



POLICY & PROCEDURES FOR HANDLING COMPLAINTS INVOLVING ETHICS

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INTRODUCTION

By joining FINEX, every member agrees to adhere to and follow the FINEX Code of Ethics and Professional Conduct (the FINEX Code), and accepts the procedures and processes implemented by FINEX to ensure and promote compliance, including this procedure for handling complaints involving ethics.

FINEX expects its members and employees to fully comply with the FINEX Code. The FINEX Board of Directors through its Ethics Committee (and in coordination and cooperation with other relevant FINEX committees) shall ensure that the FINEX Code is strictly complied with by all FINEX members. The policy and procedures set out herein are intended to provide fair, effective, and consistent method and manner of dealing with alleged violations of or non-compliance with the FINEX Code.

PROCEDURES FOR HANDLING COMPLAINTS

1. Upon the organization of the Complaints Sub-committee and from time to time as may be necessary or appropriate, the members shall agree on procedures for the handling of a Complaint, which may include the following:
 - a. provision of a copy of the Sworn Complaint to the Respondent(s);
 - b. provision of a copy of the Sworn Answer of the Respondent(s) to the Complainant(s);
 - c. provision of a copy of the Sworn Reply of the Complainant(s) to the Respondent(s);
 - d. provision of a copy of the Sworn Rejoinder of the Respondent(s) to the Complainant(s)
 - e. conduct of a fact-finding inquiry and review of all the pertinent documents directly related to the Complaint;
 - f. interviews, whether face-to-face or by video conference or remote communication, with the Complainant(s) and the Respondent(s);
 - g. interviews, whether face-to-face or by video conference or remote communication, with third parties including non-FINEX members (as may be deemed necessary and appropriate) who may provide relevant information / evidence relating to the Complaint;
 - h. where deemed appropriate by the Complaints Sub-committee, send invitations to resource persons to provide information/advice/recommendations that may be useful to resolve any issue at hand;
 - i. where deemed appropriate by the Complaints Sub-committee, require submission of position papers or memoranda by the Complainant(s) and the Respondent(s);
 - j. direct all concerned parties, including members of the Complaints Sub-committee, the Complainant(s) and the Respondent(s) to maintain the confidentiality of, and avoid any disclosure and publicity pertaining to, matters that have been submitted to the Complaints Sub-Committee for evaluation; and
 - k. properly document all proceedings by designated FINEX personnel and other resource persons authorized by the Complaints Sub- Committee.

BASIS FOR ETHICS COMMITTEE TO TAKE COGNIZANCE OF MEMBERS' COMPLAINTS

Any bona fide member or a group of bona fide members of FINEX, who are in good standing (the "Complainants"), may bring to the attention of the Ethics Committee, through a written complaint (the "Complaint"), alleged violation/s by a FINEX member or group of FINEX members (the "Respondents") of the FINEX code.

The complaint shall provide a description of specific instance(s) of non-compliance with or violations of the FINEX Code, accompanied by supporting evidence, documentary or otherwise.

2. Upon receipt of a sworn written Complaint, the Ethics Committee, acting en banc or through its Chairman, shall endorse the Complaint to the Complaints Sub-Committee for the latter to make an initial evaluation and determination as to whether there is prima facie evidence to justify taking cognizance of the Complaint.

In making such determination, the Complaints Sub-Committee shall consider the previous record of the Respondent, including, without limitation, any previous infractions or violations of the Respondent as a FINEX member.

The Complaints Sub-Committee shall complete its evaluation within one month from the receipt of a copy of the Complaint from the Ethics Committee.

There is prima evidence that will justify the Complaints Sub-Committee to take cognizance of the Complaint if, on the face of the sworn Complaint and the supporting evidence submitted by the Complainant, the Complaints Sub-Committee, in the exercise of its reasonable judgment and by a vote of at least a majority of its members, shall find basis that the alleged offense has been committed as would justify the Complainant to file the Complaint and seek redress or remedies before the Ethics Committee.

