

CWEA Certification Ethics Procedures

A. GENERAL

1. Participants

- i. **Ethics Officer**
The Ethics officer is responsible for the fair and unbiased processing of ethics complaints and coordinating ethics procedures. The Ethics Officer cannot initiate ethics complaints. The Chair of the Membership and External Relationships Board Committee shall serve as the Ethics Officer.
- ii. **Ethics Hearing Committee**
The Executive Committee of the Technical Certification Program shall serve as the Ethics Hearing Committee. The highest ranking officer of the Technical Certification Program Executive Committee shall serve as the Chair of the Ethics Hearing Committee.
- iii. **Ethics Appeals Committee**
The Executive Committee of the Board of Directors shall serve as the Ethics Appeals Committee. The highest ranking officer of Executive Committee shall serve as the Chair of the Ethics Appeals Committee.
- iv. **Certificate Applicant**
An individual who has initiated the process of becoming certified by CWEA
- v. **Certificate Holder**
An individual who holds, or has held, a valid CWEA Certificate of Competence.
- vi. **Respondent**
A CWEA certificate applicant or certificate holder who is the subject of an ethics charge or investigation under these procedures.
- vii. **Complainant**
The party(s) initiating a complaint under these Ethics Procedures against a CWEA certificate holder or applicant. CWEA, any person, or any group may initiate a charge or complaint under these Ethics Procedures and act as the Complainant.

2. Nature of the Process

The Ethics Procedures will be applied only to cases where a CWEA certificate holder's or applicant's ability to perform the Essential Duties of the vocation comes into question. The Essential Duties define the basic vocational activities that are expected to be performed, with at least minimal competency, by all CWEA certificate holders. The Essential Duties are developed by a diverse cross-section of industry professionals and agencies following standard psychometric methodology. The Essential Duties are the basis for the subject matter of the CWEA certification tests and are published in the certification candidate handbooks.

CWEA Ethics Procedures are the primary means to resolve any charges, complaints, or inquiries brought or arising under the CWEA Certification Code of Professional Ethics. CWEA is the primary authority to process, handle, resolve, and dismiss any Code of Ethics inquiry or case, regardless of circumstances. The Ethics Procedures are not formal legal proceedings. However, the intent of the Procedures is to provide a fair process for hearing and resolving Code of Professional Ethics charges that may arise and come to the attention of CWEA.

CWEA Ethics Procedures are designed to operate without the assistance of attorneys. Any party may choose to be represented by an attorney with respect to these Ethics Procedures, however, if a party has retained an attorney, that party and attorney may be directed to communicate with CWEA only through CWEA Legal Counsel. The parties are encouraged to communicate directly with CWEA.

3. Complainants/Ethics Charge Statement

To initiate a charge, each Complainant must submit to the CWEA Ethics Officer an Ethics Charge Statement containing a detailed written description of the factual allegations supporting the charge or complaint under these Ethics Procedures.

4. Time Guidelines

CWEA will make reasonable efforts to follow the time guidelines set forth in these Ethics Procedures. However, CWEA's failure to meet any of the timing guidelines will not preclude or otherwise affect its ability to reach a final resolution of any ethics matter. CWEA may consider and elect either to grant or deny time extensions or postponements to Complainants and Respondents.

5. Litigation/Other Proceedings

CWEA may accept and resolve complaints under these Ethics Procedures even when civil, criminal, or administrative proceedings related to a complaint are also before a court, regulatory agency or other professional body. In its sole discretion, CWEA may also continue or delay or dismiss the processing of ethics complaints in such cases.

6. Complaints Concerning Non-Certificate Holders or Applicants

In the event that CWEA receives an Ethics Charge Statement concerning an individual who does not hold any CWEA certification or who is not a CWEA certification applicant, a representative of CWEA will so inform the complaining party in writing, and may refer the complaining party to an appropriate authority.

7. Improper Disclosure/False or Misleading Responses

Any failure to disclose pertinent information as requested/required by CWEA under these Procedures, or provision of misleading or false information, by a CWEA certificate holder or applicant, with respect to an ethics charge brought under these Ethics Procedures may also constitute a violation of the Code of Ethics.

