

## Investigation Procedure

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Approved By:	AHVAP Certification Center Board
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**Policy:** The ADEC process is designed to provide the individual alleged to have committed a violation of the AHVAP Certification Center policies/procedures notice of the alleged violation and a fair opportunity to be heard before any action is taken.

**Procedure:** In each instance of a complaint in accordance with the procedures set forth herein, the following steps shall be taken within a reasonable time to perform the investigation and address the complaint.

1. **Investigation procedure:** Within a reasonable time, following receipt of a complaint, the chair of the ADEC shall provide written notice via certified mail to the individual referred to as the “charged party,” fairly describing the particulars of the complaint.

The “charged party” shall be notified of the opportunity to furnish a written response within thirty (30) days from said notice of charge in order to set forth its position in response to the complaint and provide pertinent information in connection therewith.

Such notice shall also inform the charged party that the failure to respond to the complaint within the thirty (30) day period, absent an extension or request for an extension, shall constitute an admission to the facts and charges as set forth in the complaint and that as a consequence, disciplinary action may be taken.

2. **Hearing determination:** The chair of the ADEC shall forward the initial complaint and the response by the charged party, together with any supporting materials, to the ADEC to determine probable cause for additional action of the written allegation. Based on majority vote, whether there is probable cause that the allegations advanced by the charged party, if proven, would constitute a violation of the policy. In the event probable cause is found, the matter will proceed to a formal evidentiary hearing or, if no probable cause is found, then the complaint shall be dismissed. In either event, within ten (10) days from such decision by the ADEC, both the complainant, if they provided the complaint in writing and the charged party shall be notified in writing of such determination and that such notice be given by both certified mail/return receipt to their address of record requested and regular first-class mail/postage prepaid. The chair of the ADEC can overrule the finding of no probable cause if the gravity of the circumstance(s) warrants a hearing by the full ADEC.

3. **Hearing procedure:** In the event the ADEC finds on the basis of the initial complaint, any supporting evidence, and the initial response by the charged party, that probable cause exists, the chair of the ADEC shall notify the charged party as stated above of:
  - a) The specific charge or charges for which probable cause has been found.
  - b) That the charged party has thirty (30) days within which to file a more detailed written response, which may include affidavits.
  - c) A formal hearing before the ADEC shall be held within sixty (60) days from the date such response is due. Said response by the charged party shall also include the names of persons who may have knowledge of facts relevant to the complaint and who may be contacted by an investigator/presenter appointed by the president of ADEC. Once the investigator/presenter notifies the chair of the ADEC that it has completed the investigation; the chair shall set a hearing date which shall, absent good cause attributable to the investigative process, be within sixty (60) days from the date of the expiration of thirty (30) days from receipt of the response by the charged party. The charged party shall be entitled to review the findings of the investigator/presenter and information obtained in the course of the investigation. The charged party shall have fifteen (15) days within which to submit a written rebuttal. The charged party may waive the right to a rebuttal and, in the event of such waiver, the hearing date may be advanced.
  
4. **Investigator/presenter:** An investigator/presenter shall be appointed by the Chairperson of the AHVAP Certification Center Board of Directors. This person (who may, but need not be, a member of the AHVAP Certification Center Board of Directors) shall contact individuals who may have knowledge of facts pertaining to the alleged offenses and otherwise investigate evidence which may be relevant, to be presented to the ADEC on behalf of the complaint. The designated investigator/presenter shall not sit on the ADEC, shall not make any factual determination of whether a violation or violations have occurred and shall not have any authority other than as expressly set forth herein. The investigator/presenter shall notify the chair of the ADEC when s/he has completed the investigation.
  
5. **Formal hearing:** The hearing shall be set at a specific time and place set forth in the Notice of formal hearing and shall be served no later than fourteen (14) days prior to the hearing. The hearing shall be presided over by the chair of the ADEC or designee; the investigator/presenter shall represent the AHVAP Certification Center Board of Directors position to the ADEC. As this is not a legal proceeding, legal counsel for the charged is not allowed; witnesses may be presented by either side. Both sides may make closing arguments the length of which may be limited at the discretion of the chair of the ADEC, with the charged party being the last to make its argument. The ADEC shall be responsible for making an audio recording of the proceedings and all parties and witnesses shall be required to cooperate in making such a recording. The AHVAP Certification Center will take confidential minutes of the proceedings.

6. **Decision and notice:** At the close of all the evidence, the committee shall engage in private deliberations outside of the presence of either the charged party or the investigator/presenter, free from outside influence. A decision shall be made by majority vote. The chair of the ADEC shall mail written notice of the decision of the ADEC to the charged party by certified mail, return receipt requested, and restricted delivery, within ten (10) days of the decision of the ADEC. The written notice of decision shall provide specific finding(s) as to what conduct constituted a violation(s) of the AHVAP Certification Center policy(s)/procedure(s) if any. This notice shall also specifically provide what sanctions (if any) are to be imposed. A separate vote, by a majority, is required as to whether a violation or violations occurred, and a separate majority vote as to what sanctions shall be imposed. The notice of decision shall also set forth the steps necessary in order to take an appeal from the decision.
7. **Appeal:** Upon receipt of the notice of decision of the ADEC, the charged party has thirty (30) days to file a written notice of appeal to the AHVAP Certification Center Board of Directors. The charged party may appeal the decision as to whether a violation occurred or an appeal also may be made solely as to the sanctions, which have been imposed. The AHVAP Certification Center Board of Directors, excluding those members who serve on the ADEC; and excluding the investigator/presenter; shall review the record and determine whether to affirm, modify or reverse the decision of the ADEC. The appeal shall be decided by a majority voting board of director members within thirty (30) days.
8. **Reconsideration:** The ADEC may in its discretion reconsider a decision, only if the petition to reconsider contains new information not previously considered by the ADEC in its original decision. Reconsideration will be available only if it appears that the evidence is so substantial in nature that the ADEC finds that it would have been reasonably likely to affect the outcome of the initial hearing. The charged party has sixty (60) days from the date of adjudication of the original charge(s) to file the petition to reconsider based solely on newly acquired evidence or evidence not available to the charged party at the time of the original hearing. Within thirty (30) days, the ADEC may dismiss the complaint or set the case for a rehearing. The Chair shall appoint an investigator/presenter, if necessary, to conduct a further investigation, including interviewing new witnesses. This additional investigation shall be completed within sixty (60) days unless the ADEC grants an extension of thirty (30) days. The charged party may review the investigator's findings prior to a formal rehearing. The charged party shall have thirty (30) days from the conclusion of the investigation to further respond in writing or by affidavit. From this point, the hearing is set as described in the preceding sections of this document.
9. **Extensions:** Extensions for good cause and for a reasonable period of time shall be granted unless doing so is found to substantially impair the rights of any party. The ADEC may extend the time periods up to ninety (90) days in the foregoing procedure(s). The charged party, the investigator/presenter or the complainant may request the extension.