



CMMI® Quality – Complaints and Corrective Action Appeals Policy

Introduction

The following Complaints and Corrective Action Appeals Procedures (the “Procedures”) are the only rules for processing possible violations of CMMI model, method, policy, or ethical standards. These standards are put in place by ISACA to maintain the quality of CMMI work products and ensure a simple, fair, and transparent way of managing complaints, as well as potential appeals for corrective action decisions made by ISACA. The ability to submit a complaint applies to anyone and can be done so anonymously.

These Complaint and Corrective Action Appeal Procedures are applicable specifically to:

- CMMI Partners
 - Partner Business Points of Contact (BPOCs)
 - Certified CMMI Instructors
 - Certified CMMI Lead Appraisers
- CMMI Practitioners (CMMI Professionals, CMMI Associates, etc.)
- CMMI Registered Interpreters
- Any individual operating under a license or other agreement with ISACA, e.g., CMMI Model Viewer license holders, individuals who register and take CMMI exams, or individuals who contract with a Partner to deliver courses or appraisals
- CMMI Appraisal Sponsors and their delegates, including Organizational Unit Coordinators (OUCs)

Throughout this policy, the individuals to which these Procedures apply may be referred to collectively as “Covered Individuals.” Covered Individuals are responsible for maintaining current knowledge of relevant CMMI policies, processes, requirements, and guidelines and for ensuring that each credentialed individual sponsored under their Partner agreement adheres to these requirements.

The CMMI Executive Steering Committee will be responsible for all updates and changes to this document and all other procedure and process documents referred to in this policy relating to the CMMI Complaints and Corrective Action Appeals Process.

General Provisions

Purpose

The purpose of this policy is to detail the inputs and roles required for ISACA’s CMMI Complaints and Corrective Action Appeals process and the specific actions required of CMMI staff to consider either a complaint or an appeal of disciplinary decision and/or corrective action. The entirety of this guide is to be used as reference material for the operating procedures of the CMMI Complaints and Corrective Action Appeals Processes and should be referred to in conjunction with the CMMI Complaints and Corrective Action Appeals Process Flow diagrams.

Definitions

These Procedures are not a formal legal process; therefore, many legal procedures and practices are not observed, and the Procedures are designed to operate without the assistance of attorneys. ISACA, including its committees charged with carrying out these Procedures, may use the services of internal ISACA General Counsel in an advisory capacity at its discretion.

- a) CMMI Complaints and Corrective Action Appeals Team: The team consisting of the Senior Manager of Quality Management and members of Quality Management who are selected by the Senior Manager of Quality Management and have an allocated amount of their working hours dedicated to screening and reviewing Complaints and Corrective Action Appeals. While these team members can participate in some investigations, audits, and decision-making on corrective action, they should not be responsible for a final decision on an appeal or complaint for which they contributed directly to the initial investigation and/or disciplinary decision.
- b) Appeals Case Liaison: An employee of ISACA who is assigned by the CMMI Executive Steering Committee and can serve as an independent reviewer of the case as they were not directly involved in the original decision. The Appeals Case Liaison is also responsible for documenting any communications between ISACA and the Appellant (phone, email, etc.). Additionally, the Appeals Case Liaison is responsible for communicating the facts of the case to all internal stakeholders.
- c) CMMI Executive Steering Committee: The committee comprised of CMMI Executives and legal counsel who provide oversight for the administration of the Complaints and Corrective Action Appeals Process.
- d) CMMI Complaints and Corrective Action Appeals Panel: The Panel consists of five members. The majority of Panel members will be ISACA-nominated, and the remaining members will be elected representative members from the CMMI community.
- e) ISACA Legal Counsel: Legal counsel will be consulted by the Complaints and Corrective Action Appeals Team to provide recommendations and guidance where necessary.
- f) Appellant: The CMMI customer who is the responsible party for submitting the appeal to an investigation or audit and requesting a change to a corrective action.
- g) Complaint: A possible violation of CMMI model, method, policy, or ethical standards.
- h) Complaint Case Lead: A member of the CMMI Complaints and Corrective Action Appeals Team who is assigned by the Senior Manager of Quality Management. The Complaint Case Lead is also responsible for documenting any communications between ISACA and the Complainant (phone, email, etc.). Additionally, the Complaint Case Lead is responsible for communicating the facts of the case to all internal stakeholders and the Executive Steering Committee as necessary.
- i) Complainant: An individual or organization that initiates a complaint against a Covered Individual, or Appraised or potential Appraised Organization. Complaints made against ISACA employees or any other individual or organization not aforementioned are not covered by this process.
- j) Respondent: An individual or organization that is the subject of a complaint or investigation.
- k) Respondent's Impacted Parties: Individuals and/or organizations with a formal CMMI relationship to the respondent who are adversely impacted by the potential or actual outcome of the complaint process. Examples include but are not limited to: Lead Appraisers impacted by team members, Partners impacted by Lead Appraisers/Appraisers, Sponsors impacted by Partners, course participants impacted by Instructors, etc.
- l) Appellant's Impacted Parties: Individuals and/or organizations with a formal CMMI relationship to the appellant who are adversely impacted by the potential or actual outcome of the complaint process. Examples include but are not limited to: Lead Appraisers impacted by team members, Partners impacted by Lead Appraisers/Appraisers, Sponsors impacted by Partners, course participants impacted by Instructors, etc.

