



SPEE Grievance Procedure In Accordance with the SPEE By-Laws

Preface

SPEE's By-Laws contain the basic framework for a grievance process, but intentionally lack certain detail in order to avoid over-specifying a process that necessarily requires a level of flexibility over time. Instead, SPEE's By-Laws allow for the preparation of a separate Grievance Procedure document, which contains detailed guidelines for SPEE's grievance process. The detailed process as contained within the Grievance Procedure document is stewarded and approved by SPEE's Board of Directors, with changes made as deemed necessary from time to time. This Grievance Procedure document, approved by the SPEE on the date shown above¹, contains the following sections:

- The Importance of SPEE's Grievance Process
- The Purpose of SPEE's Grievance Procedure document
- SPEE's By-Laws as Related to the Code of Ethics and the Grievance Process
- Overview of SPEE's Grievance Process
- The SPEE Grievance Process in Detail
- Graphical view of the SPEE Grievance Process (Figure 1)

The Importance of SPEE's Grievance Process

A strong code of ethics is an essential character that a truly objective, professional evaluator must possess. Ethics is a cornerstone upon which SPEE was conceived and founded, and it is of profound importance to the SPEE membership. A logical outflow of the high value placed on ethical conduct by SPEE and its membership is a viable grievance process wherein a Member who fails to uphold the standards of ethics outlined in the SPEE By-Laws can be separated from the Society, if warranted. While grievance issues are and should be rare, it is the possession of a well-defined grievance process that protects the very privileges and reputational benefits that SPEE Members derive through membership. Furthermore, a strong grievance process contributes to making SPEE a self-governing professional organization. Membership in a self-governing professional organization is a prerequisite for being considered a Qualified Reserves Evaluator or Competent Person by regulators in a number of important jurisdictions around the world.

The Purpose of SPEE's Grievance Procedure Document

SPEE's grievance process is intended to be a robust, fair, and objective self-disciplining protocol, in accordance with the SPEE By-Laws. To that end, this Grievance Procedure document, is designed to ensure that:

- The process should be fair and transparent to the participants.
- The process should be clearly stated and clearly understandable by the Membership.
- The process should not be subject to change during the time in which a grievance complaint is in process.

¹ The latest approved and published version of this document will entirely supersede any and all earlier approved versions.



- The process should include clearly defined roles for the Grievance Committee, the Executive Committee, the Member bringing the complaint, the accused Member (the Respondent), and the Arbitrator.
- The process should achieve a resolution that is timely, independent and unbiased.
- The process should remain confidential.
- The process should have a clear and final outcome.
- The process should provide adequate protection to the organization and those Members involved in the process on behalf of the organization.
- The process should leave no doubt that SPEE is a self-governing organization with a defined and functional grievance process.

SPEE's By-Laws as Related to the Code of Ethics and the Grievance Process

General Code: As per the SPEE By-Laws, a Member must maintain a code of ethics and professional conduct. The By-Laws impose the following obligations upon its Members:

ARTICLE VI. ETHICS SECTION 1: Each Member shall be guided by the highest standards of business ethics, personal honor, and professional conduct, as exemplified by the Code of Ethics of Engineers as adopted by the Accreditation Board for Engineering and Technology (ABET) as shown in Appendix A, and the Principles of Acceptable Evaluation Engineering Practice as shown in Appendix B. Appendices A and B are attached hereto and incorporated herein by reference. Honesty, integrity, loyalty, fairness, impartiality, candor, fidelity to trust, and inviolability of confidence are incumbent upon every Member, not for submissive observance, but as a set of dynamic principles to guide a way of life.

SPEE, through its By-Laws, sets a high bar for its Membership with respect to ethical behavior in business and professional settings. While measures of proper ethical behavior as described directly within Article VI, Section 1 may be considered subjective and/or generalized, the Principles of Acceptable Evaluation Engineering Practice, referenced in that section as Appendix B, provide clear and objective bright lines with respect to ethical acceptability of business and professional behavior. In fact, Article XII, Section 5 of the SPEE By-Laws further emphasize the importance of the concepts set forth within the Principles of Acceptable Evaluation Engineering Practice in defining ethics violations:

ARTICLE XII. MEMBERSHIP STATUS SECTION 5 (first paragraph only): Charges of misconduct ("Charges") in violation of Article VI or the Principles of Acceptable Evaluation Engineering Practice hereof shall first be submitted in writing to the President of the Society by a Member in good standing, with a full statement of the evidence on which the Charges are based.

