

APICSA DISCIPLINARY ENQUIRY GUIDELINES

DISCIPLINARY ENQUIRY GUIDELINES

1. Procedural Aspects

A. Member's pre-enquiry rights

1. There must be a hearing.
2. The case must not be pre-judged.
3. Arrange for a prompt hearing (i.e. as soon as possible after the alleged offence).
4. Give the Member adequate notice of the hearing (minimum of 48 hours)
5. Inform the Member of his/her right to be represented and to bring witnesses.

B. At the enquiry

1. Introduce everybody and ensure the proceedings are fully understood by the Member. Advise the Member that proceedings shall proceed in English and whether he/she is satisfied.
2. Advise Member of the alleged offence with relevant particulars.
3. Deal with the facts of the situation only and call witnesses.
4. Allow the Member the opportunity to state his/her case.
5. Allow the Member the opportunity to call and question witnesses.
6. Close the enquiry pending a decision (i.e. consider all the evidence).

C. To decide on the appropriate penalty

1. Re-open the enquiry and inform the Member of the findings, if guilty, give reasons.
2. Only at this point (i.e. after the findings but before the sanction) consider the Member's service record and his/her previous disciplinary record.
3. Be consistent.
4. Advise the Member of the penalty imposed.
5. Inform the Member of his/her right to refer the matter to the CCMA.
6. Keep a proper record of the enquiry and ask all those present to sign it afterwards.

DISCIPLINARY ENQUIRY GUIDELINES

Action by APICSA Board in regard to alleged Member's offences

2. Investigations

2.1. Introduction

Before deciding whether disciplinary action is necessary or justified, an investigation into the facts should be made.

The purpose of such an investigation would be the following:

- To obtain evidence by way of written (or verbal) statements.
- To establish whether sufficient cause exists to take disciplinary action.
- If sufficient cause does exist, establish which method of disciplinary action should be taken.
- To verify allegations.

The following guidelines will assist in conducting a proper investigation

- Who should conduct the Investigation?

The APICSA Board should conduct the investigation.

- Approach to Investigations.

Should you become angry or indignant when you hear about the alleged offence, attempt to remain calm; and

Do not act impulsively. Allow a cooling - off period before you start interviewing people.

- Gather the facts.

What you are first told about the case is seldom accurate or complete and is often distorted by emotion or even prejudice. Your task is to objectively gather the facts.

- Steps to take.

- Interview the person who reported the case to you in the following manner:

Get as complete a picture as possible and make notes of everything he/she says.

Ask questions: where did it happen? When? What time? Why? Who was involved? Who said what to whom? What was the other person's reaction? What actually happened? etc.

Ask if there were any witnesses. Note their names.

Ask the person you are interviewing to make a written statement. You may have to write it for him/her. Have it signed and dated.

- Interview all witnesses in a similar manner. Use an interpreter where necessary.
- Important guidelines:
 - Note that the alleged offender may refuse to speak to you or refuse to make a written statement, which refusal you must accept.
 - Do not intimidate him/her or force him/her to make a statement.
 - Do all interviewing of the alleged offender in the presence of his/her representative.
 - The format of Annexure J can be used to obtain written statements from witnesses or alleged offenders.
 - Carefully read and re-read all the statements and notes on the case.
 - Make a decision as to whether a deviation in performance standards does exist.
 - Define such deviation and endeavour to determine whether an offence has been committed, and what the offence is.
 - Remember that you are dealing with a person's career and the livelihood of himself/herself and his/her family.
 - Once you have examined all the facts, decide on the method of discipline, which must be taken, having regard to the methodology of discipline discussed hereunder and implement the necessary action.

NOTES:

You have the right to approach the alleged offender and ask him/her whether he/she is prepared to make a statement. Should you exercise this right, remember that the alleged offender:

- Is entitled to a representative;
- May refuse to speak to you;
- Is not entitled to have insight into any evidence which you may have obtained during your investigation, neither is he/she entitled to copies of your witnesses' statements.

3. DISCIPLINARY ACTION

3.1. Introduction

The necessity to implement disciplinary action usually stems from the existence of a Deviation on Conduct & Ethics by a Member which may be defined as a gap that exists between the required standard of behaviour or performance and the actual standard of behaviour or performance by an Member.

This performance gap can be caused unintentionally due to a lack of training and a subsequent lack of performance. Before disciplinary action can be taken against an Member it is necessary to identify not only the performance gap, but also its cause by way of investigation and thereafter decide on the method of disciplinary action, which should be implemented.

As previously stated, in modern labour and corporate law the purpose of disciplinary action is generally regarded as being corrective rather than punitive. The general principles underlying the various methods of implementation of disciplinary action set out hereunder take full cognisance of this purpose.

From what has been said, it is clear that an Member's behaviour or performance which unintentionally deviates from accepted performance standards should rather be corrected than punished. (This unintentional action must not be confused with negligence). However, an Member who is intentionally committing an offence may be sanctioned (punished) in terms of this code once all the facts are known, and his/her guilt established on a balance of probabilities.

3.2. General principles underlying the application of disciplinary action

Human relations are important in discipline. It is inconceivable that sound industrial relations can be maintained or that fair and just discipline can be exercised if the basic principles of human relations are not implemented.

Whenever discipline is exercised, ensure that the following principles are adhered to:

- Maintain or enhance the Member's self-esteem.
- Listen with empathy, and allow the Member the opportunity to give an explanation.
- Place yourself in the Member's position. Remember that a decision may be taken which may seriously affect the Member's future or security.
- Obtain the Member's assistance to solve the problem if possible.
- Focus on the problem and not the person.
- Offer the Member his/her right to representation.

3.3. Methodology of disciplinary action

Disciplinary action can be implemented in an informal or a formal manner.

The informal implementation of disciplinary action entails the following:

- Remedial action - Such action will be taken where a skills deficiency gap is identified.
- Corrective action- Correcting action will be taken where a behaviour deficiency gap is identified.
- Informal verbal reprimands - Where remedial or corrective action is taken and the skills or behaviour deficiency persists, or when a minor infringement is allegedly committed, a verbal reprimand may be issued.

The formal implementation of disciplinary action entails the following :

- Formal verbal reprimand/warning - Normally issued to a Member for less serious offences.
- An enquiry - Sometimes referred to as a hearing and implemented in serious matters as discussed hereunder.

3.4. Informal implementation of disciplinary action - general principles

- Remedial action - This action takes place mainly when a performance gap exists as a result of a skills deficiency. The Member therefore commits an offence through ignorance. The question has to be asked whether he/she has been properly trained to follow the correct procedures, rules and methods, etc. If it appears that a lack of training exists, APICSA Board has the responsibility to ensure that such training is given.

Training can be provided through one or more of the following methods:

- By the relevant APICSA Board member or Training Consultancy over a specific period of time;
- By the attendance of training courses presented by APICSA;
- By the attendance of other training courses presented by private concerns.

All training given or action taken in this manner must be recorded in the Member's personal file for future reference.

- Corrective action - This action is normally taken when a behavioural deficiency is identified. A formal report is not necessarily required when such action is taken. An example of this type of action is where a Member develops an attendance problem. The investigation reveals that domestic problems are the cause. Suitable action to the specific case and circumstances should be taken.
- Informal Verbal Reprimands/Warnings - Where a Member fails to abide by the standards of conduct or rules and requirements, and in matters of a less serious nature, an Informal Verbal Reprimand can be given by the immediate section head. Such reprimand is not reduced to writing.

