

# NAID® Complaint Resolution Council Guidelines

## I. Preamble.

Whether as a NAID member, a customer of a NAID member or a member of the general public, we all have an interest in the ethical behavior of NAID members, as well as prospective members. The Complaint Resolution Council (CRC) serves as a committee of peers entrusted with maintaining the integrity and reputation of the secure information destruction industry, but it is not a court of law. If you are unsure whether the behavior of a NAID Member is an ethical violation, you may contact the NAID Executive Director or his/her designee to discuss the matter. To facilitate the handling of any ethics complaints, the procedure set forth herein will be followed.

## II. Making a Complaint.

A. If you (referred to as the “Complainant”) believe that the behavior of a NAID member violates the [Code of Ethics](#) adopted by the membership of NAID, then you should proceed as follows:

- 1) Reference the written Code of Ethics item that you believe is being violated and seek advice and/or guidance as necessary from the NAID Executive Director.
- 2) Where appropriate, you are encouraged to initiate discussion with the organization or individual with whom you have a personal concern (“Respondent”) about their professional ethics and behavior to clarify and resolve the situation as soon as possible.
- 3) If you do not wish to discuss the matter with the Respondent, or you are unable to resolve the situation to your satisfaction, a written complaint, along with any supporting evidence, should be sent to NAID Headquarters.
- 4) The NAID Executive Director and/or his/her designee will forward the written complaint along with any supporting evidence to the Complaint Resolution Council. Any complaint of an alleged breach of ethics must be formally initiated no later than one (1) year after the situation occurred.
- 5) If you believe that the matter involves a violation of NAID trademarks or otherwise directly damages NAID, or if you do not wish to discuss the matter yourself with the Respondent, you should refer the matter to the NAID Executive Director or his/her designee. In the event of an alleged trademark violation, NAID will assume the role of Complainant, and the identifying party has no further role in any subsequent proceedings, and further, does not have a right to appeal any decision made related to the alleged trademark violation.
- 6) NAID does not endorse any particular vendor providing services to the NAID community nor take responsibility for the products and services they represent (even if they are listed in the NAID Market section of the website and are Associate Members of NAID), Buyers should undertake appropriate due diligence to ensure that a particular

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product or service meets their own particular needs. Any disputes arising from such transactions are a matter for civil courts and will not be handled by the CRC.

B. The Council may direct NAID staff to further investigate a claim based on hearsay. In the event that such a claim is substantiated, the complaint may be brought by the Executive Director and/or his/her designee, and the Executive Director and/or his/her designee will act as the Complainant.

C. Confidentiality is to be strictly adhered to by all individuals involved in the complaint resolution process and subsequent review and investigation including the Complainant, the Respondent, members of the Council and the NAID Board members in order to ensure a factual, fair and effective review and investigation and to promote the dignity of all involved.

### III. CRC Procedures.

A. A complaint concerning the alleged ethics violation, accompanied with supporting evidence supplied by the Complainant, will be placed on the Complaint Resolution Council agenda for initial review. If the Council determines that it is not the appropriate body to resolve the matter or determines that there is not sufficient evidence to warrant a full hearing, the Council may dismiss the complaint and/or refer the matter to a more appropriate agency or individual for resolution. Should the Council find sufficient reason to proceed after initial review it may take the following course of action:

- 1) Direct NAID Headquarters staff to investigate and/or attempt to resolve the matter;
- 2) Place the alleged violation on a subsequent Council agenda for a full hearing.

B. If the Council directs the NAID Headquarters staff to investigate and/or attempt to resolve the matter, the staff will proceed in a timely manner and report the results of the investigation or attempted resolution to the Council. In the course of any investigation the staff will take reasonable steps to determine the facts underlying the alleged ethical violation, and the staff may, if it deems it appropriate or helpful speak with the person initiating the complaint and the NAID member against whom the complaint is made. The staff may also interview third parties or seek other evidence it deems appropriate. The staff will document all interviews in writing and prepare a written summary of the investigation or resolution attempt.

C. If Council determines that a full hearing is appropriate, the NAID Executive Director or his/her designee shall send a letter to the Respondent including (i) a copy of the written complaint; (ii) the investigation summary, if any, (iii) any supporting evidence, (iv) unless the Complainant has requested anonymity, the name of the Complainant; (v) the date for

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the hearing before the Council; (vi) the names of Council members; and (vii) a copy of these Guidelines. A copy of the letter will be sent to the Complainant.