Consequences of Violating SPEE's Code of Ethics: As previously indicated, a Member that is found to have violated SPEE's ethics provisions after due investigation is subject to expulsion:

ARTICLE VI. ETHICS SECTION 2: A Member who, after due investigation, is found guilty of violating any of the standards prescribed in Section 1 of this article shall be expelled from the Society in accordance with the procedure provided by the By-Laws.

SPEE's Internal Grievance Process: As indicated, SPEE's internal Grievance Process is triggered when a Member in good standing identifies a potential event of misconduct by another Member. The sections of the SPEE By-Laws which describe the Grievance Process are presented first, followed by a graphical depiction of the process and subsequent administrative and procedural detail for each process step.

ARTICLE XII. MEMBERSHIP STATUS SECTION 5: Charges of misconduct ("Charges") in violation of Article VI or the Principles of Acceptable Evaluation Engineering Practice hereof shall first be submitted in writing to the President of the Society by a Member in good standing, with a full statement of the evidence on which the Charges are based.



Any grievance process undertaken by the Society shall be governed by the By-Laws and any Board of Directors approved and published Grievance Procedures. If the Executive Committee determines that the Charges merit further consideration, the matter will be referred to the Grievance Committee for review. If the Grievance Committee determines that the facts warrant further action, it shall prepare and submit to the Executive Committee formal written Charges against the accused Member. After the receipt of such formal Charges, the Executive Committee shall set a date and place for an arbitration hearing thereon, and shall give to the accused person notice thereof in writing, sent by registered mail to that person's last known address not less than sixty (60) days before the hearing date scheduled, accompanied by a copy of the formal Charges and a copy of this article.

ARTICLE XII. MEMBERSHIP STATUS SECTION 6: On the day fixed for the hearing, the accused Member may appear and/or be represented by counsel before the Arbitrator. During the hearing, the Executive Committee and/or the Grievance Committee, along with the accused Member, may each submit oral or written statements and may present witnesses. Each party has the right to oral cross-examination. The Arbitrator will have the right of questioning and cross-examination. The accused Member may, by giving notice via certified mail to the President at the Society headquarters, which notice is postmarked not less than ten (10) days prior to the date of the hearing, waive personal appearance and request the Arbitrator to adjudge the matter on the basis of a written defense statement accompanying such letter. After the conclusion of the hearing or the study of the written defense submitted in lieu thereof, the Arbitrator shall rule to either sustain or dismiss the Charges. If Charges are sustained, the Member's membership in SPEE will be immediately revoked.

Failure of the accused Member to appear, or to submit a waiver letter and a written defense as in this section provided, shall not prevent the Arbitrator from rendering final judgment on the basis of the evidence available on the hearing date.

ARTICLE XII. MEMBERSHIP STATUS SECTION 7: Resignation of the accused Member from the Society at any stage of the foregoing prescribed proceedings shall automatically terminate the proceedings.

ARTICLE XII. MEMBERSHIP STATUS SECTION 8: If a Member has been convicted by a governmental agency of conduct constituting a violation of such jurisdiction's professional ethics standards or conduct constituting malpractice under such jurisdiction's laws and regulations, the Executive Committee shall have the authority to take notice of such conviction(s) and thereupon allow the Member to resign or expel the Member from the Society.

ARTICLE XII. MEMBERSHIP STATUS SECTION 9: Each party to any proceeding, matter or action brought pursuant to or arising out of Article XII section 8 shall bear and be responsible for its own costs.

ARTICLE XII. MEMBERSHIP STATUS SECTION 10: The decision of the Executive Committee in all matters pertaining to the interpretation and execution of the provisions of Section 5 and 6 of this article, along with any existing Board of Directors approved Grievance Procedures existing at the time of the filing of the grievance complaint shall be final.

Overview of SPEE's Grievance Process

The Executive Committee retains exclusive authority to take action under Article XII, Section 8 in the event that a Member is found by a governmental agency to have violated professional ethics standards or conduct constituting malpractice under such jurisdiction's laws and regulations. SPEE's internal Grievance Process as outlined herein, is invoked if an ethics complaint originates within the organization itself (i.e. if initiated by an SPEE Member in good standing).



