



## **BLSA CANADA CODE OF CONDUCT**

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### **Black Law Students' Association of Canada**

**(BLSA Canada)**

**(As proposed in May 2020)**

#### **Article I**

#### **Definitions**

"National Executive Member" means a law student registered at a Canadian law school, elected to a or National Executive Director position by a majority of the national membership or an officer appointed by the National President and National Chair to represent the interests of BLSA Canada;

"Formal Report" means a formalized written complaint to the National President, National Chair, National Secretary or member(s) of the Alumni Advisory Committee;

"Conduct Committee" as defined and set out in the procedures of Article 6 of the BLSA Canada Code of Conduct;

"Appeal Committee" as defined and set out in the procedures of Article 9, Section 6 of the BLSA Canada Code of Conduct;

"Code Violation(s)" a violation(s) of any of the official grounds of misconduct set out in Article V and Article IV of the BLSA Canada Code of Conduct

#### **Interpretation**

All applicable dates and timelines set out in the Code of Conduct exclude statutory holidays and weekends.

## Article 2

### Purpose and Scope of Authority

The Black Law Students' Association of Canada ("BLSA Canada") has a reputation that is valuable, and as such reaches people before we do. Therefore, BLSA Canada has a reasonable expectation that all executive members will act in keeping with the mandate, purpose, objectives, and best interests of BLSA Canada. This means, operating within the scope of the best professional standards of conduct and behavior appropriate to the respect of BLSA Canada and the legal profession.

Pursuant to Article IV, Section 2 of the BLSA Canada Constitution, this Code of Conduct ("the Code") is enacted as a nationally applicable policy, pursuant to BLSA Canada By-Law 3.03, to ensure executive members refrain from conduct that would bring BLSA Canada or its purpose into disrepute. Therefore, BLSA Canada expects all members to operate in a manner that befits BLSA Canada's image.

This policy is designed to establish the scope of "disreputable conduct" and the procedures by which such conduct is detrimental to the wellbeing of BLSA Canada, and in violation of this code and other BLSA Canada policies. The Board of Directors of BLSA Canada can propose policies and procedures, pursuant to Article IV of the BLSA Canada Constitution. The Executive of BLSA Canada are empowered to enact policies and procedures, pursuant to Article VII and VIII of the BLSA Canada Constitution to enforce this Code of Conduct.

This policy is applicable in the following contexts to National executive members of BLSA Canada to ensure that the subject represents the mandate, purpose, objectives, and best interests of BLSA Canada:

- a) In interactions with other national executives;
- b) In interactions with individuals outside of the National Executive:
  - i) when acting in a capacity as a representative of BLSA Canada and,
  - ii) when you are not acting in a capacity as a representative of BLSA;
- c) In performance of their duties as executive members of BLSA Canada as outlined, according to each role, in the BLSA Canada Corporate Handbook;
- d) While participating in BLSA Canada events i.e. meetings, conference, gala, etc.;
- e) When using BLSA Canada controlled email addresses, social media platforms, and related services;

- f) When physically present in locations that are administered by BLSA Canada; and
- g) Other legislative contexts as confirmed through a majority vote.

This policy does not abolish or diminish the applicability of any other existing BLSA Canada policies that may be binding on BLSA Canada national executive members, including the Codes of Conduct of individual law schools or where applicable, the model Rules of Professional Conduct as stipulated by the Canadian Bar Association. The enactment of this policy shall override any prior BLSA Canada policies or legislative implementation on this matter.

### **Article III**

#### **General Disclaimer and Imputation of Knowledge**

Every executive member of BLSA Canada shall be constructively charged with a general duty to learn, comprehend, and apply this Code of Conduct in all contexts that represent the mandate, purpose, objectives, and best interests of BLSA Canada. BLSA Canada shall ensure the public and electronic availability of this Code to the Executive team. As such, ignorance of the Code shall not be a valid defense before any administrative or disciplinary proceeding of the organization.

This Code is applicable to the following BLSA Canada executive positions, subject to amendment:

- A. National President
- B. National Chair
- C. National Secretary
- D. National Treasurer
- E. National Director of Communications
- F. National Mentorship Representative
- G. National Francophone Representative
- H. National Francophone Director
- I. National Chapter Representative
- J. National Conference Chair
- K. National Julius Alexander Isaac Moot Director
- L. National Director of Advocacy



M. And any other Executive Member not enumerated herein

#### **Article IV**

##### **Main Rules of Conduct**

BLSA Canada is committed to maintaining an environment where executive members are free to have open dialogue consistent with BLSA Canada's main rules of conduct. As found in the Corporate Handbook, BLSA Canada executive members maintain a commitment to be sincere, honest, prepared, professional, thorough, efficient, act with integrity, and to always deliver.

