

## **Association for Computing Machinery**

### **Code of Ethics Enforcement Policy**

The Association for Computing Machinery (“ACM”) expects all ACM members and members of ACM Special Interest Groups (“SIGs”) (referred to in this Policy, together with ACM members, as “Members”) to make a commitment to engage in ethical professional conduct and abide by ACM’s Code of Ethics (the “Code”). This Policy describes ACM’s procedure for enforcing the Code and may be used for complaints brought to the ACM via ACM's other policies.

#### **A. Complaint Resolution Procedure**

Members may submit complaints concerning suspected violations of the Code by other Members in writing to the chair (the “Chair”) of the Committee on Professional Ethics (“COPE”) or to ACM’s President, CEO, or the CEO’s designee (currently, the COO). Any complaint should identify the Code provision(s) that were allegedly violated and describe in as much detail as possible the factual basis for the complaint. To enable a fair and timely resolution, a complaint must typically be submitted within 180 days after the alleged violation occurred. Complaints submitted more than 180 days after the alleged violation occurred will be considered at the Chair’s sole discretion. The Chair may also initiate a complaint under this procedure at any time. The privileges for the subject of a complaint that are described in this policy only apply when the subject of the complaint is a Member.

##### **1. Initial Review**

The Chair, with the assistance of COPE members designated by the Chair, if any, will review the complaint and determine whether it is within the scope of this Policy. The Chair may determine that a complaint is outside the scope of this Policy, or will not be pursued by ACM, at his or her sole discretion. A complaint ordinarily will not be pursued if: (i) it lacks sufficient factual allegations to conduct a preliminary inquiry, or (ii) the Chair has good reason to believe it was made in bad faith. The Chair (or the Chair’s designee) will notify the complainant (if any) and the subject of the decision in writing, and will simultaneously provide a copy of this Policy and a copy of the complaint to the subject.

If the Chair decides that further action under this Policy is appropriate, ACM will make an offer of remediation or commence a preliminary inquiry as described in sections A.2 and A.3.

##### **2. Offer of Remediation**

At ACM’s sole discretion, if the Chair determines that the complaint will be addressed under this Policy, in consultation with the CEO, he or she may at any time offer remediation to the subject to resolve the complaint. In the event this remediation offer is accepted by the subject, notice will be provided to the complainant (if any). The matter will otherwise be kept confidential, except to the extent necessary to effect the applicable remediation or for ACM to comply with its legal obligations.

### **3. Preliminary Inquiry**

The preliminary inquiry will be conducted for the purpose of determining whether ACM will pursue a complaint further. The CEO may designate ACM staff and/or member(s) of COPE to conduct or assist with the preliminary inquiry, which may at the CEO's (or designees') discretion include the following steps:

- a. Interviewing the complainant (if any), the subject, and, at the designated member(s)' sole discretion, relevant witnesses identified by either party.
- b. Reviewing any documents provided by the complainant, the subject and/or other witnesses.
- c. As they deem necessary, and in consultation with the CEO and Chair, consulting with subject matter experts who are also Members.
- d. As they deem necessary, and in consultation with the CEO and Chair, taking any other steps appropriate to aid in determining whether the complaint should be pursued further.

After considering all information gathered during the preliminary inquiry, the CEO (or designees) will provide a written recommendation to the Chair (and the CEO, if applicable) as to whether the complaint should proceed to a full hearing, which will include the rationale for the recommendation. They will also provide with the recommendation all supporting materials, including minutes of any interviews conducted; all documents collected; and minutes or copies of any oral or written reports by any subject matter expert(s).

The Chair will review the written recommendation and other materials submitted and, in consultation with the CEO, will determine whether the complaint violates ACM's Code of Ethics. If the Chair determines that the complaint violates ACM's Code of Ethics, he or she will recommend what remediation to pursue. Without limitation, possible remediation may include issuance of a letter of admonishment, the subject being barred from attendance at conferences for a specified time, the subject being barred from volunteering for ACM activities for a specified time, counseling, suspension from ACM for a specified time, community service, prohibiting publication in some or all ACM publications, or expulsion from ACM. Any recommended remediation will be overseen by the CEO or the CEO's designee.

If the Chair determines that the complaint does not violate ACM's Code of Ethics, no further action will be taken by ACM, except to notify the subject and complainant (if any) of the determination.