This action should be taken in most cases where a first offence is committed, except for serious misconduct.

3.5. Formal implementation of disciplinary action - general principles

- Formal Verbal Reprimand/Warning - If the informal implementation of discipline is not effective or if justified by the nature or seriousness of the offence, the APICSA Board will be entitled to issue a Formal Verbal Reprimand to an Member.

When issuing a Formal Verbal Reprimand, ensure that the following requirements are adhered to:

- Advise the Member that he/she is entitled to have a fellow Member as a representative, if he/she requires a representative ensure that the latter is present when the reprimand is issued. Should a Member not wish to be represented, this fact should be recorded.
 - The Member must be advised that the reprimand is formal and will be filed in his/her personal file.
 - The Member must be advised of the nature of the offence.
 - Obtain the Member's signature on the reprimand. Should he/she refuse to sign, simply note such refusal in the presence of a witness. The Member's refusal to sign does not affect the effectiveness of the reprimand.
 - The conducting of an enquiry is not a prerequisite to a Formal Verbal Reprimand.
 - Repeated Formal Verbal Reprimands can lead to an enquiry.
- The Enquiry - A formal enquiry (hearing) will take place under the following circumstances:
 - Where it is alleged that a serious offence was committed.
 - When Formal Verbal Reprimands fail to have the desired effect.
 - When the informal application of discipline fails due to the continuation of the deficiency gap identified and informal methods of disciplinary action have been exhausted.

4 SUSPENSION

4.1. Introduction

When APICSA Board alleges or where reasonable grounds exist to suspect that a Member has committed a serious offence the necessity to suspend the relevant Member deserves consideration.

Suspension is usually an action taken by APICSA Board prior to an enquiry and must therefore be implemented with caution for the following reasons:

- the duration of the suspension must be considered.
- It may be seen as a foregone conclusion of dismissal if not sensitively handled.

4.2. Reasons for suspension

The following are the main reasons for suspending a Member:

- To afford the Member time to prepare his/her case.
- To afford APICSA Board the necessary time to fully investigate the matter without possible adverse interference.
- To avoid the possible intimidation of witnesses, other Members or customers.
- To avoid the possible destruction of documentation or other evidence.
- To neutralize the alleged offender pending the finalization of the investigations and/or the disciplinary enquiry.
- To ensure the safety of Members or customers (e.g. when the Member is intoxicated or violent).
- In the event that the person is a member of the APICSA Board, she/he will be suspended with immediate effect to ensure the credibility of the Board. This however will not be seen as a foregone conclusion of dismissal.

4.3. Method of suspension

Once it has been established that a Member should and can be suspended fairly, the following procedure must be followed:

- Complete a Notice of Suspension, which must be handed to the Member.
- Ensure that a representative is present when the Notice of Suspension is handed to the Member where possible.
- Ensure that he/she is aware of the date, place and time of the disciplinary enquiry, and the reason of his/her suspension.
- The Member must leave the premises immediately.

The possibility exists that at the time of suspension, a formal charge cannot be formulated. Before the enquiry can commence, please ensure that the alleged offender has been advised of the charge and that sufficient time is allowed for the offender to prepare for the enquiry.

4.4. When to suspend

Where an Member is called to a disciplinary hearing the Member should, as a rule, be suspended pending the outcome of the disciplinary hearing.

5. CHARGES AGAINST ALLEGED OFFENDERS

Before a Member is charged for allegedly having committed an offence, such offence must - by way of investigation and analysis - be identified and should thereafter be formulated and put to the Member in writing.

5.1. Objective of a charge

- A charge must ensure that the Member concerned knows what the points of issue between him/her and APICSA Board are in order to know what case he/she has to meet.
- Knowing the case he/she has to meet, the Member can prepare the evidence he/she requires to support his/her case and be able to prepare his/her defence.
- The charge must clarify and define the issues in dispute. APICSA Board cannot direct the attention of the Member to one issue or offence and at the enquiry find the Member guilty of another offence.

It is an accepted rule that a Member is entitled to know what the case is which he/she has to meet, but he/she is not entitled to know the evidence against him/her. Refrain from giving witnesses' statements to an alleged offender or his/her representatives unless the industrial relations department has been consulted.

5.2. Formulating the charge

A charge, which is conveyed verbally, shall not be regarded as unfair or against the spirit of the Disciplinary Code. However a written charge is more appropriate. Ensure that a representative is present when a charge is handed to an Member (see Disciplinary Procedure Annexure E).

In formulating the charge, the following must be borne in mind. A charge should:

- Refer to the name and company of the Member concerned.
- Refer to the date and place where the incident allegedly took place.
- Be brief and concise and formulated in a summarised form.
- State only the material facts on which APICSA Board relies and do not make a statement of law or evidence.
- Reveal the matter of the offence and the manner in which the Member allegedly committed the offence.

5.3. Examples of charges

Having regard to the above principles, it would not be competent to charge an Member for mere negligence/breach of company policy or assault, etc. Rather formulate the charge as follows:

- Negligence: "in that you as store APICSA Board on the _____ day of _____ 20____ allowed goods to the value of R_____ to leave the premises without such goods having been paid for"
- Breach of company policy: "in that on the _____ day of _____ 20____ you utilized a credit card of APICSA to purchase goods for you own use to the value of R_____"
- Assault: "Having unlawfully assaulted Mr. B on the _____ day of _____ 20____ by hitting him with your fist"
- Absenteeism: "Having been absent from your workplace on the _____ day of _____ 20____ without permission from an authorised APICSA Board and/or for a valid reason"
- Complicity: "Having failed to report the theft of company property to Mr. X on the _____ day of _____ 20____, you having been aware of such theft"
- Threatening violence: "Having on the _____ day of _____ 20____ threatened to kill your section head Mr. B."

Notwithstanding the above formalistic requirements, a charge will not be regarded as unfair or against the spirit of the Disciplinary Code if these requirements are not fully complied with. The most important rule is that the Member should know what charge he/she is facing, and that he/she is able to prepare his/her defence to it. The main objective is to act as fairly as possible.

Alternative charges may be recorded on the same charge sheet.

ANNEXURES TO DISCIPLINARY PROCEDURE

DISCIPLINARY PROCEDURE ANNEXURE A

Attendance, Time keeping and Related Offences: Board Members Only.

OFFENCE	1ST	2ND	3RD
Absent from Board meeting for more than 3 consecutive meetings without valid reason.	Dismissal		
Leaving meeting without apology.	Final written warning	Dismissal	
Failing to report absence from meeting to APICSA Board at the earliest possible opportunity.	Written warning	Final written warning	Dismissal
Bad time keeping or lateness for meetings for 3 consecutive and more meetings.	Written warning	Final written warning	Dismissal

Offences Relating to APICSA / Image Industry and Public Property and Assets: All Members.

