. The use of unclear, misleading, circuitous, or ambiguous language with a view of confusing an issue in the minds of the court or jury is unethical.
- J. The criminalist will answer all questions put to him in a clear, straight- forward manner and refuse to extend himself beyond his field of competence.
- K. Where the expert must prepare photographs or offer oral "background information" to the jury in respect to a specific type of analytic method, this information shall be reliable and valid, typifying the usual or normal basis for the method. The instructional material shall be of that level which will provide the jury with a proper basis for evaluating the subsequent evidence presentations, and not such as would provide them with a lower standard than the science demands.

- L. Any and all photographic displays shall be made according to acceptable practice, and shall not be intentionally altered or distorted with a view to misleading court or jury.
- M. By way of conveying information to the court, it is appropriate that any of a variety of demonstrative materials and methods be utilized by the expert witness. Such methods and materials shall not, however, be unduly sensational.

IV. ETHICS RELATING TO THE GENERAL PRACTICE OF CRIMINALISTICS:

- A. Where the criminalist engages in private practice, it is appropriate that he set a reasonable fee for his services.
- B. No services shall ever be rendered on a contingency fee basis.
- C. It shall be regarded as ethical for one criminalist to re-examine evidence materials previously submitted to or examined by another. Where a difference of opinion arises, however, as to the significance of the evidence or to test results, it is in the interest of the profession that every effort be made by both analysts to resolve their conflict before the case goes to trial.
- D. Generally, the principle of "attorney-client" relationship is considered to apply to the work of a physical evidence consultant, except in a situation where a miscarriage of justice might occur. Justice should be the guiding principle.
- E. It shall be ethical for one of this profession to serve an attorney in an advisory capacity regarding the interrogation of another expert who may be presenting testimony. This service must be performed in good faith and not maliciously. Its purpose is to prevent incompetent testimony but not to thwart justice.

V. ETHICAL RESPONSIBILITIES TO THE PROFESSION:

In order to advance the profession of criminalistics, to promote the purposes for which the Association was formed, and encourage harmonious relationships between all criminalists of the State, each criminalist has an obligation to conduct himself according to certain principles. These principles are no less matters of ethics than those outlined above. They differ primarily in being for the benefit of the profession rather than specific obligations to society. They, therefore, concern individuals and departments in their relationship with one another, business policies, and similar matters.

- A. It is in the interest of the profession that information concerning any new discoveries, developments or techniques applicable to the field of criminalistics be made available to criminalists generally. A reasonable attempt should be made by any criminalist having knowledge of such developments to publicize or otherwise inform the profession of them.
- B. Consistent with this and like objectives, it is expected that the attention of the profession will be directed toward any tests or methods in use which appear invalid or unreliable in order that they may be properly investigated.
- C. In the interest of the profession, the individual criminalist should refrain from seeking publicity for himself or his accomplishments on specific cases. The preparation of papers for publication in appropriate media, however, is considered proper.
- D. The criminalist shall discourage the association of his name with developments, publications, or organizations in which he has played no significant part, merely as a means of gaining personal publicity or prestige.

E. The C.A.C. has been organized primarily to encourage a free exchange of ideas and information between members. It is, therefore, incumbent upon each member to treat with due respect those statements and offerings made by his associates. It is appropriate that no member shall unnecessarily repeat statements or beliefs of another as expressed at C.A.C. seminars.

F. It shall be ethical and proper for one criminalist to bring to the attention of the Association a violation of any of these ethical principles. Indeed, it shall be mandatory where it appears that a serious infraction or repeated violations have been committed and where other appropriate corrective measures (if pursued) have failed.

G. This Code may be used by any criminalist in justification of his conduct in a given case with the understanding that he will have the full support of this Association.

THE CODE OF ETHICS ENFORCEMENT OF THE CALIFORNIA ASSOCIATION OF CRIMINALISTS

Adopted by the membership at the CAC 56th Semi-Annual Seminar November 6, 7, 8, 1980, Yosemite, California.

-Revised May 17, 1985 (Sections II D-1 - 5, III A-1 and 3). -Revised August 16, 1985 (Section III A-2c). -Revised October 23, 1985 (Section III B-7 - rewritten and renumbered to III-C)

I. Statement of Principles

It shall be the duty and responsibility of the California Association of Criminalists (hereafter *CAC*) to supervise, investigate, 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 absence.)
2. An allegation may be submitted by any person, whether or not 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, and if the Accuser is a CAC member, to the section or wording of the CAC Code of Ethics which has been violated (as interpreted by the Accuser) and his 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.
5. If an allegation does not, in the President*s opinion, constitute a potential ethical violation, he may discontinue its further consideration, provided that he first obtains the written concurrence of the President-Elect and the chairman 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) therefor.

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 receipt of it. The following procedures shall be followed during this thirty 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 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 Chairman 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 Chairman of the Ethics Committee within seventy-five days of receipt.

2. Upon receiving an allegation, the Chairman 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 Chairman 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 Chairman.

4. The Chairman 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 Chairman 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 extension may be granted thereafter by the President, at his 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 Chairman. Once an investigation has commenced, the term of any Ethics Committee member whose term has expired may be extended by the Chairman until the submission of the Report of Investigation. If the Chairman's term expires, he shall, with his consent, be appointed *Investigating Officer* by the President and shall have, for such investigation, all the duties and powers of chairman; if he declines, his powers and duties shall be assumed by the new Chairman.

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 (with specific reference to applicable Code of Ethics sections) investigated; 2) facts in support of each allegation; 3) facts in contravention of each allegation; 4) a listing of the names of all persons contacted by the Ethics Committee (including addresses and telephone numbers); 5) a listing of and copies of supporting documents (if any) possessed by the Ethics Committee; 6) a listing and location of other documents (if any) referred to by the Committee during its investigation; and 7) a chronology of events such as interviews, continuances (with the reason(s) why), the receipt and distribution of documents, etc.

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 Chairman. At the same time, a copy of the Report shall be sent to the Accused (by certified mail*return receipt requested). Copies of the Report 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 Chairman 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 Chairman 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 hearing, shall include a copy of Paragraphs III A-3 and III B of the Article and shall itemize the acts or omissions for which the accused is to be held to account. In addition, it shall issue a Notice of Ethics Hearing to the membership, which Notice shall specify only the time, date and place of 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 he deems appropriate upon written request therefor 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 he deems appropriate upon written notice therefor from the Chairman (provided that no later date shall be greater than 180 days from the date of the Notice).

(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 he Chairman shall provide the President witshall be no right of appeal or of reconsideration by any person whomsoever from this decision.

3. At any time at least 14 days prior to the date of the hearing, upon written request to the Chairman 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, 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 Chairman 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 own behalf after the Moderator has concluded his 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 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 own behalf and further provided that the Accused has concluded his 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.

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, 8, 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. The discretion of individual members shall prevail 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:

1. 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 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, he may in his 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 Chairman 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, 8, 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, he 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 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 Board shall treat it thereafter in the manner specified in Paragraph IV, 8, 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.