

	TITLE:	Number: CMC 15.3.1.2
	ETHICS VIOLATIONS	Revision: 04
		Date: February 03, 2021

This document was developed by the Certification Management Council (CMC) and approved by the American Society for Nondestructive Testing (ASNT) Board of Directors (BOD). Legal counsel has reviewed this document to assure that due process is served for both the Complainant and the Respondent.

The Ethics Committee will not allow the ethics process to be utilized to enhance a party's case in litigation, nor will it enable ASNT to become involved in litigation or other private disputes between parties. To the extent that the subject of a complaint is also the subject of a legal proceeding to which ASNT is not a party, the Ethics Committee shall take no action or cease action as soon as the Committee is made aware of ongoing legal action. The results or findings from legal actions or other relevant proceedings may be used as justification for ethics rulings.

1.0 PURPOSE

- 1.1. To provide specific guidelines to the Certification Management Council regarding complaints resulting from alleged violations of the Code of Ethics for Nondestructive Testing Personnel certified by ASNT and individuals or organizations acting as an Agent of ASNT in the delivery or administration of ASNT exams.

2.0 SCOPE

- 2.1. This procedure shall be applied and used upon receipt of complaints by the Certification Management Council (CMC). This procedure applies only to alleged violations of individuals that hold valid ASNT Certificates in one or more methods as well as agents delivering or administering ASNT exams.
- 2.2. For Industrial Radiography Radiation Safety Personnel (IRRSP) Certification Program ethics violations, refer to ASNT Practice No. ASNT-CP-IRRSP-1A.

3.0 RESPONSIBILITIES

CMC

- 3.1. The Certification Management Council is responsible for:
 - 3.1.1. The CMC Chair shall appoint the Ethics Committee.
 - 3.1.2. The Ethics Committee consists of three (3) CMC members. The Ethics Committee Chair shall be a member of the CMC Administrative Body which consists of the CMC Chair, Vice Chair, Program Maintenance Division Chair, Level III Division Chair, Level II Division Chair, ACCP Division Chair, and the IRRSP Chair.
- 3.2. The Ethics Committee is responsible for:
 - 3.2.1 All decisions at each level of the process.
 - 3.2.2 Conducting hearings and ruling on ethics cases.
 - 3.2.3 Maintaining confidentiality relating to the Complainant and the Respondent and the Complainant's subject throughout the complaints, disputes, and appeals process to the extent possible given the need to conduct an adequate investigation.

ASNT ISC

- 3.3. The ASNT Director of Certification is responsible for providing the necessary International Service Center (ISC) support to the Ethics Committee and being the point of contact for all related investigatory interface activities.
- 3.4. A member of the ASNT ISC Staff shall be appointed to the Committee as a non-voting member of the Ethics Committee.

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- 3.5. Maintain confidentiality relating to the Complainant and the Respondent and the Complaint's subject throughout the complaints, disputes, and appeals process to the extent possible given the need to conduct an adequate investigation.
- 3.6. The ASNT Director of Certifications conducts investigations to the extent possible with the assistance of ISC staff and outside consultants, when appropriate.

4.0 REFERENCES

- 4.1. CMC Policy N-1 CMC Rules of Conduct
- 4.2. *Robert's Rules of Order* (latest edition)

5.0 DEFINITIONS

- 5.1. **Agent:** An individual or organization bound by a contract with ASNT to administer or deliver ASNT examinations.
- 5.2. **Certificate:** The document issued by ASNT according to the Certification Management Council's actions following the rules and procedures heretofore published by ASNT.
- 5.3. **Complaint:** A formal written statement that details a claim made against an ASNT certified individual or agent believed to have deviated from the Code of Ethics.
- 5.4. **Complainant:** Individual filing the Complaint.
- 5.5. **Memorandum of Disposition (MOD):** A formal memo documenting an action or Ruling by the Ethics Committee.
- 5.6. **Quorum:** This procedure means a simple majority of voting members of the Ethics Committee and the ASNT ISC non-voting member who is responsible for documenting the process and must be present to achieve quorum.
- 5.7. **Respondent:** Is the individual or agent accused of violating the Code of Ethics.
- 5.8. **Sanction:** As further set forth in Section 15, revocation or suspension of a Certificate/approval, a written reprimand, or denial of the ability to obtain a certificate/approval.