The SPEE Grievance Process is initiated when a Member in good standing believes he or she has witnessed unethical conduct by another Member and subsequently submits a complaint in writing with appropriate evidence to the then-current SPEE President².

Any ethics complaint so initiated is subjected to two internal SPEE review gates before it is progressed to the arbitration stage as defined in the By-Laws. The complaint is (1) reviewed by SPEE's Executive Committee for merit and (2) reviewed by SPEE's Grievance Committee for sufficiency of facts to warrant formal written Charges and subsequent referral to arbitration. If the complaint is found to lack either sufficient merit or sufficient factual support, then the Member submitting the complaint is notified of such outcome and the matter is closed without further action.

If the complaint is ultimately determined to have both merit and factual support, and if the Member submitting the complaint is willing to actively participate as a witness in arbitration of the complaint on behalf of the SPEE, then a formal written Charge will be prepared and the SPEE will endeavor to proceed to arbitration with respect to the Charge. If this stage in the process is reached, SPEE as an organization becomes the Claimant for the remainder of the process. The Member against which the formal written Charge has been brought (the Respondent) will be notified and the matter will be referred to arbitration. The arbitration format will allow for evidence to be presented by the Member submitting the complaint as a witness on behalf of SPEE and will allow for the Respondent to present refuting evidence, whether oral or written. Each party will have right of cross-examination, and the Arbitrator will have rights to question both parties. After conclusion of the arbitration process, the Arbitrator will be provided time to render a decision, and such decision will be considered final. If the Arbitrator concludes that the Respondent violated the standards of ethics as set forth within the SPEE By-Laws, then that individual's membership privileges in SPEE are immediately and permanently revoked. If the Arbitrator concludes that the Respondent did not violate the standards of ethics as set forth within the SPEE By-Laws, then the matter is concluded with no further action against the Respondent. If the Member to which the complaint or Charge has been brought chooses to resign from SPEE at any stage of the Grievance Process, all SPEE action under the Grievance Process as related to that complaint or Charge will cease, and the matter will be considered closed.

Throughout the Grievance Process, it is intended that confidentiality be maintained, with knowledge of any specific grievance, or its proceedings thereof, limited to those directly involved in that specific grievance.

The Claimant and the Respondent are also referred to herein as "Parties". SPEE will bear certain costs of the arbitration proceeding, specifically those listed below:

- Reasonable costs of engaging the Arbitrator through the duration of the hearing, generally not to exceed 2 days and in no circumstances to exceed 1 week.
- Reasonable costs of securing a suitable arbitration site through the duration of the hearing, along with any other reasonable out-of-pocket costs directly related to the logistical operation of the arbitration hearing, generally not to exceed 2 days and in no circumstances to exceed 1 week (to be handled by the SPEE, or the Arbitrator if so delegated by the SPEE).
- Reasonable costs of preparing SPEE's complaint. Such costs may include (1) out-of-pocket costs related to the preparation of SPEE's case in the arbitration, and (2) fees for legal counsel retained by SPEE.
- Reasonable costs for travel to and lodging during the Arbitration by SPEE as Claimant, limited to those that have a reasonable need to attend as approved by the SPEE Executive Committee. By way of example this may include Members of the Grievance Committee,

² The SPEE By-Laws refers to such a complaint, made by a Member in good standing in order to initiate the grievance process, as a "charge of misconduct". The By-Laws further set forth a clear distinction between (1) the "charge" as it exists at this initial stage of the process (i.e. the complaint stage), and (2) as it exists at the advanced stage of the process whereby SPEE has vetted both the merit of and the factual support for the complaint, thereby resulting in "formal written Charges" being brought by the SPEE.



Members of the Executive Committee, and/or any witnesses to be called on behalf of the SPEE.

- Reasonable costs for travel to and lodging during the Arbitration by the Respondent and as many as two of the Respondent's witnesses, total duration generally not to exceed 2 days and in no circumstances to exceed 1 week, all expenses supported by written documentation, all airline travel via coach class unless approved in advance by the SPEE Executive Committee.
- Costs related to Respondent's legal counsel, not to exceed US\$3,000, unless approved in advance by the SPEE Executive Committee.

Unless specifically approved by the SPEE Executive Committee in advance, SPEE will not bear any costs related to professional time for any witnesses acting on behalf of SPEE or the Respondent.