Note: A Respondent and Appellant can consult outside parties including a community advocate or ombudsman, but ISACA is not responsible for any communication or coordination with these outside parties

Time Requirements and Accommodations

ISACA will make every reasonable effort to adhere to the time requirements noted in this policy. However, ISACA's failure to meet a time requirement will not prohibit the final resolution of any ethics or conduct matter, or otherwise prevent ISACA from acting under this policy. Participants are required to comply with all time requirements specified in this policy. In light of the global nature of the CMMI community, including differences related to language, customs, geographic location, and other characteristics of CMMI members, certificate holders, volunteers and applicants, or other extenuating circumstances (death of immediate family member, leaves of absences, etc.), ISACA recognizes that Complainants, Respondents, and/or Appellants may have difficulty meeting certain time or other requirements included in this policy. Accordingly, Complainants, Respondents, and/or Appellants may submit to the Complaints Case Lead, Appeals Case Lead, or Complaints and Corrective Action Appeals Panel Chair, as applicable, a written request for an extension of one or more of the time requirements or a reasonable accommodation request related to matters of language, custom, geographic location, or other circumstance. The CMMI Complaints and Corrective Action Appeals Case Leads or Panel Chair may grant time extensions or postponements at their discretion, as applicable, in response to a participant's timely accommodation request. For all time requirements outlined in this policy, refer to the Time Requirements section on page five.

Litigation/Other Proceedings

ISACA may suspend (as applicable) a complaint or appeal when civil or criminal litigation or other proceedings substantially related to the complaint or appeal are before a court, regulatory agency, or other governmental body. ISACA may suspend (as applicable) a case if the matter is being pursued through another ISACA process. The Complaints and Corrective Action Appeals Team may, at its discretion, begin and continue processing complaints or appeals when proceedings are before another professional body, including, for example, another membership organization or an ISACA process. The Appeals Case Liaison or Panel Chair may determine whether to proceed with consideration of appeals when proceedings are before another professional body. Should ISACA suspend any complaint or appeal pursuant to this section, the Complainant, Respondent, and/or Appellant may be permitted to refile the complaint or appeal once the relevant proceeding has concluded.

Confidentiality

Complainants, Respondents, and witnesses are required to maintain the confidentiality of materials submitted to or received by ISACA as part of the complaint process, provided, however, that Respondents are permitted to disclose such information to witnesses and third parties as is reasonably necessary to prepare a defense. ISACA shall make reasonable efforts to maintain the confidentiality of relevant materials. ISACA reserves the right to withhold from or redact evidence sent to other parties (including Respondents and Appellants) which would disclose information such as a Complainant's identity, identifying evidence of Witnesses, investigative methods, proprietary materials, etc. At any time, ISACA may respond to inquiries from other parties regarding the existence of such cases and indicate the existence of such proceedings.

Conflicts of Interest

All parties involved must operate in a manner consistent with all applicable ISACA policies regarding conflicts of interest, including those mentioned in the Code of Professional Conduct (COPC).

Policy on Complaints and Corrective Action Appeals

Complaints

Time Requirements

- a) Submitting a Complaint: After a complaint is submitted, the Complainant shall receive an update within 15 calendar days regarding the status of their submission.

- b) Preliminary Investigation: CMMI Complaints and Corrective Action Appeals Team conducts a preliminary investigation within 21 calendar days after the Complaint is received.
- c) Determine Complaint Merit: CMMI Complaints and Corrective Action Appeals Team decides if a complaint has merit based on the results of the preliminary investigation, specifically if all eligibility criteria are met. Eligibility shall be determined within 15 calendar days of receipt of the complaint. Following, Partner organizations will be informed (if necessary) that a complaint has merit and is being investigated. If the CMMI Complaints and Corrective Actions Appeals Team determines that notifying the Respondent subject to investigation would adversely impact the investigation or other parties, then ISACA reserves the right to not notify the Respondent of the complaint or the investigation.
- d) Response Form Submission: The Respondent is required to submit their response to the investigation report within 30 calendar days with confirmed receipt (from when the Complaint Case Lead provides a draft of either the investigation to the Respondent) by completing the CMMI Complaint Response Form and returning it to the CMMI Complaints and Corrective Action Appeals Team. Then, a member of the CMMI Complaints and Corrective Action Appeals Team shall review the Response Form and amend the investigation report as needed within 30 calendar days.
- e) Corrective Action: The Complaint Case Lead should provide the corrective action report to the Respondent within 30 calendar days.