This policy strengthens the main rules of conduct that executive members of BLSA Canada must embrace and follow throughout their term, to ensure that they continually represent the mandate, purpose, objectives, and best interests of BLSA Canada through:

- a) Communication
- b) Accountability
- c) Respect
- d) Teamwork
- e) Integrity
- f) Transparency

BLSA Canada seeks to create an environment that fosters the personal, cultural, and professional development of our executive members. As such, this Code of Conduct encourages intellectual diversity and creativity, independence, maturity, and respect for the rights and viewpoints of others.

#### **Article V**

##### **Protection Against Retaliation**

BLSA Canada is committed to maintaining an environment where individuals feel free to raise questions and concerns in good faith. This includes, but is not limited to, formal and informal discussions about many subjects including legal policy issues, professional development, effective career strategies, evolutions in substantive law, and access to justice for marginalized groups.

BLSA Canada will not tolerate retaliation in any form against an individual who raises questions or concerns about potential violations of this Code in good faith, or who reports potential

misconduct in good faith, including any action or suspected action by or within BLSA Canada that is illegal, fraudulent or in potential violation of the law or BLSA Canada's policies. This policy is applicable to retaliation by a member or members of the BLSA Canada executive, including, but not limited to, actions such as:

- a) Intimidation, harassment, discrimination, theft and other retaliatory behaviors by executive members against fellow executive members;
- b) Intimidation, harassment, discrimination, and other retaliatory behaviors by executive members against individual who assists in the investigation of potential misconduct;
- c) Other legislated context as confirmed through a majority vote.

The BLSA Canada Code subjects any individual who engages in retaliation to appropriate disciplinary action, up to and including membership revocation and reporting to law school professional conduct bodies.

## Article VI

### Prohibited Conduct

The Code sets forth several prohibited behaviors which are disreputable to BLSA Canada's commitments under Article III, its purpose, the BLSA Canada Constitution, and By-Laws. As such, BLSA Canada shall strictly enforce policies to prevent and deter such conduct, either willfully or recklessly committed.

In the event that the conduct of a National Executive is an egregious violation of the Code of Conduct, the proceedings within this Code does not prevent BLSA Canada from consulting with the organization's counsel, as to whether the incident needs further escalation to the appropriate authorities. This will be ascertained within the discretion of the organization.

#### **I. Harassment**

It shall be the policy that BLSA Canada prohibits all forms of harassment by any and all executive members of BLSA Canada towards another member, or guest of BLSA Canada. Harassment is a broad concept, covering a vast range of activities and actions. The following is a non-exhaustive list of prohibited conduct:

- A. Physical abuse, harassment, attacks or the threat thereof;
- B. Mental or psychological harassment, bullying or abuse or the threat thereof;
- C. Sexual harassment, including subtle and overt behaviors such as unwanted sexual

advances, lewd or indecent behaviors towards or around others, requests for sexual favors, sexual jokes, catcalls, suggestive objects or pictures, as well as other physical, verbal or visual conduct of a sexual nature, irrespective of means, method, or the genders of the recipient or the origin of the communication, or the threat thereof;

- D. Coercion or other means of manipulation, extortion, or the threat thereof;
- E. Discrimination, including use of slurs, disparaging language, or disparate treatment in decision-making based on ancestry, color, race, cultural or ethnic background/identity, economic status, political or ideological beliefs, marital or parental status, national, regional, or ethnic origin, physical disability, religious affiliation, gender, gender identity, or sexual orientation; or the threat thereof; and
- F. Other forms of harassment not stated herein or covered by the above are constructively prohibited by BLSA Canada and shall not be permitted.

## **II. Official Misconduct**

It shall be the policy that BLSA Canada prohibits all forms of official misconduct by any and all executive members. BLSA Canada National Executive members acting under the authority of BLSA Canada are deemed by this policy as representatives of the BLSA Canada organization and are seen to be authorized by BLSA Canada policies, including the BLSA Canada Constitution, BLSA Canada By-Law, and other governance documents to perform certain tasks and functions. In doing so, National Executive members are entrusted to be committed holders of BLSA Canada's resources, influence, contacts, and other instrumentalities of the proper conduct of BLSA Canada business.