Otherwise, the Chair will notify the complainant (if any) and subject in writing of the decision and will simultaneously provide to the complainant and subject copies of the written recommendation and supporting materials.

If the Chair determines that the Code of Ethics was violated and recommends remediation, the subject may appeal that determination under section A.7. below.

ACM will endeavor to complete the preliminary inquiry within 6 months after the Chair's determination that further action was warranted.

#### **4. Consideration by Panel**

If the Chair recommends remediation and the subject does not agree, the Chair may, in consultation with the CEO, offer the subject the opportunity to have a hearing conducted by a three-member panel selected at random from members of Council other than the President, in lieu of a hearing by the full Council.

If the subject is offered and agrees to a panel hearing, the procedures described in sections A.5. and A.6. below will be followed, except that: (i) the panel will fill the role of the Council, and will elect one of the panel's members to perform the responsibilities of the Vice President, and (ii) a vote of two of the three members is required to make the determinations that would otherwise be made by the Council. The panel hearing may be conducted by video conference. Should any member of the Council be selected for the panel and decline to serve for good cause, the CEO (or designee) will continue selecting members of the Council at random until a three-member panel has been selected.

#### **5. Hearing Before the Council**

Unless a panel hearing is offered and agreed to, a hearing will be conducted by the Council at the first of the next two regularly scheduled meetings of the Council that: (i) is at least 30 days after the Chair provided notice that a hearing is necessary, and (ii) is reasonably convenient for both the subject to attend.

The hearing will be conducted in executive session and will be chaired by the Vice President. The President will attend but will not otherwise participate in the hearing in case of an appeal. The hearing will either be recorded or transcribed.

At the hearing, each of the CEO (or designee) and the subject will be permitted to offer witnesses, documents, or other information for the Council's consideration. At least 30 days in advance of the scheduled hearing date, each of the CEO (or designee) and the subject must provide the other, the Vice President, and the Chair with: (i) written notice of the name(s) of any witness(es) they intend to offer, and (ii) a copy of any document or other information they intend to offer.

Questioning of witnesses, and consideration of documents or other information will be permitted at the Vice President's discretion. If the Vice President decides there is a good reason not to hear from a witness or consider a specific document or information, the Vice President may, in his or her discretion, decline to permit its consideration, and will provide the parties with at least 15 days' advance notice of that decision. The Vice President may also permit questioning of the parties and any witnesses by members of the Council.

The Vice President may request that counsel for ACM participate in the hearing.

Attendance at the hearing by any party, witness, or other participant may be by video conference.

## **6. Determination of Remedial Action**

Following the hearing, the Council will, under its usual rules of procedure (but without the President's participation), entertain motions, conduct discussion and vote by secret written ballot in order to make the following determinations:

First, the Council will determine whether, based on the record as a whole and taking the credibility of any witnesses into account, it is more likely than not that the alleged Code violation(s) occurred, and, if so, whether any violation demonstrates lack of integrity or other reasonable cause for remedial action.

Second, if the Council decides the first question in the affirmative, the Council will determine what remedial sanction is appropriate, taking into account the Chair's recommendation.

In order to take effect, all determinations must be made by affirmative vote of at least three-fourths of all Council members.

The minutes of the Council meeting will record the motions and actions taken, but will not record the names of the complainant or witnesses. After the meeting, the Vice President will notify the complainant (if any), the subject, the CEO, the Chair, and the President in writing of the Council's decision. A decision in favor of remediation may be appealed by the subject as described in A.7. below.

The record of the hearing, which will be retained by ACM, will be kept confidential except to the extent necessary to allow for the implementation of any remediation or to comply with ACM's legal obligations. However, the result of any vote by the Council—*i.e.*, the fact that Council determined that remedial action with respect to the subject was appropriate—may be announced to ACM's membership.

## **7. Appeals**

Any appeal referred to above must be submitted within thirty (30) days of the decision appealed from. The appeal must be submitted in writing to the President and will be decided by the President based on his or her consideration of the applicable record as a whole. The President will communicate his or her decision on the appeal in writing to the CEO, the Chair, and the subject, and, if applicable, will report the outcome of the decision to the complainant and/or other members of COPE or the Council who participated in the decision being appealed.

The President's decision of an appeal is final. The President will endeavor to resolve appeals within sixty (60) days after the appeal is made.