OFFENCE	1ST	2ND	3RD
Theft or attempted theft or fraud from the APICSA, a fellow Member, Image Industry or public.	Dismissal		
Intentional or grossly negligent damage or attempted damage to APICSA, Image Industry or Public property.	Dismissal		
Using Copyrighted Image Industry property for personal purposes without written authority.	Dismissal		
Disclosing APICSA records or information without authorisation.	Dismissal		
Industrial espionage or bribery.	Dismissal		
Accepting or giving or taking steps to acquire or give gifts or money from or to a supplier, customer, Member or their agent which does or could give the appearance of being capable of influencing actions, without authorisation.	Dismissal		
Reckless or negligent use of APICSA branding.	Final written warning	Dismissal	
Failure to report incidents of gifts or money taking or giving which could be construed as being intended to influence action.	Final written warning	Dismissal	
Failure to report damage to APICSA property, Members or clients' property immediately.	Final written warning	Dismissal	

Offences of dishonesty: All Members

OFFENCE	1ST	2ND	3RD
Any dishonesty or attempted dishonesty including conspiracy, theft, bribery, fraud or giving false or misleading statements to APICSA or customers, Members or persons having dealings with APICSA .	Dismissal		
Changing a qualification certificate and/or using/submitting a false one.	Dismissal		
Failing to produce a qualification certificate when requested to do so by APICSA Board or Public.	Final written warning.	Dismissal	
Failure to report known/suspected irregularities or theft/disappearance of APICSA & Image Industry property.	Final written warning	Dismissal	

Offences to the Person or Dignity of a fellow Member or any other person the Member comes into contact with in the course of his/her work: ALL MEMBERS

OFFENCE	1 ST	2 ND	3 RD
Promoting or engaging in racist incitement or being racially abusive or engaging in discriminatory behaviour based on sex, creed, political beliefs or sexual orientation including racist jokes.	Dismissal		
Harassment, including sexual harassment	Dismissal		
Assault or any attempt to assault a person or fighting.	Dismissal		
Bringing APICSA or the Image Industry as a whole into disrepute generally or by being disparaging of a competitor's product or service to customers / suppliers etc.	Dismissal		
Threat of any harm to Members customers, suppliers or visitors	Final written warning	Dismissal	
Abusive or insulting language, signs or behaviour.	Final written warning	Dismissal	

The offence of Intimidation: All Members.

OFFENCE	1 ST	2 ND	3 RD
Intimidating or inciting Members	Dismissal		

Alcohol or drug related offences: All members

OFFENCE	1 ST	2 ND	3 RD
Unlawful distribution of drugs on or near APICSA meetings or functions.	Dismissal		
In possession of illegal drugs or alcohol at APICSA meetings of functions other than alcohol provided by APICSA during the course of a APICSA function authorised by a Senior APICSA Board member.	Final written warning	Dismissal	
Under the influence of alcohol or illegal drugs on during working hours other than as contemplated in 2 above when working with the public in general (relates to 4 of Offences of Dignity)	Dismissal		

Association **Possession of firearms: All members** of South Africa

OFFENCE	1 ST	2 ND	3 RD
Being in possession of a firearm of dangerous weapon at APICSA meeting or function unless authorised by the APICSA Board in writing.	Final written warning	Dismissal	

General Offences: All members

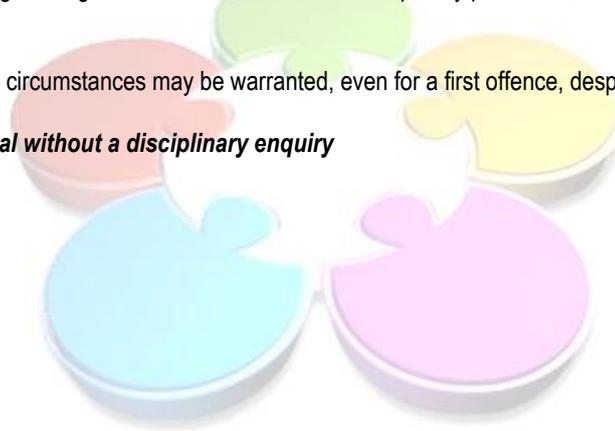
OFFENCE	1ST	2ND	3RD
Any serious offence	Dismissal		
Distributing notices, posters etc. at APICSA meetings or functions or soliciting of any kind without APICSA's written permission or removing or altering APICSA notices.	Final written warning	Dismissal	
Unauthorised statements or comments to the press or third parties where the APICSA name may be involved, mentioned, implied or affected.	Final written warning	Dismissal	
Minor contravention of APICSA rules	Written warning	Final written warning	Dismissal

EXPLANATORY NOTES :

This merely represents a guideline for use in cases of discipline. This list is not exhaustive. Each case is to be considered on its own merits, relevant mitigating and/or aggravating circumstances, APICSA's disciplinary procedure, and consistent practice and precedent.

So, for instance, dismissal in certain circumstances may be warranted, even for a first offence, despite the guideline provided above.

However there can be no dismissal without a disciplinary enquiry



APICSA

Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE B**

To be kept in Member's file

VERBAL WARNING / REPRIMAND FORM

APICSA Board Representative _____

Date _____

I have today reprimanded, and issued a verbal warning to:

Name of Member _____

Member Number/Identity Number _____

For:

Reasons (specify) _____

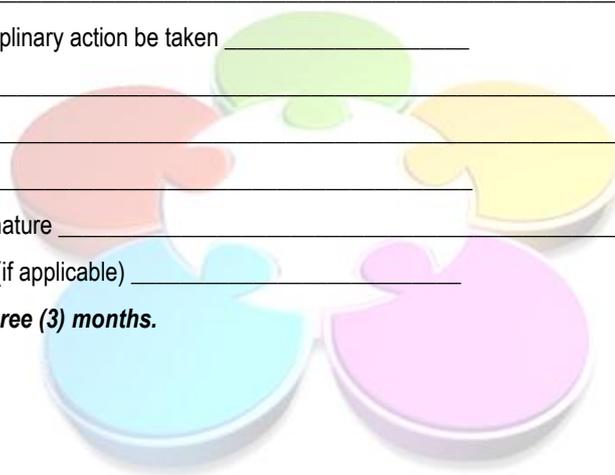
I recommend that the following disciplinary action be taken _____

Member's signature _____

APICSA Board's representative signature _____

Member representative's signature (if applicable) _____

This verbal warning is valid for three (3) months.



APICSA

Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE C**

To be kept in Member's file

WRITTEN WARNING / FINAL WRITTEN WARNING FORM *

Delete whichever is inapplicable

Name of Member _____

Member Number/Identity Number _____

Position of Member _____

Company _____

Date _____

Details of offence/unacceptable behaviour or performance:

Recommended action to rectify behaviour or performance:

Possible action/Consequences if such offence/behaviour reoccurs or no improvement is shown:

Other comments _____

Member's signature _____

APICSA Board's representative signature _____

Member representative's signature (if applicable) _____

*This written warning/final written warning is valid for six (6) months. **

**DISCIPLINARY PROCEDURE
ANNEXURE D**

DISCIPLINARY ENQUIRY INVESTIGATION FORM

To _____

From _____

Re: NOTIFICATION OF DISCIPLINARY ENQUIRY INVESTIGATION

APICSA is presently conducting an investigation into an incident that took place on or about

_____ regarding _____

The conclusion of this investigation may result in a Disciplinary Enquiry being convened.