8. Confidentiality

In order to protect the privacy of parties to an ethics case, all material prepared by or submitted to CWEA in connection with an ethics case will be confidential. An exception will be made if a release of information or documents is authorized by these rules, or required by law, or by legal process.

9. Relinquishing CWEA Certification

Should a Respondent attempt to relinquish CWEA certification or withdraw an application during the course of any ethics inquiry or case, CWEA may nonetheless elect to continue the matter to a final resolution according to these rules. Thus, an applicant or certificate holder cannot unilaterally halt the resolution of an ethics inquiry or case simply by relinquishing his or her application or certificate. The intent of this section is to prevent a Respondent from attempting to circumvent the

Ethics Procedures by relinquishing the certificate or application and then reapplying for certification at some later date.

B. ETHICS INQUIRIES/ETHICS CHARGE STATEMENTS

1. Ethics Inquiries

Any party seeking to file a complaint concerning a CWEA certificate holder or applicant should contact the CWEA Ethics Officer. The Ethics Officer will forward to the Complainant a copy of the CWEA Code of Professional Ethics and the Ethics Procedures. The Ethics Officer will record in confidence all ethics inquiries and identify: the party(s) making the inquiry; the CWEA certificate holder or applicant in question; the State from which the inquiry originates; and the nature of the alleged problem. This case log will remain confidential, available only to authorized representatives of CWEA.

2. Ethics Charge Statement/Description of Charges

An Ethics Charge Statement is a written communication from a Complainant describing an allegation(s) against a CWEA certificate holder or applicant. When an Ethics Charge Statement is received by CWEA, the CWEA Ethics Officer will: (a) Review the material received (b) Review the allegations made concerning the charge(s); (c) Determine whether the charge(s) are presented in sufficient detail to cause CWEA to conduct a preliminary investigation; and, if necessary, (d) Contact the Complainant and request additional factual material. The CWEA Ethics Officer will send a letter by registered mail to the Complainant and Respondent stating whether or not the charges submitted will result in the initiation of a formal ethics investigation.

C. ACCEPTANCE/REJECTION OF ETHICS CHARGES

1. Charge Acceptance

The CWEA Ethics Officer will review each charge contained in an Ethics Charge Statement submitted by a Complainant and determine whether it warrants filing of a formal Ethics Complaint. The following criteria are among those considered to determine if a charge is accepted or rejected: (a) Whether the respondent is a CWEA certificate holder or applicant; (b) Whether a substantiated charge would constitute a violation of the Certification Code of Professional Ethics; (c) Whether the amount of time passed since the alleged violation suggests that the complaint be rejected as stale; (d) Whether relevant, reliable information or grounds concerning the charge is available or may be obtained; (e) Whether the Complainant is willing to provide testimony or other evidence to CWEA concerning the complaint; and (f) Whether the charge appears to be justified or unjustified, considering the information available to, or obtainable by, CWEA.

The CWEA Ethics Officer will determine whether the charge and available information support a formal Ethics Complaint. If so, the Officer will issue a formal Ethics Complaint and Investigation Notice, generally within 30 calendar days of receipt of the Charge Statement.

2. Charge Rejection

If the CWEA Ethics Officer determines that an allegation is insufficient to issue a formal Ethics Complaint, the charge will be rejected. The CWEA Ethics Officer will notify the Complainant of the rejection, as well as the reason(s) for the rejection. This notification will be made by letter within approximately seven (7) business days of the determination.

D. ETHICS COMPLAINTS AND INVESTIGATION

1. Ethics Complaint and Investigation Notices

After an ethics charge is accepted, the CWEA Ethics Officer will issue a formal Ethics Complaint and Investigation Notice identifying each Code of Ethics violation alleged and the alleged factual basis for each. This Notice will be delivered to the Respondent, at his/her last known address(es) by registered mail and will be marked, "Confidential." If the Respondent does not request a Hearing, and the Ethics Officer elects not to set a hearing, the complaint will be resolved without a hearing by the Ethics Officer, according to these Procedures.

E. ETHICS COMPLAINT RESPONSE

1. Submitting an Ethics Complaint Response

Within thirty (30) days of the notice date of issuance of an Ethics Complaint and Investigation Notice, the Respondent may submit an Ethics Complaint Response according to the instructions in the Notice. The Ethics Complaint Response, if any is submitted, must include the following: (a) A full response to each charge contained in the complaint; (b) The identification, and a copy, of each document that the Respondent believes to be relevant to the resolution of the Ethics Complaint; and (c) Any other information that the Respondent believes will assist CWEA in fairly considering the Ethics Complaint.