Merit

Only complaints submitted that are deemed to have “merit” will be considered past a preliminary review. Frivolous claims or baseless accusations will not be considered. Please refer to the below criteria used to determine “merit”:

- a) Complaint matter relates to a violation of model, method, policy, or ethical standard
- b) The matter is a reasonable concern and is not frivolous or trivial
- c) The information provided is sufficient and reliable enough to constitute further investigation
- d) Additionally, ISACA may suspend (as applicable) a case if the matter is being pursued as a subject of civil or criminal litigation or other proceedings substantially related to the complaint before a court, regulatory agency, or other governmental body

Corrective Action Appeals

Time Requirements

- a) Submitting an Appeal: After an appeal is submitted, the Appellant shall receive an update within 15 calendar days regarding the status of their submission.
- b) Preliminary Review: The appeal must be filed within 45 calendar days from the confirmed receipt of the original disciplinary decision.
- c) Acceptance of Appeals Case Liaison’s Decision: Once the decision has been sent to the Appellant, the Appellant has seven calendar days of confirmed receipt to either accept the decision or suspend it.

Eligibility Criteria

Corrective Action Appeals will only be considered for one of the below Articles for Appeal. An appeal can be submitted to include one or more of these articles; however, an appeal can only be submitted and considered one time for each case.

- a) Severity of Corrective Action: An appeal on the basis that the original corrective action was too severe, not congruent with the violation, or extenuating circumstances exist. Extenuating circumstances could include but are not limited to:
 - i) Prolonged illness or serious injury
 - ii) Death of an immediate family member
 - iii) Global or local circumstances affecting the ability to perform a role (e.g., Covid-19 pandemic)
- b) Material Errors of Fact: An appeal will be considered when there is a perceived material error of fact or dispute regarding the interpretation of method, model, and/or policy operative in the initial investigation or audit report determination and

corrective action decision. A “perceived material error of fact or interpretation of method, model, and/or policy” relates to facts that are essential for helping a reasonable person decide whether a violation of the Code of Professional Conduct has occurred as in cases where the underlying facts of the complaint are not true, or essential evidence was not available.

- c) Audit Process Not Followed: In the circumstance that the CMMI-contracted Independent Service Provider (ISP) Auditor did not adhere to the formalized audit process set forth by ISACA, the Respondent’s appeal may be considered.

The CMMI Complaints and Corrective Action Appeals team will conduct a preliminary review to ensure the Appellant is eligible to appeal. The preliminary review will be conducted prior to any other action taken on the case.

The Complaints and Corrective Action Appeals team will verify that the appeal meets one or more of the eligible articles for appeal:

The appeal must be made for one of the three Articles for Appeal (see above)

- 1) The appeal must be filed within 45 calendar days from the receipt of the original CMMI corrective action decision
- 2) The minimum threshold for an appeal to be considered is a corrective action of probation or above
- 3) ISACA may suspend (as applicable) a case if the matter being pursued is a subject of civil or criminal litigation or other proceedings substantially related to the appeal before a court, regulatory agency, or other governmental body

If the above criteria are met, the Complaints and Corrective Action Appeals team will consider the appeal. Otherwise, the Appellant will be notified that the appeal does not meet eligibility criteria and the request for appeal will be suspended.

Processing the Corrective Action Appeal

Once the Preliminary Review is complete and the appeal is determined to be eligible per the above criteria, the appeal will be categorized and considered based on the three appeal types (Severity of Corrective Action, Error in Material error of fact or interpretation of method, model, and/or policy, and Audit Process Not Followed). The evidence and case will be carefully considered by the Complaints and Corrective Action Appeals team, and the Corrective Action Appeals Case Liaison will decide on the case for appeals of Severity of Corrective Action or Audit Process Not Followed. If the decision is to let the original decision stand or the appeal is based on Material error of fact or interpretation of method, model, and/or policy, the Appeals Case Liaison will coordinate with the CMMI Executive Steering Committee to review the case and ultimately the Complaints and Corrective Action Appeals Panel. When the Panel decides on the case, that decision is final and cannot be appealed again. For more information on the Complaints and Corrective Action Appeals Panel, please see the Panel Guidance section below.

