

PROBLEM RESOLUTION PROCESS AND DISCIPLINARY ACTION GUIDELINES

These guidelines are designed to provide fair and equitable resolution of complaints regarding the professional conduct of judges. All NAWGJ members are expected to conduct themselves in a professional manner and to adhere to the NAWGJ Canons. Judges who engage in unprofessional behavior or who violate any of the NAWGJ Canons may be subject to disciplinary action. The level of disciplinary action will be based on the gravity of the violation, the number of previous violations, and the mitigating or extenuating factors and circumstances bearing upon the infraction.

The purpose of the guidelines is to: (1) resolve issues in a manner that is instructive to the affected judge and (2) prevent the re-occurrence of a violation so as to maintain the integrity of the judging profession. The guidelines are designed to address issues involving NAWGJ members while they are performing duties as judges or performing other activities that may reflect on their professionalism as judges as representatives of NAWGJ.

The intent of these procedures is to resolve problems related to professional conduct at the state level whenever possible, i.e., the SJD or State Governing Board. In the event that the matter cannot be resolved at the state level, the affected judge may utilize these procedures to appeal the decision or the disciplinary action. The term “affected judge” refers to the NAWGJ member who is the subject of a complaint based on a Canon violation or unprofessional conduct.

The term “State Judging Director” or “SJD” may refer to the SJD or to the SGB member designated as ethics/professional chair. Throughout these procedures, 15 calendar days is allowed to complete each step of the process. This timeframe may be adjusted by the SJD at Level One and Two, the RJD at Level Three, and the President at Level Four if needed to accommodate special circumstances. However, the process should continue in as timely a manner as possible.

In the event that the affected judge is a State Judging Director, a Regional Judging Director, or a National Officer (other than the National President), then the NAWGJ National President shall designate an appropriate replacement to assume the relevant duties at Level 1, 2, 3, or 4.

If the affected judge is the NAWGJ National President, then the Vice President shall take the place of the President in all communications and deliberations.

This document is not intended to address situations involving suspected child abuse. In such cases, state and federal laws take priority over the NAWGJ Problem Resolution process after which NAWGJ may use this process and apply the appropriate disciplinary actions.

Level One: Reporting Procedures

1. A party desiring to report a potential violation of the NAWGJ Canon or other unprofessional behavior must communicate this information to the State Judging Director in writing by email or postal mail. When a potential violation is reported, the SJD is responsible for reviewing the allegation and attempting to resolve the issue. Within 15 days of receiving the complaint, the SJD must consult with the judge accused of the violation to describe and discuss the concern and must provide the judge with a written copy of the complaint. The SJD may consult with the reporting party and others who may have witnessed or have knowledge of the alleged violation. The SJD will listen to the judge's account of the situation and give the judge the opportunity to provide written information regarding the complaint. In the event that a judge opts not to provide a written statement, the SJD will note this in the final record.
2. Depending on the information received from the judge, the SJD may end the complaint process by clarifying any misunderstandings/misperceptions with the reporting party thus ending the complaint process. Both parties must be notified that the situation has been resolved without need of further action.
3. If the complaint is thought to have merit or to need further action (i.e., it is not the result of a misunderstanding or misperception by the reporting party), the SJD shall convene a meeting (in person or by phone or teleconference) of the judge and the reporting party within 15 days to seek resolution. The SJD will be the moderator of the meeting.
4. Depending on the outcome of the meeting, the SJD shall make a determination that no further action is needed or that a letter of counsel or letter of reprimand should be issued to the affected judge within 15 days of the meeting.

A letter of counsel is an advisory letter notifying the affected judge of a behavior that should be modified to avoid the appearance of or actual misconduct or unprofessional activity.

A letter of reprimand includes a specific disciplinary consequence associated with a finding of misconduct or unprofessional activity. Examples of disciplinary actions are provided in Section C.

5. The letter must include a description of the violation that occurred, the NAWGJ Canon that was violated if applicable, the procedures used to obtain information (who was consulted, documents reviewed if applicable), the rationale for the decision, the disciplinary action that will be applied if any, and notification of the judge's right to appeal the outcome. A URL link to the NAWGJ Code of Professional Responsibility and Disciplinary Procedures must be included in the letter. The letter must be sent by registered or certified mail to the affected judge, return receipt

requested, with delivery restricted to the addressee only. The envelope in which the letter is transmitted shall be plainly marked “Personal and Confidential.”