6.0 COMPLAINTS

- 6.1. A valid Complaint shall contain:
 - 6.1.1. The name, place of residence or business, telephone, fax, or email of any person(s) making ethical charges and the name, place of residence or business, and ASNT certificate number (if available) of the person ethical charges are being made against.
 - 6.1.2. A clear and concise description of the issues of fact involved and ethical allegations raised.
 - 6.1.3. Any documentary evidence supporting the claim (forged certificates, emails, social media posts, etc.).
 - 6.1.4. The complaint should be submitted on the ASNT Complaint Form (see Appendix A).
 - 6.1.5. A Complainant may not file more than one complaint against the same person for the same factual matter.
- 6.2. Upon receipt of a Complaint meeting the requirements of 6.1, ASNT ISC shall assign a case number and send an acknowledgment to the Complainant. ASNT ISC shall notify the CMC Chair and the Chair of the Ethics Committee.
- 6.3. Complaints not meeting the criteria in 6.1 shall be reviewed. If the Complaint appears to have merit, the Complainant will be contacted and requested to resubmit the Complaint with any additional appropriate supporting information. Appendix A contains the ASNT Complaint Form.
- 6.4. If the Complainant does not choose to file the Complaint formally, ASNT ISC may decide to fill out and submit the Complaint to the Ethics Committee Chair based on the received evidence.
- 6.5. If the Complainant does not choose to file the Complaint formally and no evidence has been provided, ASNT ISC may deem the matter insufficient for further action. ASNT ISC shall send a

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Memorandum of Disposition to the CMC Chair and Ethics Committee Chair, any information obtained shall be maintained by ASNT ISC. Appendix B contains the ASNT Memorandum of Disposition.

- 6.6. During the process, ASNT ISC shall correspond with the Respondent. The following notifications shall be sent as appropriate:
 - 6.6.1. Notification to the Respondent that they are under investigation by the Ethics Committee.
 - 6.6.2. Notice of Pre-Hearing Ruling.
 - 6.6.3. Notice of Hearing.
 - 6.6.4. Notice of Ruling.
 - 6.6.5. Notice of Appeal Ruling (if applicable).
- 6.7. The original documentation of all written complaints, evidence, and other information shall be maintained by ASNT ISC.

7.0 Initial Data Gathering and Investigation

- 7.1. Upon a determination by the Ethics Committee Chair and ASNT Director of Certification that a Complaint has sufficient merit to warrant an investigation, ASNT ISC shall gather all available information relative to the Complaint and the named Respondent or Agent.
- 7.2. Once the investigation information is gathered, ASNT ISC shall send the information to the Ethics Committee Chair for review and disposition for completeness.
- 7.3. Any time before the hearing date, ASNT ISC may contact the involved parties, consult with Ethics Committee members, other ASNT ISC staff, or CMC member experts for specific clarification of potential issues. Discussions will be relevant to the Complaint to determine if the Complaint has merit for a formal hearing. ISC shall assure conformance confidentiality throughout these consultations with others.
- 7.4. During the investigation, ASNT ISC shall compile and maintain all evidence and correspondence about the case.

8.0 Initial Processing

- 8.1. Once the initial information is gathered and approved by the CMC Chair, ASNT ISC shall send the information to the Ethics Committee Chair for review and disposition.
- 8.2. If the CMC Chair and Ethics Committee Chair agree, the Complaint is assigned to the Ethics Committee. If they feel additional information is required or they determine the case has no merit, it is returned to the ISC staff.
- 8.3. If the case is referred the Ethics Committee the Respondent shall be notified that a Complaint has been filed, the nature of the Complaint and the specific section(s) of the Code of Ethics that the Respondent is alleged to have violated.
- 8.4. The Respondent shall have 30 days after receipt of the Notification letter to file an initial response.

9.0 COMMITTEE

- 9.1 The CMC Chair, or Vice Chair in the absence of the Chair, shall ensure that no members of the Ethics Committee are involved in the subject of the Complaint and shall dismiss them from any case where a conflict of interest may exist.
- 9.2 If an Ethics Committee member must leave the Committee or be relieved from a case due to conflict of interest, the CMC Chair shall select an alternative committee member.