3. If, based on the Complaint and supporting evidence submitted, the Complaints Sub-Committee shall find that no prima facie evidence exists to justify taking cognizance of the Complaint,

- a. The Complaints Sub-Committee shall advise the Ethics Committee in writing of its determination and the basis thereof;
- b. If the Ethics Committee, by a vote of at least a majority of its members, concurs with the determination of the Complaints

Sub-Committee, it shall advise the FINEX Board in writing of such determination.

c. If the Ethics Committee, by a vote of at least a majority of its members, disagrees with the determination of the Complaints Sub-Committee, it shall remand the Complaint to the Complaints Sub-Committee for further evaluation. If after further assessment by the Complaints Sub-Committee, there is inability to arrive a concurrence on its recommendation on whether or not to take cognizance of the case, the Ethics Committee shall in turn elevate the Complaint to the FINEX Board for final determination.

If the FINEX Board, by a vote of at least a majority of its members, concurs with the Ethics Committee's determination not to take cognizance of the Complaint, it shall direct the Ethics Committee to dismiss the Complaint and advise the Complainant in writing of such dismissal, which shall be final and binding on the Complainant.

4. If, based on the Complaint and supporting evidence submitted, the Complaints Sub-Committee, by a vote of at least a majority of its members, shall find that prima facie evidence exists to justify taking cognizance of the Complaint, the following steps shall be undertaken:

- a. The Complaints Sub-Committee shall inform the Ethics Committee in writing of its determination to proceed with the conduct of a hearing on the Complaint.
- b. If the Ethics Committee, by a vote of at least a majority of its members, concurs with the determination of the Complaints Sub-Committee. The Ethics Committee shall advise the FINEX Board in writing of its recommendation to proceed with the conduct of a hearing on the Complaint.
- c. If the Ethics Committee, by a vote of at least

a majority of its members, disagrees with the determination of the Complaints Sub-Committee, it shall advise the FINEX Board in writing of its recommendation to dismiss the Complaint.

d. If the FINEX Board, by a vote of at least a majority of its members, approves the Ethics Committee's recommendation to proceed with the conduct of a hearing on the Complaint, the FINEX Board shall advise the Ethics Committee, the Complainant(s) and the Respondent(s) in writing of its determination to proceed with the conduct of a hearing on the Complaint.

e. If on the other hand, the FINEX Board disagrees with the determination of the Ethics Committee that there is no or insufficient prima facie evidence to warrant taking cognizance of the Complaint, the FINEX Board shall decide on how it shall proceed with further investigation and assessment of the Complaint, including, without limitation, convening the Council of Past Presidents to advise and assist in the next steps to take, or adopt other courses of action as the Board may deem reasonably necessary or appropriate.

5. Within six months (unless such period is extended by the FINEX Board in the exercise of its reasonable discretion) from its determination to give cognizance to the Complaint, the Complaints Sub-Committee shall:

- a. complete its evaluation process and hearing of the Complaint and prepare a written Report and Recommendation to be submitted to all members of the Ethics Committee; and
- b. secure the approval from at least a majority of the members of the Ethics Committee on its Report and Recommendation.

If the Complaints Sub-Committee shall find the Complaint meritorious, its Report and Recommendation shall include any of the following recommended sanctions on the erring member:

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- i. written reprimand;
- ii. suspension from membership in FINEX for a specific period of time;
- iii. termination of membership in FINEX;
- or
- iv. other appropriate penalty.

Any sanction or penalty that may be recommended by the Complaints Sub-Committee may be affirmed or modified by the Ethics Committee, provided, however, that the sanction or penalty that shall be meted out to the erring member shall be commensurate to the gravity of the offense committed and the implications thereof to FINEX, the Respondent(s) and the Complainant(s).