Should the Executive Committee take action under Article XII, Section 8 with regard to a Member that is found by a governmental agency to have violated professional ethics standards or conduct constituting malpractice, Article XII, Section 9 of the SPEE By-Laws dictates that SPEE should not bear any costs related to that Member's response to such action.

The SPEE Grievance Process in Detail

The SPEE Grievance Process is shown graphically by way of a flow chart in Figure 1. This process consists of 12 discrete steps (as numbered on Figure 1), 8 of which are directly controlled by or actively participated in by the SPEE as an organization. Following is a description of each discrete step in the Grievance Process along with detailed procedural guidelines applicable to each step:

Step 1 (Charge of misconduct prepared along with statement of evidence): The Grievance Process is initiated when a Member in good standing submits an ethics complaint to the SPEE President identifying a potential violation of SPEE's Article VI or the Principles of Acceptable Evaluation Engineering Practice. Before submitting such a complaint, the Member should consider the extent to which he/she has first-hand knowledge of the facts. The Member should further consider the following:

- Confidentiality of the Grievance Process is an important goal throughout the process for the benefit of all involved, and.
- Care must be taken to avoid violating any preexisting covenants of confidentiality that the Member may have with any other companies or individuals, written or implied, as part of the statement of evidence.

The written complaint should include a thorough description of the alleged violation, and should include complete documentation and evidence that supports the allegation of misconduct, including sworn statements or affidavits from any supporting 3rd parties. Should the grievance proceed to arbitration, the Member bringing the complaint is expected to serve as a witness, while 3rd parties providing supporting statements or affidavits may be asked to provide supplemental written or oral testimony.

It is permissible for an ethics complaint to be brought by any SPEE committee as a whole, with the exception of the Executive Committee and the Grievance Committee, provided that 100 percent of the members of that committee approve of and sign the submitted complaint, with the further affirmation that they each would otherwise support the complaint as individual Members in good standing of SPEE. In this case, the committee will be requested to appoint a single spokesperson to act on behalf of the committee throughout the process. Such spokesperson must be a Member in good standing of SPEE. SPEE does not invoke the Grievance Process based upon claims made by non-members of SPEE, nor does it invoke the Grievance Process based upon claims made by Members not in good standing with the organization.

Step 2 (The SPEE President receives ethics complaint and evidence): Once the written complaint is received, the President will review the submission to be sure that it is reasonably clear and complete before turning it over to the Executive Committee. If necessary, the President will contact the Member bringing



complaint for further clarification or elaboration. Supplemental materials may be requested of the Member bringing complaint. The President will first pass the complaint to the Executive Committee for the merit test.

The President of the Society may delegate his/her authority under part of all of this Step 2 to another Member of the Executive Committee at his/her sole discretion.

Step 3 (Executive Committee determination of merit): The Executive Committee's role is not to determine culpability of the accused Member with respect to ethics violations, or to assess the sufficiency of facts in support of the potential violation, but solely to determine whether the ethics complaint has merit. The following components define the merit test:

- 1) The suggested infraction as described in the ethics complaint is of a type that represents a clear violation of SPEE's Article VI, Section 1 and further described in Article XII, Section 5 (including the Principles of Acceptable Evaluation Engineering Practice), and
- 2) The suggested infraction is of a type that could lead to material or significant harm to individuals, companies, the SPEE as an organization, or property, whether physical, reputational, or monetary.

To the extent that the Executive Committee unanimously affirms both of the above tests of merit, the ethics complaint will be passed to the Grievance Committee for Step 4 of the Grievance Process. To the extent that unanimous affirmation of both tests does not occur, the matter will be considered closed by SPEE without further action against the accused Member. The President will inform the Member bringing the complaint of such outcome. The President will also notify the accused Member of the outcome, if such Member is aware of such complaint at this stage of the process.

If a Member of the Executive Committee happens to be either the Member bringing forth the complaint or the Member subject to the complaint, he/she will recuse himself/herself from all Executive Committee duties, obligations, and authority which are related to the Grievance Process for the subject complaint, including but not limited to this Step 3. If this occurs, the remaining Executive Committee Members will carry out their Executive Committee duties, obligations, and authority related to the subject complaint in isolation from the recused Executive Committee Member. In this case, a determination of merit by the Executive Committee requires unanimous affirmation by the remaining Executive Committee Members, excluding the recused Member. This action will have no effect on the duties, obligations, and authority vested in that recused Executive Committee Member as related to any and all other matters of the Society.