D. The hearing will generally be held within forty-five (45) days of the letter. All parties to the complaint will be invited to participate in hearing either in person or by phone.

E. Following the hearing, the Council will send a written notice of its recommendations to the Board of Directors and a summary of any factual findings. A copy of this notice and findings will be sent to the Complainant and the Respondent. The actions which may be recommended by the Council include, but are not limited to:

- **Exoneration:** No action to be taken other than inserting it into the records.
- **Admonition:** A caution or advisory against such activity.
- **Private censure:** Notification to the Respondent and Complainant that the Board has determined that a violation has occurred.
- **Public censure:** Additional notification sent to the news media indicating the offender, the nature of the offense and the seriousness of the sanction.
- **Suspension of membership:** Temporary revocation of membership.
- **Termination of membership:** Permanent bar to membership
- **Monetary Fine:** In addition to the above penalties, the CRC may recommend a monetary fine. A fine may be imposed as a stand-alone penalty, or in combination with the above actions.

F. The Council may make alternative recommendations. For example, the Council may recommend that certain action be taken if the Respondent takes corrective measures and that other action be taken if such corrective measures are not taken. NAID Headquarters will ensure that all participants receive notification of the Board's decision in a timely manner.

G. The Board of Directors may request an optional legal review of the matter prior to issuing its decision. After making its decision the Board will forward its decision and information on the appeal procedure to the Complainant, the Respondent and members of the Council.

H. Any alleged ethics violation that is currently being considered as a civil or criminal matter before a court of law will generally only be heard by the Council once a ruling in the court case has been issued.

I. A Complainant may request anonymity, however, if the NAID Executive Director or his or her designee or the Council determines that the facts of the case depend on identifying evidence, or determines that the failure to identify the Complainant will result in unfairness to the Respondent, they may decide not to process the complaint.

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J. Prior to the Commencement of a full hearing the Council members and all those involved in a complaint resolution procedure have the right and are encouraged to call upon advisors for the purpose of gathering information or seeking support or legal or other counsel. However, during the hearing legal counsel is prohibited for all parties involved, including the Council.

K. NAID Headquarters will notify participants of the Board's decision no later than fifteen (15) normal business days after it is rendered.

L. The basis of the CRC's rulings will be the NAID Code of Ethics as well as the NAID Bylaws. The CRC is not and does not present itself as a court of law. While the principles in these Guidelines are intended to promote fairness and due process the proceedings will be conducted in a collegial and non-legalistic manner.

## IV. Alleged Ethical Violations by Non-Members.

In the event of an alleged ethical violation by a non-member, the procedures outlined in these guidelines still apply. Should the Complaint Resolution Council issue a finding of fact against the non-member Respondent, the Council may impose conditions and/or penalties that must be met prior to the non-member gaining membership. The non-member retains the right to an appeal, as outlined in these Guidelines.

## V. Appealing a Decision.

A. Either the Complainant or the Respondent may appeal the decision of the Board. The appeal must contain the basis upon which the appeal is being taken including any disagreement with any findings of fact, the recommendation of the Council to the Board or the decision of the Board. Notice of the appeal must also be sent by registered mail to the NAID corporate office (attention Executive Director) and to the Complainant (if the appeal is by the Respondent) or to the Respondent (if the appeal is by the Complainant).

B. A Notice of Intent to Appeal by either party must be postmarked no later than fifteen (15) normal business days from the date of notification of the decision issued by the Board and the formal appeal by either party must be postmarked no later than forty-five (45) calendar days from the date of the receipt of notification of the decision issued by the Board.

C. If a notice of intent to appeal is not postmarked on or before the 15<sup>th</sup> normal business day after receipt of the Action Notification Letter, the board will initiate the action described therein.

D. The appeal, and any additional relevant information, will be forwarded directly to the President of the Board of Directors. NAID Executive Director and/or his/her designee will notify the parties of the Board meeting at which the appeal will be heard. The President of

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the Board of Directors shall convene a hearing within forty-five (45) days of receipt of the Appeal.