Panel Guidance

Panel Structure

- The Panel consists of five members – three will be appointed by ISACA, and the remaining two members will be elected representatives of the CMMI community.
- All Panellists (ISACA-appointed, and community-elected) must:
 - Be Certified Lead Appraisers, Instructors, or CMMI Partner and ISACA BPOCs, or have seven years of CMMI, Medical Device Discovery Appraisal Program (MDDAP), legal, or audit experience
 - Be in good standing (i.e., having no outstanding invoices or violations of CMMI model, method, policy, or ethical standards)
 - Meet all other eligibility criteria outlined in this document
- On an annual basis, ISACA appoints its members, one of whom will be appointed as the Panel Chair and another the Panel Vice Chair. The Panel Vice Chair assumes the role of the Panel Chair in their absence. ISACA may additionally appoint alternates for their appointed members.
- On an annual basis, the CMMI community will elect two members from the CMMI community to serve on the Appeals Panel who will be the members that received the most votes (recognized in the order of most votes received).

- The third and fourth members who received the next most votes will be asked to serve as alternate Panel members.
- The alternate Panel members will be asked to sit in on Panel votes in the case that one or both CMMI community-elected members could not attend a Panel meeting due to a Conflict of Interest, extenuating circumstance, short-term absence, etc.
- There is a term limit of up to three years in totality and Panel members must be re-elected or re-appointed each year.

Panel Member Guidelines

- Each of the members of the Appeals Panel must review and familiarize themselves with the facts of the case
- If a Panel member finds that a specific case creates a conflict of interest for them, they must disclose any conflict of interest to the Panel and recuse themselves if necessary
- If a CMMI Community Member Panel representative must recuse themselves, an alternate will serve in their place
- If a Panel member must recuse themselves from a singular case, they may vote on any additional cases that are not considered to be a conflict of interest during that meeting. A stand-in Panel member may not be needed if a majority is reached regardless
- If the Panel needs advice or information, the Complaints and Corrective Action Appeals Team and CMMI Executive Steering Committee can all assist as needed

Meeting Cadence and Voting Procedures

- If there are appeals to discuss and/or vote on, the Panel will hold a monthly meeting
- The CMMI Complaints and Corrective Action Appeals team will send the Panel Chair an email with an agenda of appeals one week prior to the Panel meeting
- If there are no appeals which require the Panel's attention, the Panel Chair may cancel the meeting for that month
- The Panel Chair reserves the right to call an ad-hoc Panel meeting
- The Appeals Case Liaison will work with the Panel Chair and members of the Panel to deliver the facts of the case, ISACA legal guidance, and recommendations from the Complaints and Corrective Action Appeals team
- The Panel has the option to request more information on a case and to defer their vote to the next meeting (or until the information request has been met)
- There must be a quorum of over 50 percent and at least one CMMI community-elected Panel member present for the Panel to vote
- In the instance that a quorum is not reached, the Panel will delay their vote until the next Panel meeting
- Should a Panel member have an extended absence or need to step down, that member can nominate a representative to their seat. The representative must be unanimously accepted by the Panel.
- In the case that the exiting Panel member does not wish to elect a representative to fill their seat, the Panel Chair can nominate a new Panel member (the Panel must still unanimously agree)
- When the Panel is ready, they will cast their vote on the case
- To have the original decision appealed, a simple majority must be reached (in an instance of a tie, the original decision stands and the appeal is denied)
- Once a vote has been cast and the decision made final, the Panel Chair may work with the Appeals Case Liaison to fill out the CMMI Panel Decision Summary form
- Each member of the Appeals Panel must sign and date the form to indicate the way they voted
- This form will be delivered to the Appellant as a receipt for the decision made on their appeal
- Based on a referral of the CMMI Executive Steering Committee, the ISACA CEO reserves the right to overrule the decision of the Appeals Panel

Panel Hearings

- In the case of decertification only, the Panel has the option to conduct a hearing and/or interview with the Appellant

- If there is a hearing, the attendees permitted will be at the discretion of the Panel Chair
- The Appellant may be given an opportunity to state their case and provide justification for their appeal
- No formal legal rules of evidence, cross-examination, oath, and other procedures will apply to the Appeal Hearing
- Decisions related to the conduct of the hearing are the sole responsibility of the Panel Chair. Examples include but are not limited to objections, time limits, and adjournment
- If the Panel Chair determines that the Appellant will be heard at a formal hearing, the Appellant must receive notice and logistical details at least 14 calendar days in advance

Any Panel responsibilities that are not explicitly described in this policy are assumed to be the decision of the Panel Chair.

Additional References and Resources

Tools, Templates, and Guidance

<p>Refer to the following policies for supporting information:</p> <p>CMMI Quality - Audit Policy</p> <p>CMMI Quality - Corrective Action Policy</p> <p>Requirements for Audit participation is documented in the CMMI Audit Guide.</p>

Revision History

Revision Date	Version History	Change
1 June 2023	V1.8	Re-templated and Reformatted
6 March 2023	V1.7	Initial Release