The following is a non-exhaustive list of what is considered official misconduct for the BLSA Canada National Executive:

- A. Abuse of official position for the extraction of favors, gifts, payments, emoluments, pecuniary or other benefits (including in-kind services) using a BLSA Canada position, office, or other position of trust without authorization;
- B. Misappropriation, mishandling, misuse of BLSA Canada financial implements or financial resources, including cash, cheques, and other instruments intended and/or collected for BLSA Canada purposes, BLSA Canada credit cards, and bank accounts;
- C. Abuse of BLSA Canada membership resources, databases, and other official contact lists of the organization, including alumni, sponsors, government and civic officials, or other contacts collected for the use of

the organization;

- D. The making of promises or representations of authorization for official BLSA Canada action without authorization, including the signing of contracts, affirmative promises of payments to any person, execution of programs, or other actions requiring BLSA Canada approval;
- E. Abuse of the powers of any office to:
  - 1. attack, harass, coerce, or otherwise, willfully or recklessly, injure members of the organization, or the organization itself,
  - 2. benefit oneself or otherwise provide benefits, financial or otherwise, without the authorization of the organization,
  - 3. manipulate BLSA Canada processes, procedures, or policies to achieve nefarious, unauthorized, or imprudent results or outcomes,
  - 4. usurp or obfuscate the authority of the National Executive Board
  - 5. take actions not authorized by extant BLSA Canada policy or otherwise authorized by a relevant authority governing the organization.
- F. Filing false or materially deficient recommendations for disciplinary action, administrative action, or other official conduct proceeding;
- G. Unauthorized communication to BLSA Canada contacts, members, or other constituent groups using any means of communication, personal or BLSA Canada related.
- H. Engaging in harassing behaviours as defined in Article 5, section I of this Policy.

### **III. Substance Abuse**

It shall be the policy that BLSA Canada prohibits all forms of substance abuse by any and all executive members. BLSA Canada expects its members operating within BLSA Canada's jurisdiction to comply with municipal, provincial, and federal laws as it pertains with the use or non-use of various controlled substances. In addition, while the consumption of alcohol is often present at BLSA Canada events, it is the expectation of the Association that members will conduct themselves in a prudent and respectful manner. The following is a non-exhaustive list of prohibited conduct for BLSA Canada National executive members:

1. The consumption or possession of alcohol by any member affiliated with BLSA Canada under the age of 19;
2. The furnishing of alcoholic substances or beverages to any person under the age of 19;
3. The procurement for or use of alcohol at BLSA Canada-sponsored events where the program is for or the majority of persons attending the event will be persons under the age of 19;
4. The reckless, unprofessional, or unseemly consumption of alcoholic substances, to include:
  - a. Consumption in public areas of BLSA Canada-controlled spaces, including lobbies and hallways,
  - b. Consumption in non-trafficked areas such as stairwells and service areas,
  - c. Public drunkenness, disruptive behavior, or other disruptive acts conducted under the influence of any substance, including alcohol.
5. The use, distribution, sale of any illegal substances or drugs, as may be prohibited by municipal, provincial, or federal law;

BLSA Canada shall be empowered to fully investigate instances of substance abuse, in coordination with security personnel and, where necessary, local law enforcement. BLSA Canada reserves the right to bar admission or revoke access to BLSA Canada events, programs, and locations to any person found to be in violation of these policies.

#### **IV. Other prohibited conduct**

It shall be the policy that BLSA Canada prohibits all forms of prohibited conduct that would be injurious to the reputation of BLSA Canada and BLSA Canada's commitment to positively support and enhance the academic and professional opportunities for Black pre-law and law students, as such the following areas of conduct are also prohibited by this policy (this list is not exhaustive):

A. Disorderly and/or disruptive conduct and behavior, including but not limited to:

1. Theft or willful misplacement of the property of another;
2. Disrupting the operations of the faculty and/or staff of any BLSA Canada utilized location, inclusive of schools, hotels, office buildings, or other places used by the organization on any level;

a) BLSA Canada executive members shall take care to follow



the procedures and policies of the venue/location being utilized to avoid any injurious conduct to the venue or the reputation of BLSA Canada.

