

Memorandum

To: Council

From: Stephanie Giggetts & Barry Currier

Date: October 10, 2017

Re: Revisions to Internal Operating Practices 14 and 15

We recently discovered a conflict between Internal Operating Practice (IOP) 14, and Article X, Section (c) of the Bylaws. The Bylaws provide that the “Governance Committee shall be responsible for interpretation of and compliance with these Bylaws and shall serve as the section’s grievance committee.” The Bylaws also provide that the Chairperson of the Section shall appoint the members of the Governance Committee, who shall serve two-year staggered terms. IOP 14 provides that there “shall be six members of the Grievance Committee. The Chairperson of the Council shall appoint the members of the Grievance Committee for terms of three years.” IOP 14 also provides that complaints received “pursuant to IOP 15 Grievance Procedure shall be heard by a panel of three members of the Grievance Committee.”

In addition, IOP 15(f) provides:

Within 45 days, after receipt of the information required in (c) and (d), the Grievance Committee shall render its decision. In the event that the Grievance Committee determines that there has been such a violation or misconduct, the Grievance Committee may also determine such relief, if any, as is appropriate to remedy the violation or misconduct. The decision of the Grievance is final and is not subject to appeal.

We recommend changes to IOP 14 and 15 to address the conflict with the Bylaws until such time as the Bylaws can be amended. We recommend that the Chairperson-Elect and Vice Chairperson of the Council serve on the Grievance Committee and that their terms be one-year terms. In addition, we also added that if there is a complaint against a member of the Grievance Committee, the Chairperson of the Council shall appoint another person from the Council to review the complaint.

IOP 15 currently provides that the Grievance Committee will determine relief upon a finding of a violation or misconduct. We recommend that if the Grievance Committee determines there is a violation or misconduct, it should refer the matter to the Council instead. Please see the attached redline and clean version of the proposed changes.

The Council has authority to make these changes to the IOPs and we ask you to do so.

REDLINE VERSION

14. Grievance Committee

~~There shall be six members of the~~ Grievance Committee shall consist of the Chairperson-Elect and Vice Chairperson of the Council. ~~The Chairperson of the Council shall appoint the members of the Grievance Committee, who shall serve one-year terms. The Chairperson-Elect will serve as the Chairperson of the Grievance Committee, for terms of three years. The terms of the members shall be staggered and a member may serve no more than two terms. Appointments shall be made from members of the Section; however no member of the Grievance Committee may be a current member of the Council, the Accreditation Committee or staff of the Section. The Chairperson shall appoint a Chairperson of the Grievance Committee for a term of one year, subject to one reappointment.~~ Members shall be subject to the same conflict of interest rules that apply to members of the Council.

Complaints received pursuant to IOP 15 Grievance Procedure shall be heard by ~~a panel of three members of t~~ the Grievance Committee. ~~The Chairperson of the Grievance Committee shall appoint the panel, designating one member to preside. Members shall be subject to the same conflict of interest rules that apply to members of the Council.~~

15. Procedures for Processing Complaints Filed Against Council Members, Appeals Panel Members, Accreditation Committee Members, Managing Director's Office Staff, Site Team Evaluators, or Entities of the Section

(a) Any person may file with the Managing Director a written and signed complaint against a member of an Accreditation Entity, a staff member of the Managing Director's Office, or a site team evaluator for failure to comply with rules, procedures or policies of the Section, or for other misconduct related to the accreditation process. Any such complaint against the Managing Director may be filed with the Chairperson of the Grievance Committee, and the Chairperson of the Grievance Committee shall act in the place of the Managing Director for all procedures that would otherwise involve the Managing Director. The complaint must contain a statement of facts and circumstances showing with reasonable particularity the basis for the allegation of non-compliance or misconduct. The complaint must be filed within 6 months of the occurrence that is the basis for the allegation of non-compliance or misconduct. Pursuit of other remedies does not toll the 6 month limit. Under no circumstance shall this complaint procedure be a substitute for or alternative to the appeal procedures with respect to decisions affecting accreditation, in which instances the appeal procedures shall be exclusive.

(b) The Managing Director shall dismiss the complaint if the Managing Director determines that the complaint does not allege facts sufficient to establish a violation of the rules, procedures or policies of the Section, or otherwise to establish misconduct related to the accreditation process. If the Managing Director does not dismiss the complaint, the Managing Director shall forward the complaint to the Chairperson of the Grievance

Committee within 30 days after receipt of the complaint. If the complaint is against a member of the Grievance Committee, the Chairperson of the Council shall appoint another person from the Council to review the complaint. The Managing Director shall simultaneously forward a copy of the complaint to the person or persons against whom, or the Section entity against which, the complaint asserted. Such persons or entities shall hereinafter be referred to as “respondents.”