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10.0 PRE-HEARING PROCEDURES

- 10.1. Once all information has been transmitted to the Ethics Committee, the Ethics Committee Chair shall conduct a Pre-Hearing meeting. All members of the Ethics Committee and applicable ASNT ISC members shall be present, in person or by telephone or remote communications.
- 10.2. ASNT ISC shall draft the meeting minutes of the Pre-Hearing meeting. The Ethics Committee shall approve the minutes.
- 10.3. During the Pre-Hearing meeting, the case's information shall be discussed, and a determination shall be made that sufficient compelling evidence and information is available. The Ethics Committee may vote to make a Preliminary Ruling that will stand unless the Respondent request to participate in a subsequent Disposition Hearing, or the Committee may decide that additional information is needed before a Ruling can be rendered.
- 10.4. If it is determined that a Preliminary Ruling cannot be made with the available evidence, then the case goes back to ASNT ISC for more information, and another Pre-Hearing meeting will be required.
- 10.5. The Pre-Hearing Ruling shall require a majority vote of the Ethics Committee.
- 10.6. Once a Preliminary Ruling is made, ASNT ISC shall draft a letter to the Respondent, alerting them of the Preliminary Ruling and the right to a participate in a subsequent Disposition Hearing, if they so desire.
 - 10.6.1. ASNT ISC may seek legal counsel at any time during the ethics process.
 - 10.6.2. The letter shall be sent by certified mail or another traceable carrier to the Respondent and shall indicate a return deadline to schedule a subsequent Disposition Hearing.
- 10.7. The Respondent may choose to participate in a Disposition Hearing, at which time the Respondent will have the opportunity to state their case before the Ethics Committee. The Disposition Hearing shall be set for at least thirty (30) days after the date the Respondent was sent the letter.
- 10.8. If the Respondent chooses not to dispute the Pre-Hearing Ruling or does not respond within 30 days after receipt of the Pre-Hearing Ruling, the Preliminary Ruling will be deemed final and the case will be closed, and a Memorandum of Disposition shall be generated and placed in the case file. The Respondent may also request in writing additional time to prepare for the Hearing.
- 10.9. Before the Disposition Hearing, ASNT ISC shall furnish copies of, or give access to, exhibits to be presented at the subsequent Hearing to all parties of record. At no time shall the identity of the Complainant be divulged to the Respondent unless express permission has been granted by the Complainant.

11.0 DISPOSITION HEARING

- 11.1. Disposition Hearings shall be conducted no less than thirty (30) days from the date the Respondent was sent the letter.
 - 11.1.1. The Ethics Committee may change the Hearing time and date for a good cause, and the interested parties shall be notified promptly by telephone or electronic communication of such change. Respondent shall be furnished with reasonable notice of any new time or place of Hearing no less than fourteen (14) days before the new Hearing date. The 14-day notice may be waived if all parties agree on the new date and time.
- 11.2. Disposition Hearings shall be conducted with the full Ethics Committee present.
 - 11.2.1. Be presided over by the Ethics Committee Chair who may be advised on issues by ASNT legal counsel.
 - 11.2.2. Be officially recorded and so stated at the beginning of the Hearing.
 - 11.2.3. Be continued or adjourned for reasonable cause in the discretion of the Ethics Committee Chair.

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Ruling

- 11.3. At the close of the Disposition Hearing, the Ethics Committee shall go into an executive (closed) session to arrive at a Final Ruling.
- 11.4. The Final Ruling shall require a majority vote of the Ethics Committee.
- 11.5. After adopting findings of fact and conclusions, the Ethics Committee shall issue a written Final Ruling as soon as practicable, but in no event more than sixty (60) business days after the Disposition Hearing.
- 11.6. The Final Ruling shall take one of the following actions: dismiss the Complaint or impose one of the sanctions provided for in Section 15 Sanctions. If the Committee decides to dismiss the complaint, it may do so based on lack of ethics violation or any ethics violation was of a technical or minor nature that would not warrant further action or was adequately addressed by another forum. In addition to any of these actions, the Committee may vote to issue an educative letter. The Committee may choose to dismiss some charges but find violation and take disciplinary action on the basis of other charges in the Complaint. The Respondent shall then be notified of the Committee's action, the ethical standard(s) involved, if any, the rationale for the Committee's decision, and any sanction.
 The Final Ruling shall:
 - 11.6.1. Be explicit and include the official findings of fact and conclusions of the Ethics Committee as a part thereof.
 - 11.6.2. Be served upon the Respondent by ASNT ISC or its legal counsel as a representative of the Ethics Committee Chair.
- 11.7. The Final Ruling shall be sent to ASNT ISC by the Ethics Committee. ASNT ISC may seek legal counsel about the Ruling. ASNT or its legal representative shall furnish a copy of the Final Ruling to the Respondent by certified mail or another traceable carrier. The Final Ruling shall alert the Respondent of their right to an Appeal.
- 11.8. The Complainant shall also be notified of the Final Ruling.

