

Disciplinary Procedures

Updated 30th September 2020

1) Application

- a) All members are subject to these Disciplinary Procedures.
- b) Members must comply with all requests made by the Disciplinary Committee or its chair, and ensure that anyone working for them also complies.
- c) If any member does not comply with these requests, the Disciplinary Committee may impose any of the penalties referred to in paragraph 6 of this schedule.
- d) Nothing in these Disciplinary Procedures limit the jurisdiction of any court or require any person to breach legal obligations.

2) Establishment of Disciplinary Committee

- a) The Disciplinary Committee (“the committee”) is hereby established.
- b) The committee’s role is to consider complaints against members and take appropriate action as allowed under these Disciplinary Procedures.
- c) There will be three members of the committee. They will be appointed in the following ways:
 - i) The Board will appoint one of its members to be the chair of the committee.
 - ii) The Board will appoint one other person to be a member of the committee.
 - iii) The chair and the other member will appoint a third person to the committee. This person must be a qualifying member of ATAINZ but may not be a member of the Board.
- d) The chair and the other two members of the committee will serve until the next ATAINZ annual general meeting after their appointments.
- e) A member may resign from the committee, in which case a replacement will be selected using the procedure set out in paragraph 2.3 above.

3) Committee Proceedings

- a) The Disciplinary Committee can only make decisions with all three members present.
- b) All decisions will be by simple majority.
- c) Subject to Board resolutions and to any other paragraphs of these Disciplinary
- d) Procedures, the committee may meet and conduct its business as it sees fit.
- e) The chair is responsible for calling meetings and notifying anyone who should attend.
- f) The committee may make an order prohibiting the publication or broadcast of any report or communication about its proceedings, including the identities of anyone taking part in those proceedings.

4) Complaints

a) How complaints may be made

- i) Anyone may make a complaint to ATAINZ alleging that a member has breached ATAINZ's Rules or Code of Ethics. Complaints must be made in writing.
- ii) When a complaint is received, it must be recorded in a register of complaints and referred to the chair of the Disciplinary Committee.
- iii) All complaints must be accompanied by a \$500 bond. Should your complaint be successful you may receive up to 100% of the bond back.

b) Considering a complaint

- i) The chair of the Disciplinary Committee may decide that the complaint is frivolous or vexatious and does not need to be considered by the committee, in which case the chair must inform the complainant of this decision.
- ii) If the chair does not find the complaint frivolous or vexatious, he or she must:
 - (1) inform the complainant that the complaint has been received and will be considered, and
 - (2) write to the member the complaint is about giving details of the complaint and seeking a response within a specified timeframe, and
 - (3) refer the complaint to the other members of the Disciplinary Committee.
- iii) As provided for in paragraph 3d above, the committee may meet to consider the complaint.
- iv) The committee may seek further documents or other evidence from the complainant or the member the complaint is about.
- v) The committee may schedule a hearing at which the complainant and the member the complaint is about are asked or required to give evidence.
- vi) If a hearing is held:
 - (1) no party may have legal representation
 - (2) the complainant may bring a support person
 - (3) the member the complaint is about may bring a support person provided that person is a member of ATAINZ.
 - (4) the committee may ask or require other members of ATAINZ to attend the hearing and give evidence
 - (5) the committee may ask non-members of ATAINZ to attend the hearing and give evidence.
 - (6) all parties must be given reasonable notice of the hearing.

5) Decision on a complaint

- a) Once the committee believes it has enough evidence to make a decision, it may either:
 - i) decide that the complaint is unjustified, or
 - ii) decide that the complaint is justified, or
 - iii) make any other finding that, in the view of the committee, is reasonable under the circumstances.

6) Sanctions

- a) If a complaint is justified, the Board may decide to impose a sanction on the member concerned.
- b) Sanctions may include any one or more of the following recommendations to Board:
 - i) Cancellation of the member's membership;
 - ii) Suspension of the member's membership for such term as Board shall direct;
 - iii) Payment by the member of a fine to ATAINZ (up to a maximum value of \$10,000);
 - iv) Payment of all or part of any costs for expenses incurred by ATAINZ as a result of the complaint or disciplinary proceedings;
 - v) The member to pay compensation to the complainant or repay fees that have been paid or cancel unpaid fees;
 - vi) Formal censuring of the member;
- c) Imposing any other sanction that in the view of the Committee is reasonable under the circumstances.

7) Report to the Board

- a) After making its finding and deciding whether to recommend the imposition of sanction(s) and award costs, the committee must report in writing to the Board stating what decisions it has made and any action it is recommending.

8) Timeliness

- a) The committee must take steps to deal with all complaints within a reasonable timeframe, provided that it may delay consideration of any complaint while the parties attend mediation.

9) Privilege

- a) No member may use any complaint, nor any communication or document relating to the committee's consideration of a complaint, for the purpose of any civil claim or action.

10) Records

- a) While a complaint is under consideration, the committee will keep all documents relating to it in a safe place.
- b) Once a complaint has been dealt with, ATAINZ will keep all documents relating to it in a safe place.

11) Notice

- a) Any notice required under these Disciplinary Procedures is:
 - i) deemed to have been given to a member 24 hours after it has been posted to him or her, or immediately after it has been delivered to him or her, at the address listed in the Register of Members
 - ii) deemed to have been given to a non-member 24 hours after it has been posted, or immediately after it has been delivered, to the person's last known address.

12) Appeals

- a) Anyone who makes a complaint or is the subject of a complaint to the Disciplinary Committee may appeal the committee's decision.
- b) All appeals must be made in writing within 28 days of the appellant receiving written notice of the committee's decision.
- c) All appeals will be heard by the Board.
- d) Disciplinary Committee decisions will have no effect until either:
 - i) the 28-day period referred to in paragraph 6.2 has expired and no appeal has been lodged, or
 - ii) the Board has heard the appeal and upheld the committee's decision.
- e) In considering an appeal, the Board may do any of the following:
 - i) confirm the committee's decision
 - ii) overturn the committee's decision
 - iii) refer the matter back to the committee for reconsideration
 - iv) take any other appropriate action within its powers.
- f) In considering an appeal, the Board will follow the procedures set down in section 4 of these Disciplinary Procedures as if the term "Board" has been substituted for "committee".
- g) The Board's decision in respect of any appeal is final.
- h) An Appeal Bond of \$500+GST is payable to ATAINZ for an Appeal. This Bond is refundable if the Appeal is successful.

13) Publishing of Decisions

- a) All decisions of the Disciplinary Committee will be published in the Members Section of the ATAINZ website.
- b) Decisions will only be published at the completion of the Appeals process.
- c) At the sole discretion of the Board a published decision may have the ATAINZ Member and the complainant's names removed from the decision.
- d) The Board at their sole discretion may decide not to publish a decision.