3. Tampering with or otherwise falsely using safety systems such as fire alarms and other devices;
  4. “Fighting words,” words, conduct, gestures, and phrases, meant to evoke a violent, confrontational response or otherwise inflict emotional distress;
- B. Divulging of confidential corporate or personal information, including personally identifiable information of any BLSA Canada members, officers, guests, employees, contractors, and others;
  - C. Knowingly or willfully obstructing the ability of the National Board or General Assembly to carry out their duties, including investigations, transaction of official business, or other powers;
  - D. Knowingly or willfully obstructing the progress or a BLSA Canada event or initiative without proper justification and/or authorization;
  - E. Perpetrating fraud, deceiving, creating falsehoods and false reports, or otherwise providing untrue statements, representations, or details to BLSA Canada members, committees, boards, assemblies, or officers while in the conduct of one’s official duties;
  - F. Violations of municipal, provincial or federal law, while in the conduct of one’s representation as a BLSA Canada member or officer;
  - G. Violations of the Association’s Constitution, By-law or other extant policies of BLSA Canada not otherwise herein implicated; and,
  - H. Other conduct injurious to and contrary to the well-being of the Black Law Students’ Association of Canada

## Article VII

### Administration of the Code

The Code of Conduct is, as stated in Article I, applicable to all BLSA Canada Executive members, and is enforceable by the Conduct Committee and others as mentioned herein. A formal complaint is necessary for the mediation and Conduct Committee hearing stages only.

The administration of the Code is to be governed by a three-pronged process, which will go through its entirety should the complaint not be resolved:

- A. an informal meeting between the relevant parties;
- B. a formal mediation between the relevant parties; and
- C. a formal Conduct Committee hearing

In the event that a formal Conduct Committee hearing takes place, a fourth-prong may be applicable to the proceedings:

- D. a formal appeal to the Appeal Committee

### **I - Meeting**

The purpose of this meeting is a conflict resolution meeting between the parties involved.<sup>1</sup> In this meeting, there will be ground rules set in relation to the procedure and goal of the meeting.

- A. It is required that the conflict be identified. Each party will provide their version of the events. This will constitute the first time the issue is formally addressed.
- B. Next there shall be a conversation, and a discussion of possible solutions, followed by a separate follow up with the parties involved to identify whether the meeting, discussion and solution was sufficient to solve the issue.
- C. In the event that the issue is not resolved, parties involved are not satisfied or decided upon resolution, then the matter shall proceed to mediation.
- D. The step to mediation is at the discretion of the President and /or Chair.

### **II. Mediation**

If a meeting between the parties is unsuccessful, the second step in the process is mediation.<sup>2</sup> Before mediation can be officially initiated, the complainant shall make a formalized complaint as outlined in Article IV, Section 3(c).

The official misconduct of the accused that led to the initiation of the meeting in Step I of Article IV;

1. The events that took place during the initial meeting with the parties; and

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<sup>1</sup> If a party is not comfortable with a face to face meeting, the appropriate accommodations will be made.

<sup>2</sup> Some alternative dispute resolution resources (ADR) can be found here: <https://adr.org/adr-resources>. Executives are also encouraged to seek out other best practice ADR resources for the mediation stage of the proceedings.

2. Why the informal meeting did not resolve the issue between the parties.

Upon receiving and reviewing the formalized complaint, the member receiving the complaint will respond to the complainant within 14 days outlining next steps for mediation and advise the accused of the formalized complaint and mediation proceedings.

The purpose of this step is to bring the part(ies) involved together to discuss the issue and see if the issue can be resolved. There will be a neutral party involved. The neutral party will set the agenda for the mediation, identify the issues at play, facilitate discussion, aid in mutual understanding of the issues specified by all material parties, and will encourage a resolution of the dispute, including suggesting potential resolution strategies.

The neutral party will acknowledge the agreed upon solution and determine the responsibilities each party has in the resolution. The neutral party will be a member of the Alumni Advisory Council (AAC) who can attest that they have no bias regarding the situation.

In the event that the dispute is not resolved, the parties involved are not satisfied, or the parties involved have not decided upon a resolution, the matter shall proceed directly to a formal reporting of the Code Violation to the Conduct Committee.<sup>3</sup>

### **III. Formal Reporting of Code Violations to the Conduct Committee**

The Conduct Committee shall be the final arbiter of the applicability and enforcement of this policy, with the AAC being the ultimate appellate authority.