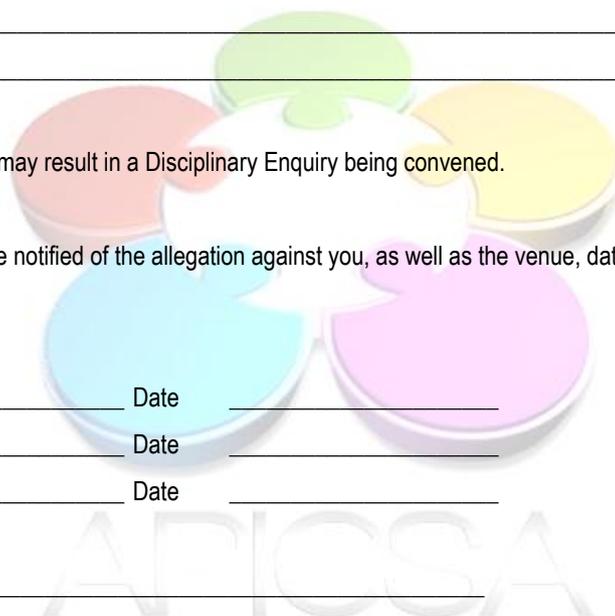
Should this be the case, you shall be notified of the allegation against you, as well as the venue, date and time that the enquiry will be held.

Received by _____ Date _____

Witness (1) _____ Date _____

Witness (2) _____ Date _____

Date _____



Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE E**

NOTIFICATION TO ATTEND DISCIPLINARY ENQUIRY

Name of Member _____

Member Number/Identity Number _____

Position of Member _____

Company _____

Date _____

KINDLY TAKE NOTICE THAT an enquiry will be held to investigate the alleged offence/s as detailed below:

The alleged charges/offences against you are _____

You are suspended with full pay/not suspended with effect from _____
pending the outcome of the disciplinary enquiry.*

Date of alleged offence _____

The arrangements for the Disciplinary Enquiry are as follows :

Date _____

Time _____

Place _____

Chairperson _____

Initiator/Complainant _____

I confirm that I have been advised of the following:

- I am entitled to be assisted at the disciplinary enquiry by a fellow Member.
- I am entitled to have an interpreter, if requested.
- I am entitled to have the opportunity to confer with my representative at reasonable times before, during and after the enquiry.
- I am entitled personally, or through my representative, to question the complainant and witnesses during the enquiry.
- I am entitled to furnish evidence and to argue on the question of whether the misconduct occurred.
- I am entitled to furnish evidence and to argue in mitigation of disciplinary action.
- I have been advised that should I refuse/fail to attend the enquiry, the enquiry may be held in my absence.

As witness:

Witness (1) _____ Date _____

Witness (2) _____ Date _____

Signature of Member/alleged offender/accused _____

Date _____

**Delete whichever is inapplicable.*

Date on which notification was issued _____

Time at which notification was issued _____

Person who issued notification _____

Signature of such person _____



APICSA

Association of Professional Image Consultants of South Africa

DISCIPLINARY PROCEDURE

ANNEXURE F

LETTER TO MEMBER FAILING/REFUSING TO ATTEND DISCIPLINARY ENQUIRY

Date _____

Name of Member _____

Company _____

Dear _____

On the _____ day of _____ 20____, you were given written notice that a Disciplinary Enquiry would be conducted on the _____ day of _____ 20____ at _____ into allegations against you.

As you have failed to attend this enquiry, I would like to inform you of the following:

The Disciplinary Enquiry scheduled for _____ on _____ 20____ has been postponed to give you every reasonable opportunity to consider your position and prepare for the action against you.

The Disciplinary Enquiry is now scheduled for _____ on _____ 20____ and will be conducted at _____ (venue). Failure to attend this enquiry without any acceptable reason will leave APICSA with no choice but to accept that you do not wish to take advantage of your rights to hear and respond to the allegations against you.

In such an event, APICSA may conduct the enquiry in your absence. We therefore call upon you to attend the Disciplinary Enquiry and not to waive your rights in this regard.

Yours faithfully

Chairman of Enquiry

The logo for APICSA (Association of Professional Image Consultants of South Africa) is a watermark in the center of the page. It features the acronym 'APICSA' in a large, bold, sans-serif font. Above the letters, there are several overlapping circles in various colors (red, green, yellow, blue, purple) that form a stylized shape resembling a flower or a cluster of people.

Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE G**

LETTER TO MEMBER IF DISCIPLINARY ENQUIRY IS TO BE POSTPONED

Date _____

Name of Member _____

Company _____

Dear _____

You were informed that a Disciplinary Enquiry would be conducted on the _____ day of _____ 20____ into allegations against you. You were also notified of your right to be represented by a fellow Member of your choice, as well as other rights to which you are entitled.

This enquiry would give you the opportunity to answer to the said allegations, as well as to present any evidence or witnesses you may have.

The enquiry can/could not proceed due to _____

The Disciplinary Enquiry is now re-scheduled for _____ on _____ 20____ to give you every reasonable opportunity to attend.

Attached is a copy of the Charge Sheet, stipulating the allegations against you.

Should you not attend the re-scheduled Disciplinary Enquiry without acceptable reasons, then APICSA will have no choice but to accept that you do not wish to take advantage of your rights to hear and respond to the allegations against you. In that case, the Disciplinary Enquiry may be conducted in your absence and a decision will be taken based on the facts available at that time.

We therefore urge you to attend the Disciplinary Enquiry and not to waive your rights.

Yours faithfully

Chairman of Enquiry

APICSA
Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE H**

**LETTER TO MEMBER WHO DID NOT ATTEND A
DISCIPLINARY ENQUIRY HELD *IN ABSENTIA***

Date _____

Name of Member _____

Company _____

Dear _____

As advised previously, a Disciplinary Enquiry was conducted against you on _____ 20_____. It was held *in absentia* as you failed to attend.

The outcome of the enquiry is that you were found guilty of _____

APICSA is now affording you another opportunity to come forward and present any mitigating factors that you may have in support of your case before the penalty decision is taken.

The date set to allow you to present the mitigating factors and to listen to the penalty decision is at _____ on _____ 20_____. The venue is _____.

Once again we call upon you to exercise your rights by being present and presenting mitigating factors.

Yours faithfully

Chairman of Enquiry

APICSA

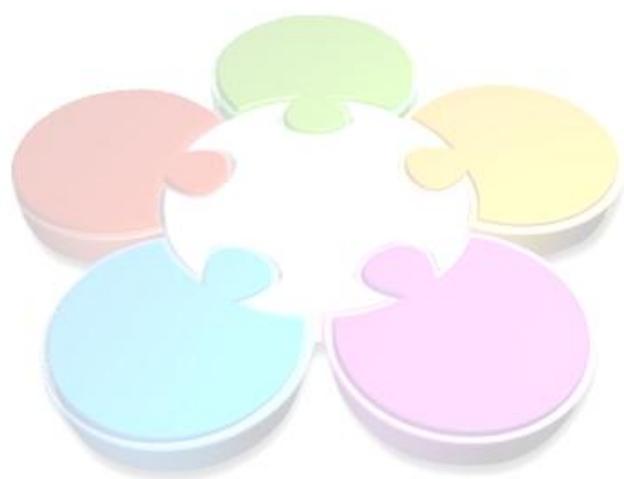
Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE I**

**CHECK LIST AND PROCEDURE TO BE FOLLOVED
BY CHAIRMAN AT A DISCIPLINARY ENQUIRY**

The Chairman should follow the steps below and tick in the appropriate space when completed.