If the President happens to be the Member bringing the complaint or the Member subject to the complaint, he/she will delegate all duties, obligations, and authority vested in the President under this Grievance Process, solely as related to the subject complaint, to the Vice-President. The President will thereby have recused himself/herself from all Presidential and Executive Committee duties, obligations, and authority as related to the subject complaint for the duration of the process. This action will have no effect on the duties, obligations, and authority vested in the President as related to any and all other matters of the Society.

Steps 4, 4a, and 4b: (Grievance Committee compile and review facts): The Grievance Committee's role is not to determine culpability of the accused Member with respect to potential ethics violations, but solely to determine whether the facts are sufficient to proceed with the ethics complaint as submitted. The following components define the facts test:

- 1) The evidentiary facts as provided by the Member bringing the complaint, including any supporting 3rd party statements or affidavits, are sufficient and reasonable to bring a cohesive and well-defined arbitration case against the accused Member.
- 2) There are no conspicuous indications that the complaint is grounded in malice or other potentially ulterior motives.

Core to the work of the Grievance Committee will be the review and analysis of the written documentation provided to the President by the Member bringing forth the ethics complaint. In carrying out the facts test, the Grievance Committee is also expected to consider the extent to which other reasonably obtainable and verifiable facts corroborate, rather than contradict, the facts specified in the complaint.



There may be a need to gather additional written and/or oral information before the facts test can be completed by the Grievance Committee. In order to gather the additional information, the Grievance Committee has the option to contact either the Member bringing the complaint or the accused Member.

If either the Member bringing the complaint or the accused Member suggests that the Grievance Committee contact other individuals (3rd parties) for information and facts, or if the Grievance Committee itself determines that it would be helpful to contact 3rd parties for information and facts, the decision as to whether to contact those 3rd parties will be left solely to the discretion of the Grievance Committee. If for whatever reason, the Grievance Committee believes it inappropriate to contact a 3rd party at the suggestion of one of the Members, the Committee will so notify the Member setting forth the suggestion of contact. The Grievance Committee's decision to not contact a particular 3rd party during this step in the Grievance Process in no way precludes that 3rd party from participating as a witness at the arbitration hearing, should the Grievance Committee determine that there are sufficient facts to proceed with arbitration, and should either Party subsequently ask such 3rd party to either attend as a witness or otherwise provide a written witness statement.

As previously indicated, the Grievance Committee's role is not to determine culpability of the accused Member, but merely to determine whether SPEE has sufficient facts to proceed with a formal Charge of an ethics violation against the accused Member. The Grievance Committee must also determine that the Member bringing the complaint is willing to act as a "witness on behalf of the Society", and thus be prepared to present the evidence to the Arbitrator.

Step 5: (Grievance Committee determination of sufficient facts): To the extent that the Grievance Committee affirms by a majority the tests described in Step 4 of the Grievance Process, and to the extent that the Member bringing the complaint is willing to act as a witness on behalf of the Society, the Grievance Committee will proceed to Step 6 of the Grievance Process, which includes preparation of formal written Charges.

To the extent that sufficiency of facts is not affirmed by a majority of the Members of the Grievance Committee, the Grievance Committee will notify the President of such outcome, and the President will subsequently inform the Member bringing the complaint of such outcome with the additional notification that such Member will be provided 14 calendar days in order to provide additional evidence to support the ethics complaint. If no additional evidence is received by the President within 14 calendar days of notification, then the matter will be considered closed by SPEE without further action against the accused Member. The President will subsequently inform the Member bringing the complaint that the outcome has become final. The President will also notify the accused Member of the outcome, if such Member is aware of such complaint at this stage of the process.

If additional evidence is provided to the President within 14 calendar days, then the President will forward such evidence to the Grievance Committee for consideration. To the extent that consideration of the additional evidence leads the Grievance Committee to affirm by a majority the tests described in Step 4 of the Grievance Process, and to the extent that the Member bringing the complaint is willing to act as a witness on behalf of the Society, the Grievance Committee will proceed to Step 6 of the Grievance Process.