2. Response Deficiencies

The Ethics Officer or the Ethics Hearing Committee may require the respondent to supplement or expand a response, and/or may elect to interview the Respondent for such purpose.

F. FINAL RESOLUTION OF COMPLAINTS BY ETHICS OFFICER

1. Ethics Officer Resolution of Complaints

In the event that the Respondent does not request a Hearing before the Ethics Hearing Committee, and the Ethics Officer elects not set a hearing, the Ethics Officer will consider the matter under these Procedures, make a determination regarding the merits of the Ethics Complaint, and on the basis of the evidence presented without hearing, issue a Final Decision and Order.

2. Final Resolution/Decision and Order

The Decision and Order of the Ethics Officer is binding on the parties, subject to appeal consistent with these Procedures.

G. ETHICS COMPLAINT HEARINGS – ETHICS HEARING COMMITTEE

1. Ethics Hearing

In the event that the Respondent requests a Hearing, or the Ethics Officer sets a hearing, the Ethics Hearing Committee will conduct an Ethics Complaint Hearing designed to collect and weigh all of the available information and evidence relevant to the particular Complaint.

2. Hearing Schedule and Location

The Hearing date for each ethics case will be scheduled by the Ethics Officer, in consultation with the Chair of the Ethics Hearing Committee. Each Hearing will be held at a site determined by the

Ethics Officer and/or Ethics Hearing Committee Chair and, if practical, held no less than sixty (60) days and no more than one hundred twenty (120) days from the receipt of an Ethics Charge Statement by CWEA. Hearings will not be held prior to the date permitted in these rules for the Respondent to submit a Response.

3. Hearing Notice and Attendance

The Ethics Officer will schedule the hearing and notify the Respondent and Complainant in writing via registered mail. The Respondent and Complainant will be required to indicate the following at least seven (7) calendar days before the hearing: (a) Whether the Respondent or Complainant intends to appear at and participate in the hearing in person; (b) Whether the Respondent or Complainant intends to participate in the hearing via telephone; if so, the telephone number where the Respondent or Complainant is to be reached during the hearing; (c) Whether the Respondent or Complainant intends to appear at the hearing with an attorney or other representative; if so, the name, address and telephone number of such attorney or representative; (d) Whether the Respondent or Complainant intends to present witnesses at the hearing; if so, the name, address and telephone number of each witness and a brief summary of the content of the witness' proposed testimony; and (e) Whether the Respondent or Complainant intends to present or offer any documentary information or other written proof during the course of the hearing that has not been previously submitted by CWEA. If such documentary information is offered, the Respondent or Complainant must provide to the Ethics Officer a copy of each document and a brief description of the document's relevance at least seven (7) calendar days before the hearing. Any Ethics Hearing may proceed to a conclusion and decision whether or not the Respondent or Complainant is present.

4. Postponement of Hearing

A Respondent or Complainant may request a hearing postponement. This request must be made in writing and received by CWEA at least ten (10) days prior to the Hearing date, except in cases of emergency, when such a request must be made as soon as possible after the need for a postponement arises. The Ethics Hearing Committee Chair, CWEA Executive Director, or the Ethics Officer may grant a postponement.

5. Additional Responsibilities and Rights of the Parties

In addition to other responsibilities and rights of the parties as set forth in these Procedures, the Respondent and the Complainant may do or may be required to do the following: (a) Attend the hearing and be present during the testimony of all witnesses; (b) Present witnesses, written information and argument on their behalf; (c) Review or inspect all oral or written information presented prior to the Hearing ; and (d) Comply with all orders or directives issued by the CWEA with respect to the Ethics Charge, including those of the Ethics Officer and the Ethics Hearing Committee.

6. Witnesses

Generally, all witnesses will be excluded from the hearing room except during the presentation of their testimony. The Ethics Hearing Committee Chair will rule on any request to the contrary.

7. Confidentiality/Inclusion of Other Persons

All hearings are considered confidential. No observers are permitted without special permission. For good cause or special circumstances, a party may request the presence of an observer in the hearing room during all or part of a hearing. The Ethics Hearing Committee or the Ethics Hearing Committee Chair will rule on these requests.