1	The Chairman is to introduce everybody present, explain the nature of the proceedings and establish the designation and capacity in which every person is in attendance.
2	Record the names, designations and capacity in which every person is in attendance.
3	Confirm whether the accused was properly notified of the nature of the complaint brought against him/her and record confirmation.
4	Confirm whether the accused has had enough opportunity to prepare his/her case and record confirmation.
5	Confirm the right to representation and whether the representative qualifies to represent the Member. The representative* qualifies to represent the accused if he/she is a friend or colleague associated to APICSA. (* not allowed to be a lawyer or advocate.)
6	Ensure that the accused and his representative are satisfied with the interpreter (if required).
7	Explain the rights of the representative. The representative can ask questions and speak on behalf of the accused, address the committee on the merits of the case and in mitigation.
8	Inform everybody of the fact that all questions must be directed via the Chairman as and when the opportunity for questions arises.
9	Request all witnesses to leave and wait outside until called upon.
10	Read the charge brought against the accused and ensure that the accused understands the alleged charge.
11	Record the accused's plea. If guilty, go to paragraph 22. If the Plea is not guilty, carry on with paragraph 12.
12	Allow the complainant to proceed with her/his case by stating the facts, which lead him/her to bring the case against the accused.
13	Allow the complainant to first complete his/her own evidence prior to allowing the accused and/or the representative to question the complainant on the evidence given. (The Chairman and/or members of his/her committee have the right to ask questions in order to clarify any issue, which may have arisen).
14	Call the witnesses of the complainant individually, allow each witness to state the facts pertaining to the case, and allow questions as per paragraph 15.
15	On completion of the case by the complainant and his/her witnesses, request the accused to state his/her case and allow questioning by the complainant and committee members as above.
16	Allow the accused's witnesses to state their facts and allow questions to be asked as above.
17	After completion of all of the evidence by both parties, allow the complainant and the accused or his/her representative to address the Chairman on the merits of the case.
18	Request the parties to the case to leave the room while the question of guilt/innocence is being deliberated. (Case can be postponed for this purpose, e.g. until the next morning).
19	Consider all the facts, which were raised at the enquiry as well as closing arguments presented by the parties to reaching a decision. The accused's guilt/innocence must be determined solely on the facts of the case and the closing arguments of the parties. The accused's past disciplinary record and other mitigating/aggravating circumstances must not be taken into consideration when determining the accused's guilt/innocence.
20	Once a decision has been reached, recall the accused, his/her representative and the complainant and inform them of the decision and record the decision. The Chairman must state a summary of his/her reasons. Full reasons in writing can be provided on written request.
21	Should the accused be found guilty or plead guilty, he/she and/or the representative must be afforded the opportunity to address the committee in mitigation prior to decision being taken on sanction.
22	Again request both parties to leave the room prior to deliberating on an appropriate penalty.
23	Consult the Member's previous disciplinary record.
24	Consider all the facts raised in mitigation, the Member's previous disciplinary record, the length of service, the severity of the breach/misconduct, as well as any future facts which may influence the decision on the appropriate penalty to be applied.
25	Recall the parties and inform them of the penalty to be applied and record the decision.
26	Inform the Member of his/her right to refer the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA).
27	Complete the hearing form and request the Member or his/her representative to sign acknowledgement of the outcome of the hearing (refusal to acknowledge the outcome should be recorded but does not affect the effectiveness of the outcome) and his/her right to refer the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA).



APICSA

Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE J**

DISCIPLINARY ENQUIRY SUMMARY FORM

Date _____

Name of Member _____

Member Number/Identity Number _____

Position of Member _____

Companyt _____

Name of Member Representative (if applicable) _____

Time _____

Place _____

Details:

Findings of the Disciplinary Enquiry:

Action recommended:

Name of Chairman _____

Signature of Chairman _____

Action authorised (were applicable):

For processing by:

APICSA Board _____

Administration Department _____



Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE K**

NOTIFICATION OF VERBAL WARNING FOLLOWING A DISCIPLINARY ENQUIRY

Name of Member _____

Member number/Identity number _____

Position _____

Company _____

Date _____

As a result of a Disciplinary Enquiry held on _____ 20____ you are hereby informed that you are issued a **Verbal Warning** due to _____

This Verbal Warning takes immediate effect and will be valid for three (3) months from this date.

Should a similar offence, or any other serious offences be committed by yourself, you will render yourself liable for further disciplinary action being taken, i.e. Written or Final Written Warning.

Signature of APICSA Board representative _____

This Verbal Warning has been read to me. I am aware and understand the contents of this notification and acknowledge receipt of a copy thereof.

Signature of Member _____

Signature of Member Representative (if applicable) _____

Signed as Witness _____

Date _____

The signature of the Member signifies that the Member has received the notice of Disciplinary Action, whether or not the Member agrees with the Action.

Association of Professional Image Consultants of South Africa

**DISCIPLINARY PROCEDURE
ANNEXURE L**

NOTIFICATION OF WRITTEN WARNING FOLLOWING A DISCIPLINARY ENQUIRY

Name of Member _____

Member number/Identity number _____

Position _____

Company _____

Date _____

As a result of a Disciplinary Enquiry held on _____ 20____ you are hereby informed that you are issued a **Written Warning** due to _____

This Written Warning takes immediate effect and will be valid for six (6) months from this date.

Should a similar offence, or any other serious offences be committed by yourself, you will render yourself liable for further disciplinary action being taken, i.e. Final Written Warning/Dismissal.

Signature of APICSA Board representative _____

This Written Warning has been read to me. I am aware and understand the contents of this notification and acknowledge receipt of a copy thereof.

Signature of Member _____

Signature of Member Representative (if applicable) _____

Signed as Witness _____

Date _____

The signature of the Member signifies that the Member has received the notice of Disciplinary Action, whether or not the Member agrees with the Action.

**DISCIPLINARY PROCEDURE
ANNEXURE M**

NOTIFICATION OF FINAL WRITTEN WARNING FOLLOWING A DISCIPLINARY ENQUIRY

Name of Member _____

Member number/Identity number _____

Position _____

Company _____

Date _____

As a result of a Disciplinary Enquiry held on _____ 20____ you are hereby informed that you are issued a **Final Written Warning** due to _____

This Final Written Warning takes immediate effect and will be valid for six (6) months from this date.

Should a similar offence, or any other serious offences be committed by yourself, you will render yourself liable for Dismissal.

Signature of APICSA Board representative _____

This Final Written Warning has been read to me. I am aware and understand the contents of this notification and acknowledge receipt of a copy thereof.

Signature of Member _____

Signature of Member Representative (if applicable) _____

Signed as Witness _____

Date _____

The signature of the Member signifies that the Member has received the notice of Disciplinary Action, whether or not the Member agrees with the Action.

**DISCIPLINARY PROCEDURE
ANNEXURE N**

DISMISSAL FORM

Name of Member _____

Member number/Identity number _____

Position _____

Company _____

Date _____

A Disciplinary Enquiry was held on _____ 20____. You were found guilty of the following transgressions/allegations _____

As a result of this Disciplinary Enquiry, APICSA has decided to terminate your services with effect from _____ and your last working day will be _____.