12.0 APPEAL

- 12.1. The Respondent may petition the Ethics Committee to vacate the Final Ruling or to reduce the severity of a Sanction set forth in the Final Ruling. The request for an Appeal shall be in writing and sent to the CMC Chair within fourteen (14) days of receipt of the Final Ruling. The Respondent may request an extension in writing to ASNT ISC within fourteen (14) days of receipt of the Ruling.
- 12.2. The appeal shall include as appropriate;
 - 12.2.1. A copy of the Final Ruling.
 - 12.2.2. Arguments that explain why the Respondent believes the decision was in error.
 - 12.2.3. References to the provisions of the ASNT procedures upon which the appellant relies.
 - 12.2.4. Relevant evidence that directly supports the Respondent position.
 - 12.2.5. Specific relief sought from the Appeal Committee.
- 12.3. The CMC Chair shall select an Appeal Committee consisting of three (3) members of the Administrative Body (AB) as described in 3.1.2 or CMC Full Member if there are not enough AB members available.
 - 12.3.1. The Appeal Committee shall not contain any members of the original ruling Ethics Committee. No member of the Appeal Committee may communicate details of the case with the original Ethics Committee while the case is pending.
- 12.4. The Appeal Committee shall review the Final Ruling, all information contained in the case file, and the record of the Hearing. Based upon its review, the Appeal Committee may affirm, modify, or vacate the Final Ruling.

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- 12.5. The disposition of the review by the Appeal Committee shall be final and unappealable in any forum.
- 12.6. Submission, investigation, and decision on appeals shall not result in any discriminatory actions against the Complainant.

13.0 ANCILLARY MATTERS

- 13.1. A team member or agent directly engaged in the performance of investigative functions for the Ethics Committee may not participate or advise in any decision to be made in a ruling.
- 13.2. Any person appearing before the Ethics Committee or its representatives is entitled to be accompanied, represented, and advised by legal counsel at their own expense. Legal counsel may represent the Ethics Committee and ASNT ISC.
- 13.3. Any member of the Ethics Committee or its Chair may issue requests for appearance and may issue requests for documents pertinent to the Hearing noting that the Ethics Committee and its Chair do not have subpoena power to compel such appearance or documents.
- 13.4. During a hearing, if any member completes their term on the CMC or the Ethics Committee, they may continue duties on the Ethics Committee until complete and a Final Ruling is achieved.

14.0 SPECIAL MATTERS

- 14.1. Practice or offer to practice by non-certified personnel claiming ASNT certification complaints related to an individual's claims to ASNT certification may be received and investigated. Upon receipt of such Complaint based upon verifiable information, the Ethics Committee Chair may if deemed appropriate:
 - 14.1.1. Make reasonable efforts to notify the individual of the Complaint, provide them with reasonable opportunity to respond in writing or in person (or via electronic communication), when necessary and appropriate, and advise them that they should cease such practice if they are so doing, and inform the named individual that such action as necessary may be taken to obtain an order in a court of competent jurisdiction to cause them to cease such practices.
 - 14.1.2. Contact the Complainant, if appropriate, to ascertain the facts of the matter from the Complaint.
 - 14.1.3. ASNT ISC shall note that this individual is prohibited from taking any ASNT Examinations unless they appear before the Ethics Committee to appeal the actions against them.

15.0 SANCTIONS

Certified Individual

- 15.1. The Ethics Committee shall have the power to suspend, refuse to renew, or revoke the certificate of any ASNT Certified individual, to reprimand any Certificant, or to place any Certificant on probation who is found by the Ethics Committee to have:
 - 15.1.1. engaged in fraud or deceit in obtaining a Certificate; or
 - 15.1.2. engaged in gross negligence, incompetence, or misconduct in the practice of Nondestructive Testing; or
 - 15.1.3. been convicted by a court of law; or
 - 15.1.4. falsified an ASNT application or certificate or fraudulently using the ASNT Logo; or
 - 15.1.5. violated the Code of Ethics for Nondestructive Testing Personnel Certified by ASNT.
- 15.2. When necessary and appropriate, the Ethics Committee may apply to a court of competent jurisdiction to enforce its Rulings.