6. The SJD shall keep a copy of the record of the Level One process in the judge’s file for a period of seven years and shall give all files to the new SJD so that comprehensive records may be maintained.

Level Two: Appeal Procedure

1. The affected judge may appeal a disciplinary action by sending a written request to the SJD within 15 days of receipt of a Letter of Counsel or Reprimand. The request for an appeals hearing may be sent by email (or postal mail) to the SJD who will send an acknowledgement of receipt to the affected judge via email. The affected judge is responsible for contacting the SJD to ensure the appeals request was received if notification is not received. The request for an appeals hearing must clearly specify the purpose of the appeal, state what is being appealed, i.e., the violation itself, the disciplinary action, or both, and indicate what remedy is sought.
2. Within 15 days of receiving the written request to appeal, the State Judging Director shall convene an appeals panel comprised of three members of the State Governing Board (SGB Appeals Panel). In the event the State Governing Board does not have three members to serve on the Appeals Panel, the SJD will consult with the RJD to identify members from other State Governing Boards in the region.
3. A date, time and place shall be determined to hear the appeal by the SJD. The affected judge shall be informed and advised in writing of the date, time and location of the hearing and the composition of the appeals panel. The affected judge shall be accorded a reasonable opportunity to appear personally (or via conference call or electronic platform) before the panel, may elect to present testimony, and may submit other information/materials in defense of the charge or the rationale for adjusting the disciplinary action stated in the Letter of Counsel or Reprimand. The SJD shall also submit any materials relevant to the situation that resulted in the Letter and may participate in the hearing to discuss the situation. The affected judge will be given a copy of any additional documents submitted during the appeals process prior to the appeals hearing and may provide a written response.
4. The reporting party shall have the option to attend the appeals hearing (in person or via conference call or electronic platform) but shall not be required to do so.
5. The SGB appeals panel shall, within 15 days of receipt of the request for a hearing, select a chair of the panel who will coordinate the hearing, review the materials presented, and render the panel’s decision regarding the appeal. The SJD, the affected judge, and the reporting party may not be present while the SGB panel deliberates and determines its finding.

6. If a majority of the panel finds no reason to adjust the outcome of the Level One proceeding, the panel shall notify the affected judge and SJD that no further action will be taken. The panel shall record its findings in written form and shall transmit a copy of its findings to the affected judge, the SJD, and to the NAWGJ National President for inclusion in the official records of this Association. The record must include a description of the procedures used by the SGB panel.
7. If a majority of the SGB panel finds the appeal to have merit and adjusts the Level One outcome, the rationale for the finding must be described, the adjusted outcome must be clearly stated, and the procedures used by the SGB Panel to review the case must be described. A report of the panel's findings shall be provided to the affected judge, the SJD, and to the National NAWGJ President. The complaining party will be notified that action has been taken. A copy of the report must be maintained by the SJD in the judge's file for a period of seven years.
8. The affected judge shall have the right to appeal the findings of the SGB Panel if, and only if, the finding and judgment made by the panel was not unanimous.

Level Three: Regional Review Panel Procedures

1. The affected judge may appeal the findings/judgment of the SGB Panel by submitting a written request to appeal within 15 days to the Regional Judging Director of the region in which the affected judge is a registered NAWGJ member.
2. Within 15 days of receiving the request for a regional review, the Regional Judging Director shall select two SJDs and one RJD to comprise an RJD Review Panel. The SJD who issued the letter of counsel/reprimand shall not be a member of the RJD Appeals Panel. During this same 15 day time period, the SJD shall send the RJD a copy of the record of the proceedings and all relevant materials reviewed by the SJD and SGB Appeals Panel. The RJD will send these materials to the panel members within 15 days of receipt from the SJD.
3. The RJD Review Panel will review the record and materials presented to the SGB Appeals Panel (including materials from the affected judge, the SJD, and the reporting party). The RJD Review Panel may request additional information from any party but must inform the affected judge and the SJD of such request, and must provide them with copies of the information received. Both the affected judge and the SJD may provide a written response to the additional materials received by the RJD Review Panel. The affected judge, SJD, SGB members and reporting party may not attend or participate in the RJD Review meeting.
4. Within 15 days of receiving the materials from the RJD, the RJD Panel shall report its decision to sustain, reverse, or revise the findings and judgment of the SGB Panel. The decision of the RJD Review Panel shall be sent to the affected judge, to the SJD

of the state of the affected judge's membership, and to the NAWGJ National President for inclusion in the Association records. If the violation occurred outside the state of membership of the affected judge, the report will also be sent to the SJD of the state in which the violation occurred.