8. Information and Exhibit Submittal

The Ethics Hearing Committee will receive and consider all information or exhibits that appear to the Committee to be relevant to the Ethics Complaint at issue, including any information which may be helpful to a complete understanding of the case. The Ethics Hearing Committee may consider information, for example, concerning relevant prior conduct. Objections relating to relevance of information and similar evidentiary issues will be decided by the Ethics Hearing Committee or the Ethics Hearing Committee Chair.

9. Record of the Hearing

A taped, written or summary record of the Hearing will be made by the Ethics Hearing Committee, CWEA staff, or a stenographer/recorder; however, no taped, video, or other electronic recording of the Hearing will be permitted, unless specifically authorized in writing in advance of the Hearing by the Ethics Officer or the Ethics Hearing Committee Chair. Off-the-record conversation may be requested by parties and will not be part of the hearing record.

10. Hearing Expenses

Parties will be responsible for their own expenses associated with the case. Should a party request written minutes or recorded copy of the hearing, a reasonable fee will be assessed for preparation of the requested materials.

11. Closing of the Hearing Record

The hearing record, if any, will generally be closed immediately following the conclusion of the hearing, unless otherwise directed by CWEA. Any party may request that the record remain open for thirty (30) days following the Hearing for the purpose of receiving additional documentary information and evidence. The Ethics Hearing Committee Chair may deny any such request to keep the record open.

H. ETHICS OFFICER/ ETHICS HEARING COMMITTEE DECISIONS AND ORDERS

1. Decision and Order

A Decision and Order will be prepared by either the Ethics Officer or the Ethics Hearing Committee within thirty (30) days of the closing of the Hearing record, or as soon thereafter as practical.

2. Contents of the Ethics Officer/ Ethics Hearing Committee Decision

The following information will be included in the Ethics Case Decision: (a) A summary of the case, including the positions of the parties; (b) A summary of all relevant factual findings based on the record; (c) A final ruling on each Code of Ethics violation charged and the reason(s) therefore; (d) A statement of any disciplinary action(s) and/or sanction(s) issued; and (e) Any other material that the Ethics Officer or Ethics Hearing Committee determines to be appropriate.

3. Contents of the Ethics Officer/ Ethics Hearing Committee Disciplinary Order

In addition to the Case Decision, the Officer or Committee may issue an Order following the Hearing. The Order may include any of the following items: (a) An order directing the Respondent to cease and desist from any behavior or acts found to be in violation of the Code of Ethics; (b) A statement of the disciplinary action(s) imposed and a mandate directing the Respondent to comply immediately with these disciplinary action(s); and (c) Any other appropriate directive consistent with the Decision.

I. DISCIPLINARY ACTIONS, REFERRALS, NOTIFICATIONS, AND SANCTIONS

1. Disciplinary Actions

When a Respondent certificate holder or applicant has been found to have violated one or more provisions of the Code of Ethics, CWEA may issue any one or more of the following types of disciplinary and remedial actions: (a) The CWEA certificate holder or applicant be ineligible for recertification or certification, and that any reapplication of the Respondent for CWEA certification be denied for a period of not less than six (6) months and not more than five (5) years; (b) A requirement that the Respondent take corrective action; (c) A private reprimand and censure of the Respondent concerning Code of Ethics violations; (d) A public reprimand and censure of the Respondent concerning the Code of Ethics violations; (e) The imposition of a term of certification probation for any period up to three (3) years, which may include conditions on the Respondent's conduct during that period, such as the condition that the Respondent's performance of the Essential Duties of the CWEA certified vocation be monitored^[chris1]; (f) The suspension for a period of not less than six (6) months and not more than five (5) years of any CWEA certification held by the Respondent, which shall include the requirement that the Respondent return to CWEA all original or copied credential materials for the suspension period, and immediately stop any identification indicating certification by CWEA during the suspension period; and (g) The revocation of any CWEA certification held by the Respondent, which shall include the requirement that the Respondent return to CWEA all original or copied certification materials, and to immediately stop any and all professional identification indicating certification by CWEA.