To the extent that sufficiency of facts is not affirmed by a majority of the Members of the Grievance Committee after considering the additional evidence, or to the extent that the Member bringing the complaint declines to agree to act as a witness on behalf of the Society during arbitration hearings, formal written Charges will not be prepared. In this case, the Grievance Committee will notify the President of such outcome and the matter will be considered closed by SPEE without further action against the accused Member. The President will subsequently inform the Member bringing the complaint that the outcome has become final. The President will also notify the accused Member of the outcome, if such Member is aware of such complaint at this stage of the process.

If a Member of the Grievance Committee happens to be the Member bringing the complaint or the Member subject to the complaint, he/she will recuse himself/herself totally from the Grievance Committee for the duration of the process with respect to this specific complaint. This will leave an open position on the Grievance Committee to be filled in accordance with the SPEE By-Laws. This action, of itself, will have no



effect on the ability of that Member to return to the Grievance Committee, once the subject ethics complaint is finally resolved.

Step 6 (Preparation of Formal Charges): Upon finding that the ethics complaint passes by a majority the Grievance Committee's facts test, the Grievance Committee will prepare and submit to the Executive Committee a statement of formal written Charges. The statement of formal written Charges, suitable for forwarding to the accused Member, will include at a minimum, the following:

- 1) The name of the accused Member,
- 2) The specific components of SPEE's Code of Ethics which were allegedly violated,
- 3) A description of the time and place that the alleged violation occurred, and
- 4) A summary of the facts supporting the claim.
- 5) A reference to the then-current version of the SPEE Grievance Procedure document under which the process has been, and will continue to be, carried out.

Step 7 (Set Arbitration Time/Place, Notify Accused, and Identify Arbitrator): Once the Executive Committee receives the formal written Charges from the Grievance Committee, the Executive Committee will set a tentative time and date for the arbitration hearing and will subsequently notify the accused Member. An official written notification must be sent to the accused Member at least 60 days prior to the tentative scheduled hearing date, by registered mail to the accused Member's last known mailing address per the records of the Society. Such written notification must include the statement of formal written Charges. Secondary methods of notification may additionally be used, including via telephone and/or email. Upon notification, consideration should be given to reiterating information regarding costs to be borne by the Society versus cost responsibility of the accused Member.

Parties to the arbitration at this point in the process include the Executive Committee, the Grievance Committee, and the Member bringing the ethics complaint as witness on behalf of the Society on one side and the accused Member on the other. For purposes of determining logistical and administrative details of the hearing with the accused Member, the President of the Society will represent the Executive Committee, the Grievance Committee, and the Member bringing the complaint as a witness on behalf of the Society. The President and the accused Member are to take all reasonable steps to (1) identify a mutually agreeable candidate for Arbitrator, and (2) finalize the time and place of the arbitration (which will likely require input and confirmation from the Arbitrator, once engaged). If the President of the Society and the accused Member fail to reach agreement on a mutually agreeable candidate for Arbitrator within 30 days from the postmark date of the registered mail containing the official written notification of the Charge, the President has sole authority to select a candidate for Arbitrator.

Once a candidate for Arbitrator is selected, the Executive Committee will perform an independence check with respect to the candidate. If the candidate passes the independence check, the Executive Committee will then make a reasonable effort to engage the selected individual as an Arbitrator for the subject arbitration. The Arbitrator's fee will be paid by SPEE.

If the candidate for Arbitrator does not pass the independence check, or if the Executive Committee is unable to subsequently secure an engagement with the candidate at monetary terms deemed reasonable to the Society, then that candidate will be disqualified. In this case, the selection and engagement process repeats, with the President and the accused Member then taking all reasonable steps to identify a replacement mutually agreeable candidate for independent Arbitrator within 30 days, after which the President has sole authority to select a candidate for independent Arbitrator. The process is to be repeated until an independent Arbitrator is engaged. If an Arbitrator is not successfully engaged within 12 months of the Grievance Committee's preparation of formal written Charges, then the matter will be considered closed by procedural default without further action against the accused Member. In this case the President will so notify the Member making the complaint as well as the accused Member.

The Grievance Process places no restrictions or qualification requirements upon the individual to be selected as the Arbitrator, other than the following independence check:



- 1) The candidate for Arbitrator must have disclosed to the President of the Society any business or personal relationships, past or present, with SPEE in general, as well as with Members of the Executive Committee, Members of the Grievance Committee, the Member bringing the complaint, or the accused Member, including any known relationships by way of the candidate's association with current or former employers. Such disclosure will be made available to all Parties to the arbitration, including the accused Member.
- 2) The Executive Committee will review the disclosure from the candidate and may subsequently interview the candidate in order to further verify independence. For the independence check, each Member of the Executive Committee retains veto power over the candidate, should any Member believe that the independence disclosure or subsequent interview identifies the potential for bias in either direction, if the candidate were to become the Arbitrator for the matter. If no Member of the Executive Committee exercises veto power, the candidate is deemed to have passed the independence check.