E. All parties to the complaint will be invited to participate in the meeting of the Board of Directors where the matter will be considered. Both parties may present evidence at the hearing. However, if a party wishes to present evidence that was not presented at the Council hearing, the Board may refuse to permit such evidence unless such evidence was disclosed to the other parties at least 10 days before the hearing. If deemed necessary by the Board of Directors, further investigation may be undertaken. A ruling on the appeal, binding on both parties, will be issued by the Board of Directors no later than ninety (90) days after the appeal hearing. Any decision rendered by the Board of Directors will be considered final.

## **VI. Guidelines for Posting Corrections and CRC Sanctions on the NAID Website**

Sanctions may be publicized in the discretion of the Board of directors, including but not limited to posting on the NAID website. In general, sanctions will be publicized under the following conditions:

A. To correct false information that appears elsewhere in such a manner that it cannot be otherwise corrected and may therefore cause harm to the public, NAID or NAID Members.

B. To post information regarding any firm that does not comply with sanctions approved by the NAID Board of Directors.

C. To list any firm whose NAID Membership has been terminated or who has been publicly sanctioned.

D. To post expiration, non-renewal and termination of NAID Certification for a period of 12 months after said event.

E. Sanctions will be published only with the NAID Board of Directors approval.

F. Except as otherwise determined by the Board of Directors, information posted shall be factual in nature and limited to:

- 1) A brief synopsis of the problem.
- 2) A correct statement of facts, including any sanctions.
- 3) The remedy as recommended by the NAID Board of Directors (if applicable).

G. Except as otherwise determined by the Board of Directors, items shall remain listed on the web site until:

- 1) The misleading information is corrected at its source or is no longer effective as a source for communicating such information.
- 2) The firm has complied with the sanctions of the NAID Board of Directors.

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- 3) The expiration of the predetermined announcement period (see #4 above).

## VII. Complaint Resolution Council Membership.

A. The Complaint Resolution Council shall consist of at least five but not more than seven members. All members of the NAID Complaint Resolution Council must be considered a member-in-good-standing for a minimum of one (1) year prior to joining the Council.

B. The position of Chairperson shall be appointed from the Membership by the NAID President, with the approval of the Board of Directors, and shall be held for a four (4) year term. The term of any Chairperson may be extended in two (2) year increments at the discretion of the NAID President with the approval of the NAID Board of Directors. If the position of Chairperson becomes vacant for any reason, the President may appoint a qualified replacement from the Membership, with the approval of the NAID Board of Directors. The initial four (4) year term of any Chairperson will commence from the date of their approval by the NAID Board of Directors. The Chairperson shall be entitled to vote in all decisions.

C. The other members of the Council will be appointed from the Membership by the President, with the approval of the NAID Board of Directors, to serve a four (4) year term. The term of any Council member may be extended in two (2) year increments at the discretion of the Council chair with the approval of the NAID Board of Directors. If a Council seat becomes vacant for any reason, the President may appoint a qualified replacement from the Membership, with the approval of the NAID Board of Directors. The initial four (4) year term of any Council member will commence from the date of their approval by the NAID Board of Directors. Terms lengths shall be set that effectively stagger new members to the Council.

D. A quorum for the Complaint Resolution Council will be three (3) members present. If the Chairperson is not present, the members who are present shall appoint a temporary Chairperson to chair the meeting. In the event that a member is unable to deal with a formal complaint, the remaining Council members will choose an alternate from the membership at large, subject to input by the Board of Directors, to meet quorum requirements. After a meeting of the Council, any such appointed alternate member is expected to stay as an alternate to said Council until the end of the specific complaint resolution procedure.

E. Definition of Meeting: Any person participating in a meeting of the Council may participate by means of telephone conference call or by any means of communication by which all persons participating in the meeting are able to hear one another and otherwise fully participate in the meeting. Such participation shall constitute presence in person at the meeting.

F. Action by Unanimous Written Consent: Any action that may be taken at a meeting of the Council may be taken without a meeting if all of the members entitled to vote thereon consent thereto in writing.

G. A Council member must report any conflict and voluntarily remove him/herself from participating in the consideration of the specific complaint in which the conflict arises. If

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a formal complaint involves a member of the Council, that member must immediately recuse him or herself from the Council until the matter has been settled. The Council may reinstate the member, after resolution has been reached, as appropriate.

H. All Council members must ensure that the Executive Director or his/her designee receive a copy of any correspondence involving a Council issue.