You may, if you so wish, refer the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA) within thirty (30) days from today.

Signature of Chairman of Enquiry _____

APICSA

Association of Professional Image Consultants of South Africa

DISCIPLINARY PROCEDURE

1. Objectives of Disciplinary Procedure

- The disciplinary procedure is intended to promote the smooth and co-operative functioning of APICSA, by way of ensuring that Members observe the rules and conduct of behaviour.
- The procedure should ensure that, where APICSA Board is dissatisfied with the performance or behaviour of Members, and where Members have transgressed the rules and regulations of APICSA, fair and just treatment be given to such Members in order to rectify such behaviour and or the appropriate sanction be imposed.

2. Purpose of Disciplinary Procedure

- Both APICSA and the Members must realise that the establishment of fair disciplinary procedures is essential for the efficient running of APICSA's business, the fair treatment of its Members and sound industrial relations. Disciplined behaviour is essential both for the successful achievement of the employer's objectives, and for the safety and fair treatment of the Members.
- The purpose of discipline is to correct behaviour, which is unsatisfactory to APICSA, and to encourage good performance. The severity of any disciplinary action aims to prevent recurrence of a particular fault and for this reason the disciplinary procedure sees as its overall goal the fair and consistent treatment of all Members.

NOTE : *While the Disciplinary Procedure provides for measures which are punitive, the intention is to be corrective, thereby ensuring that Member behaviour meets APICSA standards. Punitive action should only be taken when prior graduated corrective action has proved ineffectual, or when a first offence is extremely serious.*

- This Disciplinary Procedure is intended to ensure that Members are aware of the rules which regulate their association with APICSA and it describes the penalties which are likely to be imposed by APICSA should Members breach the rules.
- It is acknowledged that fair discipline cannot be administered in isolation and that all the Members have a right to be heard. Before any penalty is noted, the Member concerned is entitled to state his/her case to the person considering it and to be supported by a representative if he/she wishes, in accordance with the Disciplinary Procedures hereinafter contained.
- All discipline shall be dealt with in terms of the provisions of the Disciplinary Procedures detailed herein, although the stage at which the procedure will be entered will depend on the severity of the offence.

3. APICSA Responsibility

- It is the responsibility of line APICSA Board to apply the Disciplinary Procedure in accordance with procedures set out herein.
- It is also APICSA Board's responsibility to maintain and impose disciplined behaviour, and it is entitled to expect satisfactory conduct and work performance from Members.
- All Members are to be familiarised with APICSA policies, rules, regulations and standards of behaviour/performance expected of them through induction, and training, where necessary
- APICSA Board has adopted clear disciplinary rules that establish the standard of conduct required of Members. Such rules create certainty and consistency in the application of discipline. These standards of conduct are clear and are available to Members in a manner that is easily understood.

4. General

- As far as is practicable, similar offences committed in similar circumstances will be treated equally through similar disciplinary action. Consistency in discipline is therefore of the utmost importance.
- Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for APICSA to deal with minor violations of conduct and ethics. Repeated misconduct will warrant warnings, which can be issued according to the severity of the offence. More serious infringements or repeated misconduct may call for a final warning or other action short of dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

- Generally it is not appropriate to dismiss a Member for a first offence except if the misconduct is serious and of such gravity that it makes continuous association intolerable. When deciding whether or not to impose a penalty of dismissal, mitigating factors such as the Member's circumstances (including length of service, previous disciplinary record and personal circumstances), the circumstances of the infringement itself should be taken into account.
- Prior to any disciplinary action being taken, careful consideration to the circumstances must be given. This should follow a thorough investigation into each incident.
- For discipline to be maintained fairly, the Members should know what constitutes misconduct and the procedure, which will be followed when dealing with misconduct. A dismissal may be unfair if it is not affected for a fair reason and in accordance with a fair procedure. Whether or not a dismissal is for a fair reason is determined by the facts of the case and the appropriateness of dismissal as a penalty.
- The Labour Relations Act, 1995, recognises three grounds on which a termination of employment may be legitimate:
 - The conduct of the Member (**misconduct**);
 - The capacity of the Member (**incapacity**); and
 - The operational requirements of the employer's business (**retrenchment or redundancy**).
- The Labour Relations Act, 1995, further provides that dismissals for certain reasons may be automatically unfair, i.e. if it amounts to an infringement of the fundamental rights of Members or if it is for a reason listed in Section 187 of the Act, such as a participation in a lawful or protected strike, intended or actual pregnancy, and acts of discrimination.

5. Misconduct

5.1. Offences

Offences can be divided into two categories, namely:

5.1.1. Serious offences / Mandatory offences

Those transgressions or offences which, when committed by a Member, require that a disciplinary enquiry shall be conducted as soon as possible after such transgressions or offences have taken place. These offences could, subject to an enquiry, result in action against Members in the form of dismissal, or a final written warning.

5.1.2. Moderate offences / Non-mandatory offences

Those transgressions or offences which, when committed by a Member, do not require the automatic conducting of a disciplinary enquiry, and as a result, permit APICSA Board to decide what form of disciplinary action shall be taken in terms of the Disciplinary Procedure. These usually consist of breaches of general discipline resulting in graduated disciplinary measures such as counselling, verbal and written warnings, and general corrective discipline.

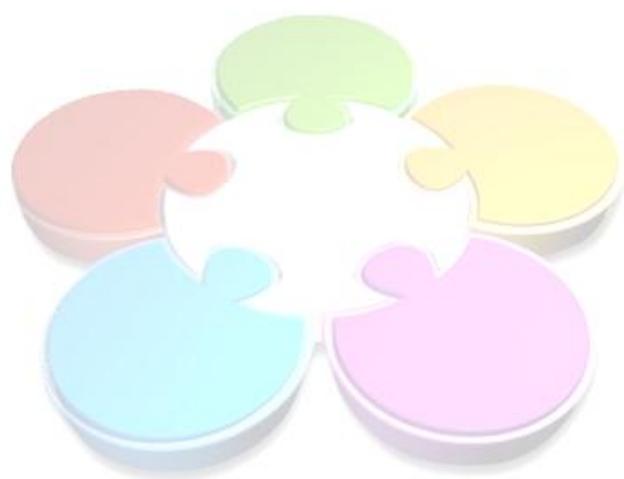
NOTE: The list set out is not exhaustive and serves only as an illustration.

5.2. Serious offences

Examples of serious offences are as follows (see Disciplinary Procedure Annexure A)

5.2.1. Dishonesty

- Theft, bribery or fraud;
- Unauthorised possession of APICSA or Image Industry property;
- Falsification of the member's records;
- Misuse of APICSA and Image Industry's property for private purposes;
- Gross negligence or incompetence;
- Making false statements when applying for membership or client contracts;
- Revealing confidential information to unauthorised persons;
- Being disparaging of a competitor's product or service to clients, media etc.