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Agent

15.3. The Ethics Committee shall have the power to suspend, refuse to renew or revoke the Contract of any ASNT Agent, to reprimand any Agent, or to place any Agent on probation who is found by the Ethics Committee to have violated the Code of Ethics or breached any of the requirements outlined in the Contract. The Ethics Committee may issue or take the following actions:

- 15.3.1. Formal warning letter.
- 15.3.2. Retraining and reexamination of an individual(s).
- 15.3.3. Immediate audit of the agent.
- 15.3.4. Temporary suspension of contract.
- 15.3.5. Withdrawal of ASNT accreditation.
- 15.3.6. Legal Action.

16.0 POWER TO ISSUE RULES AND REGULATIONS

- 16.1. As approved by the ASNT Board of Directors, the Ethics Committee may promulgate Rules and Regulations from time to time about its powers to administrate this procedure's provisions. It may establish further administrative provisions in addition to those outlined in this procedure.
- 16.2. The ASNT Board of Directors shall approve this procedure.

17.0 PROCEDURES

- 17.1. This procedure shall be published and made available to the public for guidance and reference.
- 17.2. All Rulings of the Ethics Committee may be published as approved by the CMC, with the Board of Directors' approval.
- 17.3. All matters of official record in any Rulings shall be available to the public for inspection, except that work product of any investigations authorized by the Ethics Committee shall not be published unless specifically made a part of the official record of the Ruling.
- 17.4. Any proceedings, including the results thereof, brought according to these administrative procedures may be publicized by ASNT, at any stage, and at its sole discretion, if deemed to be in the interests of ASNT, the nondestructive testing industry, or any segment of the general public.

18.0 CONTROL OF RECORDS

- 18.1. All Ethics Committee records shall be kept confidential and can only be released through the written permission of the CMC Chair.
- 18.2. All Ethics Committee documents shall be preserved indefinitely by ASNT ISC, including:
 - 18.2.1. The original ethics Complaint.
 - 18.2.2. Documentation of Evidence.
 - 18.2.3. Ethics committee meeting minutes.
 - 18.2.4. Correspondence to and from the Complainant and Respondent.
 - 18.2.5. Formal letters.
 - 18.2.6. Memorandum of Dispositions.



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19.0 APPENDIX A – CMC Ethics Complaint Form

CMC ETHICS COMPLAINT FORM

_____	_____
Printed Name of Complainant	Date
_____	_____
Signature of Complainant *	Date Affirmed*

Address	

Phone	_____
	Fax

Email	
	* I certify that the statements/information within this complaint are true and correct to the best of my knowledge and submitted in good faith, not for the resolution of a private business, legal, personal or other dispute for which other appropriate forums exist. I understand that if deemed necessary a copy of this complaint will be provided to the individual against whom the complaint is filed. I understand that my name will not be released to the respondent.
Complaint Filed Against (Provide as much information as known):	
_____	_____
Alleged Violator's Name	ASNT File Number

_____	_____
	Email

Phone No.	
<i>Describe Complaint and applicable sections of the Code of Ethics:</i>	
<i>Describe relief sought from Ethics Committee:</i>	

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Use additional sheets or attachments as needed
 Return completed form to:
Chairman, CMC Ethics Violation Committee
 c/o Director of Certifications, ASNT Technical Services Dept.
 1711 Arlingate Lane
 Columbus, OH 43228-0518

20.0 APPENDIX B – Memorandum of Disposition

CMC MEMORANDUM OF DISPOSITION

Case Information			
Case #:			
Respondent:		Phone:	
Address:		Email:	
Submitter Information			
Name:			
Phone:			
Email:			
Date:			
MOD Category			
<input type="checkbox"/> Transmittal of Documentation or Evidence <input type="checkbox"/> Lack of Evidence or Merit – End of Case <input type="checkbox"/> Pre-Hearing Complete and Ruling accepted – End of Case <input type="checkbox"/> Hearing Complete and Final Ruling accepted – End of Case <input type="checkbox"/> Appeal Hearing Complete and Ruling received – End of Case <input type="checkbox"/> Other _____			
Description of MOD			
Attachments			



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Signature: _____

Date: _____