Until an Arbitrator is selected and engaged, in the event that the Parties are unable to reach agreement on any administrative or procedural matter not addressed by the SPEE By-Laws or this Grievance Procedure document, then the President of the Society shall have sole final authority over that matter. Following the engagement of an independent Arbitrator, in the event that the Parties are unable to reach agreement on any administrative or procedural matter related to the upcoming arbitration that is not addressed by the SPEE By-Laws or this Grievance Procedure document, then the independent Arbitrator shall have sole final authority over that matter.

The President of the Society may delegate his/her authority under part of all of this Step 7 to another Member of the Executive Committee at his/her sole discretion.

Step 8 (Arbitrator Engages and Performs Background Work): The Executive Committee and/or the Grievance Committee is to provide the Arbitrator with the following documents for advance review, in order to become familiar with the case:

- A complete copy of SPEE's latest By-Laws
- A copy of SPEE's latest approved Grievance Procedure document
- A copy of the formal written Charge prepared by the Grievance Committee

It is permissible for the accused Member, as the Respondent in the arbitration, to submit a written rebuttal to both SPEE (via the Executive Committee and Grievance Committee) and the Arbitrator in identical form, and at substantially the same time, indicating why the Respondent claims that the specified components of SPEE's Code of Ethics were not violated, and summarizing the facts supporting the claim.

No direct communication will be held between the Arbitrator and either Party (i.e. between the Arbitrator and either SPEE or the accused Member), between the time of engagement of the Arbitrator and the time of the hearing, except for (1) logistical and administrative matters, (2) SPEE's provision of background materials to the Arbitrator under this Step 8, and (3) the accused Member's optional submission of written rebuttal materials in accordance with this Step 8. All SPEE contacts with the independent Arbitrator for such logistical and administrative matters will be documented by SPEE.

Step 9 and 10 (Claimant and Respondent Separately Prepare for Hearing): Both Parties are expected to organize evidence, including the arrangement of 3rd party witnesses and/or witness statements as and if desired. Both Parties will prepare opening remarks and prepare for the hearing.

If the accused Member wishes, that Member may reject personally appearing at the hearing, instead requesting the Arbitrator to consider a written defense statement as basis for refuting the claim. If the accused Member chooses to do this, such notice must be given in writing by certified mail to the President at the Society headquarters. This notice must be postmarked not less than ten (10) days prior to the date of the hearing and should include the accused Member's written defense statement.



As indicated in Step 7, the accused Member may prepare a written rebuttal to the statement of claim prior to the hearing, providing it to both SPEE as Claimant and to the Arbitrator in identical form at substantially the same time. By providing this written rebuttal, the accused Member is in no way waiving right to attend the hearing. In fact, it is expected that the accused Member will attend the hearing unless the President is so notified as per the procedures contained in the immediately preceding paragraph.

The Grievance Committee will take the organizational lead in preparing SPEE's Claimant statements for the hearing. It is anticipated that the Member bringing the complaint will also be heavily involved in the process.

It is expected that both Parties, SPEE as Claimant and the accused Member as Respondent, will be fully prepared by the date set for the hearing, including complete preparation of all written materials and logistical planning for all planned witnesses, as no adjournment will be permitted for preparation of additional materials or mobilization of additional witnesses once the hearing begins.

The discovery process rules are as follows:

- SPEE's discovery process allows either Party to request in writing, facts and information from the other Party to the arbitration, in order to support their case and prepare for the hearing. The Parties are directed to be reasonable in all such requests and to cooperate with each other to the fullest extent practicable in the voluntary exchange of documents and information, in order to expedite the arbitration process in a fair and unbiased manner.
- Either Party may object to a discovery request if that Party believes that such request is overly burdensome, not relevant to the case, or involves confidential or privileged information. By objecting to a discovery request, a Party is declaring that it does not have to, and will not, provide the documentation or information requested. Such an objection must be provided in writing, clearly stating which request(s) the Party is objecting to and why.
- The SPEE arbitration procedure does not allow for motions to compel or for use of subpoena mechanisms targeting individuals or information discovery.
- In the event that a Party seeks information, which is objected to by the other Party, it is recommended that this fact be disclosed during the hearing.