APICSA

Association of Professional Image Consultants of South Africa

5.2.2. Dangerous actions

These are actions endangering the lives, health or safety of fellow Members, guests, clients or other persons:

- Wilful or gross negligence or damage to APICSA, Members', guests' or clients' equipment or property;
- Flagrant disregard of APICSA safety standards;
- Fighting, assault or attempted assault while at work bringing APICSA into disrepute because of association;
- Being drunk or under the influence of illegal drugs during work hours so as to constitute a "danger to persons or property"

5.2.3. Other

- Sabotage of APICSA or Image Industry reputation, credibility, property or equipment;
- Illegal striking or influencing others to strike illegally;
- Failure to report an incident of misconduct;
- Persistent misconduct following previous written warning(s) for the same or substantially similar form of misconduct; provided that, generally speaking, any written warning issued (an exception is dishonest conduct, where the specific nature and circumstances will be taken into account), more than 6 (six) months prior to the misconduct now complained of, should be disregarded;
- Insolence;

5.3. **Moderate offences** (see Disciplinary Procedure Annexure A)

- Absence from Board meeting without proper reason, unless such absence constitutes a serious offence due to the nature of the Member's work or company;
- Meeting clients, suppliers, media etc under the influence of liquor or drugs
- Negligence in performance of duties as per APICSA code of ethics;
- Service performance well-below Image Industry standard;
- Neglecting to obey lawful orders;
- Disorderly behaviour in public;
- Negligence - negligent loss, damage or misuse of APICSA or Image Industry property / failure to exercise proper care in executing duties to the extent that tasks have to be repeated or equipment or persons are at risk of damage or injury;
- Bringing unauthorised persons on to employer's premises or carrying of illegal passengers in employer's vehicles;
- Being disrespectful towards guests / clients, and discourteous behaviour;
- etc.

6. Disciplinary Measures

There are four basic methods of disciplinary action, which can be taken against any Member. In order of severity these are:

- Informal discipline - verbal warning/reprimand;
- Formal discipline - written warning;
- Final written warning;
- Disciplinary enquiry.

APICSA Board is responsible for determining, according to the degree of transgression, the level of disciplinary action which shall be initiated and consequently, the remedial action / penalty to be applied.

The time periods relating to the expiry of warnings are as follows:

- Verbal warnings: three months;
- Written warnings: six months;
- Final written warning: six months.

Attached hereto, marked Annexure A is a schedule with reference to the different categories of misconduct. This provides a guideline for APICSA Board in respect of possible disciplinary measures. Each case is, however, to be considered on its own merits, relevant circumstances and consistency in respect of past practice.

Dismissal may, for instance, under certain circumstances, be warranted even for a first offence despite the schedule's guideline. Under certain circumstances the disciplinary measures of suspension, demotion or transfers may be considered.

It may be necessary to conduct a disciplinary investigation to correctly establish the facts before charging a person. This should not cause unnecessary delays of convening the enquiry (see Disciplinary Procedure Annexure D).

7. Disciplinary Procedure

7.1. Verbal warning

- In cases of a moderate and non-mandatory offence, the relevant APICSA Board should conduct an informal disciplinary interview with the Member, which may result in a verbal warning. The APICSA Board must point out the undesirable behaviour or unacceptable performance to the Member, explain why it is a problem, discuss ways and means whereby a recurrence can be avoided. The Member may have a chosen fellow Member as representative present during this process.
- It is important that the Member at this stage be made aware that further misconduct or non-compliance with company standards could lead to progressive disciplinary action being taken against him, which could eventually lead to a dismissal.
- A written record is kept of this warning on the Member's personal file and is valid for a period of three months (see Disciplinary Procedure Annexure B).

7.2. Written warning

A Member will receive a written warning after he/she has committed a non-mandatory offence. This may be given where a non-mandatory offence is considered to be of such a nature that the issuing of a verbal warning would be too lenient, while a final written warning would be too severe.

- Alternatively, if the verbal warnings fail, APICSA Board should give the Member a written warning. A repetition of wrongful behaviour, or a more serious offence, can result in a final written warning.
- A written warning shall be valid for a period of 6 (six) months, where after the Member will revert to a clear record (an exception in this regard is dishonest conduct, where the specific nature and circumstances will be taken into account).

- All written warnings are to be recorded in a disciplinary form, which is to be placed on the Member's file. A copy of the disciplinary form is to be handed to the Member. A verbal warning, a written warning and a final written warning form are annexed hereto, marked Disciplinary Procedure Annexure B and Annexure C respectively.
- An informal disciplinary interview should be held by the APICSA Board. The Member may have a chosen Member representative present. The exact nature of the Member's misconduct, transgression or unacceptable behaviour or performance must be clearly recorded by the APICSA Board on the appropriate form. The Member shall take note of the required behaviour, and the consequences of not adhering to the required performance.
- The Member should be asked to sign a warning form only to indicate receipt thereof. Should the Member disagree with the contents of a warning or refuse to sign such warning, such disagreement or refusal must be noted on the warning form in the presence of a witness. APICSA Board may not insist on the Member's signature as this is not a pre-requisite for the validity of the warning.
- One copy should be handed to the Member and the second copy must be filed in the Member's personal file.

NOTE: Although the warning will be invalid and ineffective after 6 (six) months, it will still remain in the Member's personal file to serve as a history on the Member.

- APICSA Board, when giving verbal or written warnings, must counsel Members properly using the following guidelines:
 - Explain the purpose of the meeting:-
 - Meetings must be held in private;
 - State the breach of discipline;
 - State why the breach creates a problem.
 - Explore the Member's reasons:-
 - Let the Member explain reasons for the breach;
 - Ask for information;
 - Gather answers by asking why, what, where, when, how.
 - Develop an action plan:-
 - Ask the Member what needs to be done to resolve the situation;
 - Suggest certain steps to be followed to avoid the situation arising again;
 - Gain commitment from the Member.
 - Confirm the action plan:-
 - Go through the action category with the Member;
 - Confirm the plan with the Member;
 - Confirm what action will be taken.
 - Implement disciplinary measures (if necessary):-
 - Implement necessary disciplinary measures.
 - Follow-up on disciplinary measures.
- At such hearings/disciplinary interviews, prior to giving verbal or written warnings, the Member should be allowed an opportunity to state his/her case in response to the allegation and if so, should also be allowed the assistance of a fellow Member as a representative.

7.3. Final written warning

In the event of more serious misconduct or a continuation of misconduct, which has been disciplined previously without success, a final written warning will be issued.

If, subsequent to issuing a written warning, the APICSA Board is still not satisfied with the performance or behaviour of the Member or if the Member commits another offence within the prescribed period of six months, or if an Member commits any offence which warrants a final written warning, then the same procedure as detailed in the issuing of a written warning is to be followed. The final written warning shall remain valid for a period of 6 (six) months from date of issue.

The APICSA Board shall ensure that the Member or Member's representative is aware of the fact that, should the Member commit a further offence within the period of 6 (six) months following receipt of the final written warning, then that offence may be subject to the disciplinary action of dismissal, pending the decision reached at the formal disciplinary enquiry.

7.4. Formal Disciplinary Enquiry*

(*A formal inquiry will always be instituted in the event that the alleged offender is a board member.)

A disciplinary enquiry may be instituted when:

- The transgression concerns a mandatory offence for which the conducting of a disciplinary enquiry is compulsory;
- The behaviour or performance of a Member has not been successfully modified or improved as a result of previous verbal warnings and/or written warnings given.