If the evaluation process cannot be completed within six months after the determination to give cognizance to the Complaint, the Chairman of the Complaints Sub-Committee, through the Chairman of the Ethics Committee, shall request for a reasonable extension from the FINEX Board, which may be granted by the FINEX Board at its sole discretion.

6. A majority vote by all members of the Complaints Sub-Committee is required to endorse the Report and Recommendation to the full Ethics Committee. Each member shall sign the Report and Recommendation, with an indication of whether said member is voting for or against the Report and Recommendation. Any Sub-Committee member who does not agree with the majority decision of the Complaints Sub-Committee may submit a dissenting opinion to the full Ethics Committee.

7. The Ethics Committee, meeting en banc, shall act upon the Report and Recommendation of the Complaints Sub-

Committee immediately upon receipt thereof and, within a period of 30 days from such receipt, render a decision thereon. A majority vote of all the members of the Ethics Committee is required to act on the Report and Recommendation of the Complaints Sub-Committee. All the members shall sign the Ethics Committee's Report and Recommendation, with an indication of whether said member is voting for or against it. Any Ethics Committee member who does not agree with the majority decision may submit a dissenting opinion.

8. The Report and Recommendation of the Ethics Committee shall be submitted to the FINEX Board for approval within 15 days from the date the vote is taken. The decision of the FINEX Board, by a vote of at least a majority of its members, shall be final and executory and no further or other approval, including without limitation the approval of the FINEX members, shall be required for the finality and implementation of such decision.

9. As soon as possible and, in any event, no later than 30 days from receipt of the recommendation of the Ethics Committee, the FINEX Board shall advise the Ethics Committee, the Complainant(s) and the Respondent(s) in writing of the decision of the FINEX Board.

10. If the Ethics Committee fails to submit its Report and Recommendation to the FINEX Board within the afore-cited time period and the FINEX Board is unwilling to extend the deadline, the FINEX Board may exercise its prerogative to directly take cognizance of and decide on the Complaint based on the Complaints Sub-Committee's Report and Recommendation, other available evidence it may secure from the Complaints Sub-Committee, or other evidence it may adduce in the exercise of its discretion. The decision and the extent of disclosure thereof by the FINEX Board shall be final and executory.

11. In case a Complaint filed within a particular calendar year is not resolved within that calendar year, the pending Complaint will be carried over to the next calendar year(s) until it is finally decided by the then current Ethics Committee.

12. The investigation process shall continue notwithstanding the leave of absence that may be taken by the Complainant or the Respondent.

13. FINEX members, by joining FINEX, agree to comply with the FINEX Code and agree and accept the processes implemented by FINEX and fellow FINEX members to ensure compliance and investigate violations. In addition, by submitting himself or herself to the jurisdiction of the FINEX Ethics Committee and participating in any proceeding conducted by said committee, any Complainant, Respondent or resource person expressly consents and agrees to the processing including disclosure of any information provided by such person in the course of the investigation or inquiry being conducted by the FINEX Ethics Committee, but only in accordance with and as is necessary for the implementation of this procedure, and provided that it will not result in any violation of such person's rights under the Data Privacy Act of 2012 (as the same may be amended) or any similar statute then in effect.

14. To protect the privacy of the parties concerned, the FINEX Board shall ensure that, as soon as the FINEX Board's decision on the Complaint shall have become final and executory, the records of the proceedings shall be sealed, archived and kept confidential. No access to such records shall be allowed without the

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favorable recommendation of the Ethics Committee and the approval of the FINEX Board. The Ethics Committee undertakes to keep the Complaint and the records of the investigation confidential.

15. Only a lawful order from a court of competent jurisdiction can stop or restrain the FINEX Board, the FINEX Ethics Committee, and / or the Complaints Sub- Committee from continuing to act on a Complaint filed for a violation of the FINEX Code.

**A project of the 2021
Ethics Sub-Committee
on FINEX Code of Ethics
and Professional
Business Conduct
Awareness**