2. Referral and Notification Action

CWEA will notify the employer of the Respondent of any final disciplinary action taken against a Respondent by sending a copy of the Ethics Decision and Disciplinary Order issued. Such notification may be sent by CWEA at any point after the time period for the Respondent to appeal an adverse decision has lapsed.

J. APPEALS PROCEDURE

1. Ethics Appeals Committee

The Ethics Appeals Committee shall be responsible for resolving all timely appeals concerning decisions of the Ethics Officer and/or the Ethics Hearing Committee. The Chair of the CWEA Ethics Appeals Committee will preside over and conduct each Ethics Appeal, consistent with these procedures.

2. Time Period for Appeals to the Ethics Appeals Committee

Within thirty (30) days of the issuance date of Ethics Case Decision, the Respondent or the Complainant may appeal all or a portion of the Decision and Order to the CWEA Ethics Appeals Committee pursuant to this Section. Any request for appeals received after the expiration of this time period will not be reviewed or considered.

3. Grounds for Appeal to the Ethics Appeals Committee

Following a timely appeal, an Ethics Case Decision may be reversed, or otherwise modified, or upheld by the CWEA Ethics Appeals Committee.

The grounds for appeal of an adverse decision are strictly limited to the following: (a) Procedural Error. (that is, an allegation that the Ethics Hearing Committee or Officer misapplied a procedure

contained in these rules and prejudiced the appealing party.); (b) New or Previously Undiscovered Information. (that is, following the closing of the Hearing record, the appealing party has allegedly located relevant evidence that: was not previously in his/her possession; was not reasonably available prior to closure of the record; and, could have affected the decision on the Ethics Case ; (c) Misapplication of the Ethics Code. (that is, an allegation that the Committee or Officer misapplied the provisions of the Code of Ethics in reaching its Decision, and the misapplication prejudiced the appealing party.); and/or (d) Contrary to the Information Presented. (that is, an allegation that the Ethics Case Decision is contrary to the substantive evidence provided in the record). With respect to Subsections 3(a), (b), and (c), above, the CWEA Ethics Appeals Committee will consider only arguments that were presented to the Ethics Hearing Committee or Officer prior to the closing of the Hearing record.

4. Contents of Appeal/Letter of Appeal

In order to complete an appeal to the CWEA Ethics Appeals Committee under this Section, the appealing party must submit a letter or other writing to the CWEA Ethics Appeals Committee (CWEA send a copy of the appeal to the opposing party), within the prescribed time period. The written appeal must contain the following: (a) The name or subject matter of the ethics case, and a statement of whether the case was decided by the Ethics Hearing Committee or the Ethics Officer and the date of the Decision; (b) A statement of the reasons for the appeal, including a detailed explanation of the reasons that the appealing party believes that the Decision should be reversed or otherwise modified; and (c) Accurate, complete copies of any material which the appealing party believes supports the appeal and which has not already been submitted to CWEA.

5. Optional Response to Appeal Letter

Within fourteen (14) days of the date of any timely appeal request, the non-appealing party in the case may submit to the CWEA Ethics Appeals Committee a Response to the Appeal by letter or similar document. If submitted, this Response should fully explain any objections that the non-appealing party wishes to present to the CWEA Ethics Appeals Committee concerning the appeal.

6. CWEA Ethics Appeals Committee Hearings

During the course of any appeal, the CWEA Ethics Appeals Committee will review: the Hearing record; any appeal submissions presented by the parties; and/or any other information determined by the Appeals Committee to be relevant. Thereafter, within one hundred eighty (180) days after the submission of a complete appeal (that is, after the expiration of the 14-day period for submission of a Response to Appeal), the CWEA Ethics Appeals Committee will determine the outcome of the appeal by majority vote in closed session.

7. CWEA Ethics Appeals Committee Decisions and Orders

Within thirty (30) days of the date of the Ethics Committee's determination on the appeal, or as soon thereafter as practical, the CWEA Ethics Appeals Committee, by the Committee Chair or the Executive Director, will issue an Appeal Decision and Order stating the decision regarding the appeal. With respect to each appeal, the CWEA Ethics Appeals Committee Decision and Order shall include the following: (a) A summary of any relevant portions of the Ethics Case Decision and Order; (b) A summary of any relevant procedural or factual findings made by the CWEA Ethics Appeals Committee, to the extent that they differ from the Ethics Case Decision and Order; (c) The ruling(s) with respect to each matter under appeal; and (d) The CWEA Ethics Appeals Committee final Order affirming, reversing, amending or otherwise modifying any portion of the Ethics Case Decision and Order, including any disciplinary or remedial action or sanction. Copies of the CWEA Ethics Appeals Committee Decision and Order shall be sent to the parties, via U.S.

mail, return receipt requested, or other appropriate delivery method. The decision of the Appeals Committee is final and binding.