## **B. Conflicts of Interest**

No member of COPE or the Council may participate in resolving a complaint if they have a conflict of interest. Conflicts of interest may include, but are not necessarily limited to, a personal or financial relationship with the complainant or subject; a personal or financial interest in the outcome of the complaint; or personal involvement in or knowledge of the conduct at issue in the complaint. A member of COPE or the Council who believes he or she has a conflict of interest should promptly recuse him- or herself and disclose the nature of the conflict of interest to the President.

If the President or Vice President has a conflict of interest, their respective duties will be performed by another Member selected in the following order: Vice President (in the case of the President's conflict of interest), Secretary, Treasurer, immediate past President, and member of the Council (selected at random).

If the Chair of COPE has a conflict of interest, the President will appoint another member of COPE to perform the Chair's duties. If the CEO has a conflict of interest, the President will appoint ACM's Deputy Executive Director or a Member who is not on the Council to fill the CEO's role.

## **C. Confidentiality and Document Retention**

Although the results of the remedial determination (Section 6) may be announced to ACM's membership, ACM endeavors to keep proceedings under this Policy as confidential as is reasonably possible. Participants in any proceeding under this Policy, including the complainant, subject, witnesses, and Members involved in resolving the complaint, are expected to adhere to this confidentiality policy. However, participants may, at their own expense, consult legal counsel and discuss the matter with immediate family members, provided they have first agreed to keep the matter confidential. Violation of this expectation of confidentiality may be considered a violation of the Code of Ethics.

The CEO may disclose information regarding the proceedings to ACM staff, members and third parties as necessary for ACM's business purposes, including, but not limited to, facilitating proceedings, implementing remedial action, or satisfying ACM's legal obligations. ACM may also, in its sole discretion, disclose information obtained during the course of any proceeding for safety or security purposes. In addition, ACM may, at its discretion, make legal counsel available to consult with its staff and COPE and Council members concerning any aspect of any complaint or proceeding under this Policy.

A copy of key records relevant to each proceeding, including the complaint, materials submitted by the parties or collected during the preliminary inquiry, written notices and reports, minutes, the record of the hearing, appeals, and decisions will be retained for seven years by ACM.

Once a complaint has been finally resolved, the CEO will notify all participants that they should delete or destroy, without retaining copies of, all documents and information in their possession relating to the proceeding. All participants are expected to comply with this

Policy and, to the extent they believe they are unable to do so due to competing legal or other obligations, should discuss the matter with the CEO.

Participants should keep in mind that documents and communications sent via (or stored in) personal or institutional e-mail, networks, or cloud services may not be kept confidential, and they should endeavor to exercise good judgment in sending, storing and retaining documents relating to proceedings under this Policy.

#### **D. Policy Applicability**

While ACM Members are expected to abide by the Code in all of their professional activities, the CEO and Chair may decline to consider any complaint at their sole discretion, including but not limited to complaints that concern conduct or a dispute in which another organization or institution has a more substantial interest, or that is the subject of legal action or a governmental investigation. The CEO and Chair may also decide to defer consideration of any such complaint until the other organization or institution has addressed the matter internally, or until any legal action or governmental investigation has concluded.

Further, complaints regarding conduct that falls under ACM's Conflict of Interest Policy, Plagiarism Policy or its Policy Against Discrimination and Harassment will ordinarily be first addressed under those policies. ACM may, at its discretion, also treat such a complaint (or a complaint made pursuant to those policies) as a complaint under this Policy.

If at any point the Chair or the CEO determines that a complaint raises or may raise a criminal matter, then ACM may inform the appropriate authorities. In this event, the Chair or CEO may suspend further consideration of the complaint until after the appropriate authorities have completed their investigation or any other actions. After the involvement of the appropriate authorities is complete, whether or not such involvement results in any criminal or civil sanctions, a complainant may request that ACM continue its consideration of the complaint under this Policy, or ACM may choose to do so without prompting.

#### **E. No Retaliation**

It is inconsistent with the Code to make threats or engage in acts of retaliation against individuals who in good faith report suspected violations of the Code. A Member who believes that he or she has been retaliated against for making a good-faith complaint under this Policy may use the above procedures to report the pertinent facts to the Chair, who will consider the report as a complaint made under this Policy.