



# National Association of Hearing Officials

## Model Code of Ethics

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The National Association of Hearing Officials has adopted the following Model Code of Ethics.

### Section I: Scope

This Code of Ethics is a guide to ethical behavior for hearing officials. Hearing officials include persons who conduct or review administrative hearings or who supervise hearing officials. NAHO had adopted this model code in recognition of the importance of the integrity of hearing officials. It is intended to supplement but not overrule, any existing statutes, codes, policies or regulations setting out ethical requirements for hearing officials and public employees in a particular agency or jurisdiction.

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### Section II: Competence

Hearing officials should know the substantive and procedural law, including the principles of due process, to be applied in the hearings over which they preside, and should understand the principles of its application and interpretation. Hearing officials should be skilled in conducting hearings efficiently and fairly. Hearing officials should be skilled in discerning the facts of the cases presented to them. Hearing officials should be clear and fair-minded in their application of the law to the facts of each case, and should communicate their decisions completely and clearly. Hearing officials should regularly participate in continuing education to improve their competence and to stay current in their knowledge of the law.

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### Section III: Impartiality

Hearing officials should always strive to assure all persons involved that the proceedings will be conducted and decided impartially. "All persons involved" includes the appealing or petitioning parties and their representatives, the agency, agency staff or representatives, witnesses, interpreters, intervenors, observers, and any other person who appears before the hearing official, whether in person, in writing, or by electronic means.

Hearing officials should act in such a way that no one could reasonably believe that any person or agency could improperly influence them in the performance of their duties. Hearing officials should not conduct or participate in deciding the outcome of any proceeding in which their impartiality might be reasonably questioned. Personal knowledge of the facts in a case is an appropriate ground for disqualification of the hearing official. Hearing officials should promptly disclose to the parties any prior personal knowledge of or involvement in the matter. Hearing officials should always withdraw from any proceeding in which their impartiality becomes compromised for any reason. However, the hearing official should not withdraw from a proceeding if the hearing officials' impartiality is challenged solely on the basis that the hearing officials are employed by an agency appearing in the proceeding. The parties may agree to allow the hearing official to preside after full disclosure has been made. Hearing officials should preside without bias or prejudice and without discrimination on any prohibited basis against any person involved in the proceeding, and should control the proceedings to prevent such discriminatory behavior by any other person involved.

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#### **Section IV: Independence**

The administrative hearing process requires re-examination and reappraisal of determinations made by an administrative agency. Regardless of the hearing official's employment relationship with a party agency, the hearing official should exercise independence of action and judgment to protect the due process rights of parties and to achieve the most legally correct result in a case, maintaining decisional independence from agency management and programs. Supervisors may provide consultation to hearing officials, except as prohibited by law, but may not alter the hearing officials' decisions or substitute their judgment for that of the hearing officials.

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#### **Section V: Ex Parte Communication**

Hearing officials should have a strong working knowledge of their jurisdiction's definitions and restrictions on ex parte contact. Generally, "ex parte" refers to communication between a hearing official and fewer than all parties to an administrative hearing. Hearing officials should not receive information from any party without sharing that information with all parties. If hearing officials are authorized to consult with an expert, the nature of the consultation and the substance of the expert's advice must be disclosed to all parties. Hearing officials should also give all parties an opportunity to respond.

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#### **Section VI: Dignity and Decorum of the Forum**

Hearing officials should promote the dignity and decorum of the administrative hearing process and tribunal. Hearing officials should exercise their lawful authority in any proceeding to ensure that all persons involved conduct themselves with the proper decorum.

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#### **Section VII: Professional Conduct**

Hearing officials should: always act in a manner that promotes public confidence in the integrity, impartiality and efficiency of the hearing process; maintain high standards of professional conduct and encourage other hearing officials to do the same; be temperate and dignified; be courteous to all in the performance of their duties; follow procedural formalities, making exceptions only in the interest of fairness; and punctually fulfill their professional commitments.

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#### **Section VIII: Personal Conduct**

Hearing officials should refrain from all illegal or ethically reprehensible conduct. Hearing officials should not accept any gifts or favors from parties to any proceeding before them. Hearing officials should not engage in activities which may bring their own personal or professional interests into conflict with the performance of their official duties. Hearing officials should not give the impression that any party is in a special position to personally influence them, nor should they permit anyone, including friends and relatives, to convey such an impression to others. Hearing officials should treat all participants with equal courtesy and dignity and require the same treatment of the hearing officials by participants. For example, before, during and after a hearing, hearing officials should restrict their contacts regarding the matter such as social conversation, with agency staff or representatives, and should address agency participants as they would address any other hearing participant, using last names and courtesy or professional titles. During the hearing process, hearing officials should politely discourage all participants from referring to a hearing official on a first name or casual basis.

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#### **Section IX: Confidentiality**

Hearing officials should not disclose confidential or private information obtained by reason of official position or authority except as required by law. Hearing officials should never seek to use such confidential information to further their personal interests. Hearing officials should follow their agency's rules or policies regarding media contacts. In any permitted contact with the media, hearing officials should limit the sharing of information to that which does not identify individuals and should never discuss the merits of any specific case. Hearing officials should avoid ex parte communications about a case with anyone (including family, friends and agency staff and associates) unless authorized by statute or agency regulations. However, hearing officials may in confidence discuss cases with other hearing officials.

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#### **Section X: Compliance with Ethical Rules**

Hearing officials must comply with all applicable statutes, administrative rules, codes of conduct, policies, and ordinances regarding ethics in their jurisdiction, and work to ensure that persons involved in the proceedings also comply. Hearing officials have a duty to report ethical violations.

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