Step 11 (The Arbitration Hearing): The Arbitrator's mandate is to issue a written ruling as to whether the Respondent has violated Article VI of the SPEE By-Laws or the Principles of Acceptable Evaluation Engineering Practice, as contained in the SPEE By-Laws, based upon the testimony and evidence presented in the hearing and in conformance with procedures set forth in the SPEE By-Laws coupled with this Grievance Procedure document. If the Arbitrator upholds the Claimant's claim that a clear violation has occurred, the Respondent's membership in SPEE will be immediately revoked. If the Arbitrator determines that the complaint did not constitute a clear violation, the issue will be considered closed with the Respondent retaining all privileges of membership. The determinations and rulings by the Arbitrator are final and not subject to appeal.

The Hearing Procedure rules are as follows:

- The Arbitrator will open the hearing, citing authority to hear case, describing the Arbitrator's mandate, and explaining the reason for hearing. The Arbitrator will also provide any procedural instructions for the hearing and will set the schedule for the hearing, including allocation of floor time to each of the parties. Specific procedural instructions applicable in advance include the following:
 - The hearing will not be transcribed.



- There will be no official recordings taken at the hearing, and no recording devices will be allowed.
- All oral testimony must be in person; there will be no dial-in or electronic connections, whether audio or video, for observation or testimony.
- In no case will the hearing exceed 1 week.
- The testimony of all Parties and all witnesses will be sworn or affirmed.
- Any and all witnesses planning to testify at the hearing will be allowed to remain in the hearing for observation, even when not testifying. Members of SPEE's Executive Committee and/or SPEE's Grievance Committee may also remain in the hearing for observation, even if not anticipated to testify.
- Opening statements will be heard, first by SPEE as the Claimant and then by the Respondent. The purpose of these opening statements is to briefly explain each Party's basic position without presentation of evidence.
- Following the opening statements, the Parties will be given an opportunity to present evidence (oral and/or written) and testimony on their behalf, and they may call witnesses. Any of the individuals appearing at a hearing may be called as a witness by either Party without advance notice. SPEE as Claimant will present evidence and testimony first, followed by the Respondent.
- The Parties (and their legal counsel, if present) will be afforded an opportunity to examine and cross-examine all witnesses and both Parties.
- The Arbitrator may ask questions at any time during the proceedings.
- The Arbitrator may exclude any question or commentary ruled to be irrelevant or argumentative.
- Each Party may make a closing statement. SPEE as Claimant will make the first closing statement and the Respondent will make the final closing statement.
- No interim or temporary adjournment will be permitted during the hearing process where such adjournment is for the sole purpose of outside preparation of additional hearing materials or mobilization of additional witnesses by either Party.
- The hearing will be finally adjourned and the Arbitrator will subsequently make a determination and issue a ruling.

Between the time of conclusion of the hearing and the time of rendering of the final decision by the Arbitrator, direct communication between the Arbitrator and either Party (i.e. between the Arbitrator and either SPEE or the accused Member) will be limited to (1) questions specifically posed to a Party by the Arbitrator (and any resulting answers provided by a Party to the Arbitrator), or (2) logistical and administrative matters. All SPEE contacts with the independent Arbitrator for such logistical and administrative matters will be documented by SPEE.

Step 12 (The Arbitrators Ruling):

- Unless otherwise specified in the terms of engagement between the Arbitrator and the Executive Committee, it is intended that the Arbitrator will render a final decision within 15 calendar days of conclusion of the hearing.
- If the Arbitrator determines that the accused Member has committed a clear violation of either Article VI of the SPEE By-Laws or of the Principles of Acceptable Evaluation Engineering Practice, the accused Member's membership in SPEE will be immediately revoked.



- If the Arbitrator determines that there was not a clear violation of either Article VI of the SPEE By-Laws or of the Principles of Acceptable Evaluation Engineering Practice, the issue will be considered closed with the accused Member retaining all privileges of membership.
- The determinations and rulings by the Arbitrator are final and not subject to appeal.
- There will be no announcements made of the proceeding.

Approved by the Board of Directors of SPEE

On November 14, 2018

Figure 1 – The SPEE Grievance Process

