

## **ADDENDUM A**

### **GUIDELINES FOR REVIEW COMMITTEE HEARINGS**

This Addendum A is intended to serve as a guide for the conduct of appeal hearings held and administered by the NERVA Review Committee concerning complaints of violation of rules, regulations, policies or inappropriate behavior. The goal is to conduct as fair a hearing as possible for all concerned parties. The hearings, however, need not comply with rules, procedures or laws governing civil or criminal court proceedings. The Review Committee at all times has full discretion to conduct a hearing in a manner which it deems to be appropriate, fair and expeditious and which reduces the threatening or intimidating nature of a hearing. The following are intended to serve as guidelines for the conduct of hearings before the Review Committee.

1. Each party (usually Complainant and Respondent) shall have the right to participate personally in the hearing so long as that party complies with the rules and procedures herein and does not act in a disruptive or intimidating manner. If a party chooses not to participate personally in a hearing, the Review Committee may consider and rule upon an appeal based upon the documents and submissions previously filed. Each party has the right to be assisted in the presentation of his or her case with or without legal counsel or one other representative. Each party shall bear his or her own respective costs for the assistance of legal counsel or other representative. Each party also has the right to have a record (by audio recording or stenographer) made of the hearing so long as the requesting party pays the cost of such record.

2. If either party intends to be represented by legal counsel or to have some other designated representative assist them in the appeal hearing, that party must mail to the opposing party and Commissioner written notice of this intention and the identity of the legal counsel or designated representative no later than one week prior to the commencement of the hearing. If a party is assisted by a designated representative other than legal counsel, that representative may consult with the party being advised but does not have the right to present evidence or question witnesses.

3. The Review Committee has the discretion on a case-by-case basis for establishing and implementing all rules and procedures governing the conduct of a hearing as it determines is most appropriate. This discretion permits the Review Committee to deviate from the guidelines described in this Addendum A whenever it believes the interests of fairness and justice call for such deviation.

4. One calendar week prior to the commencement of the hearing, all parties (including the Commissioner, if applicable) shall file with the Review Committee in writing the names and addresses of those expected to appear as part of their presentations and all documents and other materials they expect to introduce as evidence. The parties also shall provide copies of the same written submission to each other and the Commissioner at the same time.

5. Upon request by the Complainant or the Respondent or upon its own discretion, the Review Committee may also permit the submission of additional witnesses or documentary evidence during the course of the hearing, when the Review Committee determines that such additional evidence or witnesses are both appropriate and unanticipated prior to the hearing. If such additional evidence or witnesses are permitted without prior disclosure before the hearing, the Review Committee may grant the opposing party or parties reasonable additional time to respond.

6. Except for circumstances authorized in advanced by the Review Committee, all witnesses must appear in person (video) during the hearing.

7. Throughout the hearing, the Review Committee has the right to establish reasonable time limitations on the presentation of evidence and witnesses by either or both parties.

8. The appeal hearing shall commence with a brief statement by the Review Committee Chairperson or other designated representative summarizing the complaint and the response and the Commissioner's decision being appealed.

9. The party appealing the Commissioner's decision next has the right to make an opening statement summarizing why he or she believes the Commissioner's decision should be reversed or modified. The opposing party or Commissioner has the right to make a brief opening statement in support of the Commissioner's decision immediately following the appealing party's opening statement or at the beginning of his or her presentation of evidence and arguments. Following the opening statement by the appealing party or the opposing party's opening statement, if one is given at that time, the appealing party shall present his or her case through personal accounts, witness testimony and documentary evidence at the discretion of the appealing party. The Review Committee has the authority to exclude any evidence or testimony that it believes is irrelevant, inflammatory or otherwise inappropriate. Each party, personally or through an attorney, has the right to question his or her own witnesses and those of the opposing party.

10. The Review Committee members also have the right to ask their own questions of witnesses and the parties

11. At the conclusion of the evidence and witnesses presented by the party opposing the appeal, the appealing party shall have an opportunity to offer rebuttal testimony or evidence. As part of its discretionary authority, the Review Committee may limit or exclude certain evidence that it believes is redundant or unfair.

12. The hearing is not open to the public, and attendance shall be limited only to those who are parties to the appeal hearing or as otherwise permitted by the Review Committee. Witnesses shall be present in the hearing (video) room only for their own testimony, unless otherwise permitted by the Chairperson of the Review Committee or upon agreement of both parties.

13. The Review Committee itself also has the discretion to call witnesses or request documents or other evidence not offered by the parties to the appeal, if the Review Committee believes that additional witnesses or evidence would be necessary and appropriate to a fair consideration of the appeal.

14. Following the conclusion of all presentations, arguments and submissions of evidence and testimony by the parties, the Review Committee shall deliberate in a private session not open to the parties or any member of the public to reach a decision as to whether to adopt, reverse or modify the Commissioner's decision being appealed. The Committee's decision shall be determined by majority vote. The findings and conclusions of the Review Committee shall be final.