(c) Respondents shall respond to the complaint by sending a written response to the Chairperson of the Grievance Committee. Said response shall be delivered to the Chairperson of the Grievance Committee within 30 days after the date on which the Managing Director sent the complaint to the respondents.

(d) Upon review of the complaint and the response required by (c), the Grievance Committee may request that the complainant or respondents provide additional information. Complainant and/or respondents shall submit the additional information requested within 30 days after receipt of the Committee’s request.

(e) The Complainant bears the burden by a preponderance of the evidence of establishing that there has been a violation of the rules, procedures or policies of the Section, or other misconduct related to the accreditation process.

(f) Within 45 days, after receipt of the information required in (c) and (d), the Grievance Committee shall render its decision. In the event that the Grievance Committee determines that there has been such a violation or misconduct, the Grievance Committee ~~may also determine such relief, if any, as is appropriate to remedy the violation or misconduct. The decision of the Grievance is final and is not subject to appeal.~~ shall refer the matter to the Council for any further action that the Council deems appropriate.

(g) The Managing Director shall, in writing, inform the complainants and any respondents of the Grievance Committee’s decision.

(h) All matters under this section shall be confidential.

CLEAN VERSION

14. Grievance Committee

The Grievance Committee shall consist of the Chairperson-Elect and Vice Chairperson of the Council., who shall serve one-year terms. The Chairperson-Elect will serve as the Chairperson of the Grievance Committee. Members shall be subject to the same conflict of interest rules that apply to members of the Council.

Complaints received pursuant to IOP 15 Grievance Procedure shall be heard by the Grievance Committee.

15. Procedures for Processing Complaints Filed Against Council Members, Appeals Panel Members, Accreditation Committee Members, Managing Director's Office Staff, Site Team Evaluators, or Entities of the Section

(a) Any person may file with the Managing Director a written and signed complaint against a member of an Accreditation Entity, a staff member of the Managing Director's Office, or a site team evaluator for failure to comply with rules, procedures or policies of the Section, or for other misconduct related to the accreditation process. Any such complaint against the Managing Director may be filed with the Chairperson of the Grievance Committee, and the Chairperson of the Grievance Committee shall act in the place of the Managing Director for all procedures that would otherwise involve the Managing Director. The complaint must contain a statement of facts and circumstances showing with reasonable particularity the basis for the allegation of non-compliance or misconduct. The complaint must be filed within 6 months of the occurrence that is the basis for the allegation of non-compliance or misconduct. Pursuit of other remedies does not toll the six-month limit. Under no circumstance shall this complaint procedure be a substitute for or alternative to the appeal procedures with respect to decisions affecting accreditation, in which instances the appeal procedures shall be exclusive.

(b) The Managing Director shall dismiss the complaint if the Managing Director determines that the complaint does not allege facts sufficient to establish a violation of the rules, procedures or policies of the Section, or otherwise to establish misconduct related to the accreditation process. If the Managing Director does not dismiss the complaint, the Managing Director shall forward the complaint to the Chairperson of the Grievance Committee within 30 days after receipt of the complaint. If the complaint is against a member of the Grievance Committee, the Chairperson of the Council shall appoint another person from the Council to review the complaint. The Managing Director shall simultaneously forward a copy of the complaint to the person or persons against whom, or the Section entity against which, the complaint asserted. Such persons or entities shall hereinafter be referred to as "respondents."

(c) Respondents shall respond to the complaint by sending a written response to the Chairperson of the Grievance Committee. Said response shall be delivered to the Chairperson of the Grievance Committee within 30 days after the date on which the Managing Director sent the complaint to the respondents.

(d) Upon review of the complaint and the response required by (c), the Grievance Committee may request that the complainant or respondents provide additional information. Complainant and/or respondents shall submit the additional information requested within 30 days after receipt of the Committee's request.

(e) The Complainant bears the burden by a preponderance of the evidence of establishing that there has been a violation of the rules, procedures or policies of the Section, or other misconduct related to the accreditation process.

(f) Within 45 days, after receipt of the information required in (c) and (d), the Grievance Committee shall render its decision. In the event that the Grievance Committee determines that there has been such a violation or misconduct, the Grievance Committee shall refer the matter to the Council for any further action that the Council deems appropriate.

(g) The Managing Director shall, in writing, inform the complainants and any respondents of the Grievance Committee's decision.

(h) All matters under this section shall be confidential.