K. FINALIZING ETHICS CASES

1. Events Which Will Result in Closure of an Ethics Case

An Ethics Case will be closed, and all related proceedings ended, when any one or more of the following occur: (a) The Ethics Case has not been accepted and/or the charges have been rejected as the basis for an Ethics Complaint; (b) Following the lapse of any appeal rights, a final Decision has been issued by the Ethics Officer, the Ethics Hearing Committee, and/or the CWEA Ethics Appeals Committee pursuant to these Procedures; or (c) CWEA has elected to terminate the processing of the Charge.

L. REAPPLICATION AND REINSTATEMENT PROCEDURES FOLLOWING REVOCATION, SUSPENSION, AND PROBATION ORDERS

1. Revocation Orders/Reapplication Petition

Five (5) years after the issuance of an Order revoking certification under these rules, a Respondent may submit to the CWEA Technical Certification Program Executive Committee a Petition For Permission To Reapply For Certification (Reapplication Petition), as set forth in Section 4, below.

2. Suspension Orders/Reinstatement Requests

Upon the expiration of a final Order suspending certification issued under these rules, a Respondent may submit to the CWEA Technical Certification Program Executive Committee a Request For Certification Reinstatement (Reinstatement Request), as set forth in Section 4, below.

3. Probation Orders/Reinstatement or Referral

Upon the expiration of a final Order of probation included with a final decision on an Ethics Case, the CWEA Technical Certification Program Executive Committee will determine whether the Respondent has or has not satisfied the terms of the probation order, and will do either of the following: (a) If the Respondent has satisfied the terms of probation in full, the CWEA Technical Certification Program Executive Committee, will verify that the probation has been completed and will reinstate the Respondent to full certification status provided the CWEA continuing education and recertification criteria are met; or (b) If the Respondent has not satisfied the terms of probation in full, the CWEA Technical Certification Program Executive Committee will refer the case to the CWEA Hearing Committee for review and/or action consistent with these rules, including, but not limited to, continuation of the probation order and issuance of additional disciplinary or remedial actions concerning the probation terms.

4. Contents of Reapplication Petitions and Reinstatement Requests

Reapplication Petitions and Reinstatement Requests must include the following information: (a) A statement of the relevant Ethics Case name, and the date that the final CWEA Ethics Decision was issued; (b) A statement of the reasons that the Respondent believes support or justify the acceptance of the Reapplication Petition or the Reinstatement Request; and (c) Copies of any relevant documentary or other material upon which the Respondent relies in support of the Petition or Request.

5. Review of Reapplication Petition and Reinstatement Request

After receipt of a timely Petition or Request, the CWEA Technical Certification Program Executive Committee will review and issue a decision regarding the Petition or Request. Generally, the matter will be considered within forty five (45) days after receipt of the Reapplication Petition or Reinstatement Request. Each Petition or Request will be considered by a quorum of the CWEA Technical Certification Program Executive Committee, and the final outcome of the appeal will be determined by majority vote of the CWEA Technical Certification Program Executive Committee in closed session.

6. Decisions and Orders on Reapplication Petition and Reinstatement Requests

Within thirty (30) days of conclusion of the CWEA Technical Certification Program Executive Committee's review and determination regarding a Reapplication Petition or Reinstatement Request, or as soon thereafter as practical, the CWEA Technical Certification Program Executive Committee will prepare and issue a Decision and Order indicating whether the Petition or Request is granted, or denied. If appropriate, the Decision and Order will indicate any conditions of certification or recertification. Copies of the Decision and Order will be sent to the requesting/petitioning party, via U.S. Mail, return receipt requested, or other appropriate delivery method. While no appeal of the Decision and Order is permitted, the Respondent may submit a new Petition or Request pursuant to this Section no less than two (2) years after the issuance of the Decision and Order.

