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## **OUTLINE OF PROCEDURE FOR A CODE OF EXCELLENCE HEARING**

(To be transmitted in advance to both parties)

**Postponement of hearing:** Postponement may be granted if there are extenuating circumstances. Parties' requests for continuances shall only be granted when all parties mutually agree to a subsequent specified date, or when the Excellence Hearing Panel (EHP) chair determines that denying the continuance would deny the requestor a fair hearing. Requests for postponement must be made in writing. Permission can be given by the Chairperson. All parties shall be advised of the date of the rescheduled hearing.

**Recording the hearing:** No electronic recording of the proceedings is allowed by any party for any reason.

**Method and objective of procedure:** The EHP shall not be bound by the rules of evidence applicable in courts of law, but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgment as to relevance.

**Due process procedure:** The hearing procedures will be:

- (1) Chairperson cites authority to hear case and explains reason for hearing.
- (2) The complaint will be read into the record.
- (3) The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
- (4) Opening statements, first by complainant, then by respondent, briefly explaining party's basic position.
- (5) The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses. All parties appearing at the hearing may be called as witnesses without advance notice.
- (6) The parties and their counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- (7) The EHP members may ask questions at any time during the proceedings.
- (8) The Chairperson may exclude any question ruled to be irrelevant or argumentative.
- (9) Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- (10) Adjournment of hearing.
- (11) The Hearing Panel will go into executive session to decide the case.

**Findings in an Excellence hearing:** The findings and recommendation for follow up actions, if any, shall be made in writing by the EHP and submitted to the PSAI Board of Directors.

**Use of counsel:** A party may be represented in any Excellence hearing by legal counsel or by a portable sanitation industry peer of their choosing (or both). However, parties may not refuse to directly respond to requests for information or questions addressed to them by

members of the EHP except on grounds of self-incrimination, or on other grounds deemed by the EHP to be appropriate. In this connection, the EHP need not accept the statements of counsel as being the statements of counsel's client if the panel desires direct testimony. Parties shall be held responsible for the conduct of their counsel. Any effort by counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings, or any action by counsel which is viewed by the panel as disruptive of the proceedings, shall be grounds for exclusion of counsel. The decision to exclude counsel for any of the foregoing reasons shall be the result of a majority vote of the members of the EHP and shall be non-appealable. In the event counsel is excluded, the hearing shall be postponed to a date certain not fewer than fifteen (15) nor more than thirty (30) days from date of adjournment to enable the party to obtain alternate counsel. However, such postponement shall not be authorized if it appears to members of the EHP that the action of counsel has been undertaken by counsel to obtain a postponement or delay of the hearing.

Be advised that all matters discussed are strictly confidential.

(Revised 12/15)