5. A copy of the report must be maintained by the SJD(s) and RJD for a period of seven years.

Level Four: National Review

If the Regional Review Panel's decision is not unanimous, the affected judge may request a review by the NAWGJ National Board.

1. If the affected judge wishes to have the decision of the Regional Panel (or equivalent—see section on regional/national/out-of-state procedures) reviewed by the National Board, he/she must submit a written request to the NAWGJ President within 15 days after receiving a copy of the findings of the panel. The request must clearly specify the purpose of the request, state the area being requested for review, i.e., the violation itself, the disciplinary action, or both, and indicate what remedy is sought.
2. Within 15 days of receiving the request, the National President will appoint a National Review Panel consisting of three National Governing Board members. During this same time period, the RJD who convened the RJD Panel shall transmit all prior materials (including materials from the affected judge, the SJD, and the reporting party) to the NAWGJ National President who will in turn provide the materials to the National Review Panel.
3. The National Review Panel will base its recommendation on a review of all materials submitted by the RJD. The affected judge, SJD, SGB, RJD Review Panel, and reporting party may not attend or participate in the National Review meeting. The National President may be present during the deliberations but shall refrain from providing input. The National Review Panel shall complete its review of the materials and make a recommendation to the President within 15 days of receipt of the materials from the President.
4. The President will review the recommendation of the National Review Panel and make the final decision on behalf of the Association.
5. A copy of the report must be maintained by President for a period of seven years.

Procedure When the Problem Occurs at a Regional/National Meet or Outside the State of Residence of the Affected Judge

1. If the problem occurs at a Regional meet, the RJD will be responsible for coordinating the Level 1 review process and will conduct the procedures designated as the responsibility of the SJD in Level 1. If an appeal is filed, the appeal will begin at Level 4.
2. If the problem occurs at a National meet, the NAWGJ President will determine the person to be responsible for coordinating the Level 1 review based on the nature of the complaint. The person assigned by the President will conduct the procedures designated as the responsibility of the SJD in Level 1. If an appeal is filed, the appeal will begin at Level 4.
3. If the problem occurs at a meet outside the state of NAWGJ membership of the affected judge, the National President will determine the person to be responsible for coordinating the Level 1 review process based on the nature of the complaint. The person assigned by the President will conduct the procedures designated as the responsibility of the SJD in Level 1. If an appeal is filed, the appeal will begin at Level 4.

DISCIPLINARY ACTIONS

In determining the disciplinary action to be applied, consideration should be given to the relative gravity of the misconduct, the number of previous offenses or infractions by the aggrieved party, if any, and the mitigating or extenuating factors and circumstances bearing upon the infraction. The following list provides examples of disciplinary actions that may be considered. The list is not prescriptive or comprehensive and other actions may be applied that are considered appropriate for the behavior in question.

- Formal apology and/or letter of explanation from the affected judge to the reporting party and/or others affected by the behavior
- Letter of counsel
- Letter of reprimand (with specific disciplinary action stated)
- Development of a professional improvement plan (focus on education and/or professional behaviors)
- Assignment of a professional mentor
- Professional training in the area of concern, e.g., Interpersonal skills, anger management, cultural/diversity education, professional conduct
- Loss of contract assignment by NAWGJ either as a judge or in a particular judging role (e.g., Chief Judge, Meet Referee) for up to two years
- Expulsion from the Association for a fixed period of time not to exceed five years;
- Permanent expulsion from the Association.

The penalties shall be effective fifteen (15) days from the date of communication of same to the affected judge. However, the initiation of an appeal or regional/national review as herein described, if submitted within the specified timeframe, may postpone the imposition of the penalty pending the conclusion of the process.