The purpose of the disciplinary enquiry should be:

- To hear all relevant evidence concerning the alleged breach of conduct;
- To reach a just and equitable verdict;
- To obtain a clear picture of the Member's disciplinary history from their personal file, and once a verdict has been reached:-
 - * To attempt to get the Member to accept responsibility for improving or rectifying their unacceptable behaviour or poor performance, and to endorse this by giving an appropriate penalty;

- * Evaluate whether any actions by the parties could prevent a recurrence of the incorrect behaviour or poor performance.

NOTE: All documentation pertaining to the administration of a disciplinary enquiry is attached hereto, marked Disciplinary Procedure Annexures D to P.

The following principles should be observed at the enquiry:

- The enquiry should be held as soon as is reasonably possible after the event provided that a reasonable time is afforded to the Member to prepare his/her defence;
- The Member may, if necessary, be suspended on full pay, prior to, during or pending the outcome of the enquiry;
- The Member should, within 48 hours before the enquiry, be notified, in writing, of:-

* The date, time and venue of the enquiry; and

* The misconduct which he/she is alleged to have committed and of his/her rights at the enquiry.

NOTE: No Member may be dismissed/demoted without the holding of a disciplinary enquiry, only suspended with immediate effect until conclusion of the disciplinary enquiry.

7.5. Conducting the Formal Disciplinary Enquiry

Normally present at the enquiry are:

- The Chairman of the enquiry. The Chairman must not be the complainant/initiator of the case. The Chairman would be an unbiased third party such as an official of an employer's organisation of which APICSA is a member; a legal representative or consultant or in the alternative a member of APICSA who does not have any prior knowledge of the offence;
- The accused;
- An Member representative, unless the accused does not require representation (the representative should be a fellow Member);
- The Complainant/Initiator, together with witnesses, if any.

At the commencement of the enquiry, the Chairman should read out and explain the misconduct under enquiry. The Chairman should ask the accused if he/she understands the complaint and if so whether he/she pleads guilty or not guilty.

The Member's rights at the enquiry are to:

- Have an interpreter, if requested;
- Have representation by a fellow Member, if requested;
- Have the opportunity to confer with the representative, at reasonable times, before, during and after the enquiry;
- Question the complainant/initiator and witnesses during the enquiry either himself/herself or through his/her representative;
- Give evidence himself/herself (he/she cannot be compelled to do so), to call witnesses to give evidence and to argue either himself/herself or through his/her representative on the question of whether the misconduct occurred;
- Give evidence himself/herself to call witnesses to give evidence and to argue either himself/herself or through his/her representative in mitigation of disciplinary action;
- The Chairman may also call witnesses if, in his/her opinion, this is necessary. After hearing all sides of the case, the Chairman must decide whether the alleged misconduct was committed or not and, if so, on the action to be taken. The action taken should be in line with APICSA policy and comply with previous decisions involving the same or substantially the same circumstances. Consistency must always

be applied, taking into account the individual circumstances and APICSA's past practices relating to similar offences.

In reaching a decision, the Chairman should bear the following in mind:

- Aggravating circumstances if applicable (e.g. the severity of the case etc);
- The likely effect on morale if the penalty is perceived as too severe or too lenient;
- The effect of the penalty on the Member;
- Mitigating factors, if applicable.

The outcome of the enquiry may include:

- A verbal warning;
- A written warning;
- A final written warning;
- Dismissal from board, but keeping association membership;
- Summary dismissal;
- Also annexed hereto marked Annexure E is a notice to attend an enquiry. It should be noted that the attention of the accused Member should be drawn to the fact that, should he/she refuse/fail to attend the enquiry, the enquiry may be held in his/her absence. In such instances, care should be taken by the Chairman to ensure that the Member indeed refuses to attend the enquiry and waives his/her right to such an enquiry prior to continuing with the hearing in his/her absence.

The Chairman should not consult the Member's previous disciplinary records until after he/she has reached a decision on whether or not the alleged misconduct has been committed. A checklist containing a step-by-step guideline for conducting an enquiry is annexed hereto marked Annexure I. The Chairman may use this checklist as a tool during such disciplinary hearing and tick-off the different steps taken. After the enquiry, the employer should communicate the decision taken and preferably furnish the Member with written notification of that decision.

At the conclusion of the hearing, the Chairman of the hearing should ensure that the disciplinary hearing/enquiry record (see Annexure J) is completed and distributed. Together with Annexure J should be Annexure K, L, M or N, whichever is applicable, depending on the penalty decision. The Chairman must inform the Member of his/her right to refer the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA) within 30 (thirty) days if he believes a decision is unfair.



APICSA

Association of Professional Image Consultants of South Africa

GUIDELINES TO CONDUCT THE HEARING

Minutes of a Disciplinary Enquiry :

Venue:

Date/Time:

Present:

Chairperson: _____

Member: _____

Complainant: _____

Representative: _____

Interpreter: _____

Witnesses: _____

Preliminary Procedure:

(See Procedure Checklist)

1. Introduction of all Parties:

(Witnesses to wait outside until called).

2. Purpose of the Enquiry:

"This is a disciplinary enquiry to hear evidence relating to a transgression alleged to have been committed by _____ (the Member).

3. Confirmation of Adequate Time to Prepare:

Question put to Member by Chairperson, *"Have you had sufficient time to prepare for the enquiry?"*

Yes

No

4. Individual's Rights:

"May I confirm that you are aware that:

- *you are entitled to a representative and to an interpreter if you feel you need one and to have the opportunity to confer with your representative at reasonable times during and after the enquiry.*

- *you have the right to call witnesses in your defense in this matter, and you have the right to cross question any witnesses put forward by _____ (the Complainant).*

- *you are entitled to furnish evidence and to argue on the question of whether the transgression occurred.*

- *you are entitled to furnish evidence and to argue in mitigation of disciplinary action."*

"Do you understand?"

Minutes of a Disciplinary Enquiry (Continued)

5. Procedure for Enquiry:

The steps which must be followed for the Enquiry are specified in the Essential Procedure Guidelines.

6. Representatives

_____ (Member)

are you satisfied with your representative(s)?

7. Allegations:

"The allegation(s) against you is/are as follows:"

"Do you understand the nature of the allegation(s) against you?"

How do you plead?

Guilty

Not Guilty

8. Complainant's Statement:"

(Complainant)

"Could you please present your statement regarding the alleged offenses?"

(Use additional pages if required)

9. Member's Response:

(Member)

"Could you please respond to the alleged offenses?"

(Use additional pages if required)"

Minutes of a Disciplinary Enquiry (Continued)

10. Presentation of Witnesses:

Witness's Name: _____

Witness for: Complainant Member

(Use additional pages if required)

11. Closing Statements:

_____ (Complainant)

"Could you please present your closing statement?"

(Use additional pages if required)

_____ (Member)
Association of Professional Image Consultants of South Africa

"Could you please present your closing statement?"

(Use additional pages if required)

Minutes of a Disciplinary Enquiry (Continued)

12. Summarise Proceedings: (Chairperson) *"I shall now summarise the proceedings so far."* (Give a brief summary)

13. Conclude and Adjourn: *"This enquiry will now be adjourned to allow me to consider the evidence and findings presented up to this point.
We will reconvene on (Date/Time)*

Time Enquiry Adjourned:

14. Announcement of Verdict: **Date:**
"After due consideration of the facts and evidence presented at the enquiry on the (date)

I have come to the following conclusion:"

Guilty Not Guilty

15. Mitigating Circumstances

16. Aggravating Circumstances