The Conduct Committee shall be a committee of 5 and comprised of:

- A. The National President, National Chair and National Secretary, if the formal written complaint does not involve them, and two members of the Alumni Advisory Committee; or
- B. If the complaint does include some or all of the aforementioned National Executives, the Conduct Committee will be replaced by Alumni Advisory Committee members as needed.

The Conduct Committee shall have power to enforce the terms of this policy against any BLSA Canada executive member without limitation, particularly at National events, meetings, programs, and the National Conference. When there is a conduct violation, there are two steps that can be taken prior to the formal reporting of the code violation to the Conduct Committee - Meeting and/or Mediation.

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<sup>3</sup> If a party is not comfortable with a face to face mediation proceedings, the appropriate accommodations will be made.

The Alumni Advisory Council may recommend sanctions against the National Executive member(s), as a whole, upon investigation and findings giving rise to the belief that the Executive(s) supported or espoused, violations of the Code of Conduct. Members of the Alumni Advisory Council are not permitted to negate, nullify, or otherwise countermand the dictates of this policy or its application to all BLSA Canada members operating within BLSA Canada's jurisdiction.

C. A complaint shall be submitted and addressed to the following persons:

1. Email to National President [[president@blsacanada.com](mailto:president@blsacanada.com) ] and National Chair [[chair@blsacanada.com](mailto:chair@blsacanada.com)].
2. If the matter is against the National President, email to National Chair [[chair@blsacanada.com](mailto:chair@blsacanada.com)] and National Secretary [ [secretary@blsacanada.com](mailto:secretary@blsacanada.com)].
3. If the matter is against the National Chair, email to the National President [[president@blsacanada.com](mailto:president@blsacanada.com) ] and National Secretary [[secretary@blsacanada.com](mailto:secretary@blsacanada.com)].
4. If the matter is against any combination of the National President, the National Chair and the National Secretary, the complaint should be addressed to the Alumni Advisory Council (AAC).

D. A complaint shall contain the following:

1. A short and plain statement of the facts surrounding the alleged violations of the BLSA Code of Conduct and/or local disciplinary bylaws or policies,;
2. A short, reasonably particular, and plain statement of the specific Code policies violated, and supporting facts; and
3. The signature of the complaining party or parties, signifying an affirmation of the accuracy and veracity of the allegations, to the best of their knowledge, subject to the provisions of the Code and their school's Honour Code.

Upon receipt of the Complaint to the relevant persons as listed above, one of the members of the Conduct Committee in receipt of the Complaint, as defined in Article IV, s 3(b), will inform the accused, within 48 hours, that there has been a submission of a Complaint against them, and will forward said Complaint for the accused's review. Upon notification, the accused may, *within five (5) business days* , submit a written Answer to the Complaint to the Conduct Committee presiding over the matter, which shall contain the following:

1. A short and plain set of statements either admitting or denying the allegations asserted in the Complaint;

2. A short, reasonably particular, and plain set of statements as to any defenses;
3. The signature of the responding party or parties, signifying an affirmation of the accuracy and veracity of the responses, to the best of their knowledge, subject to the provisions of the Code and their school's Honor Code.

Upon receipt of a Complaint and its associated answer, all details therein are to be held as strictly confidential, including by the Complainant and accused Executive Member, and shall not be divulged unless the administration of the process requires such details to be shared in consultation with a law school, bar admission character and fitness, or law enforcement investigation.

#### **IV. Review of Complaints**

If the mediation outlined in Article VI, Section 2 of the Code, the neutral party shall submit the formalized complaint to the Conduct Committee, in accordance with the administration of the Code. The Conduct Committee will render a decision as to the merit of the claims presented and provide a decision.

#### **V. Standard of Proof**

In reviewing Complaints, the applicable reviewing body, i.e. the Conduct Committee, shall seek to establish by a preponderance of the evidence provided whether it is more likely than not that the violation(s) occurred. At no time, shall any personal knowledge of the persons involved that may be possessed by committee members be utilized as part of the body of evidence under consideration.

#### **VI. Conflicts and Recusal**

In the case of a member of the reviewing body having a close connection with the Complainant or Respondent or otherwise being materially involved with the issue before the committee, that member shall disclose the conflict and be recused from consideration of the Complaint. The Committee Chair shall be responsible for ensuring that all members of the committee are free of conflicts prior to consideration of a complaint. The National Chair or applicable National executive may appoint a temporary replacement for conflicted members so as to dispense with the matter before the committee.

The Committee Chair is to be designated as follows:

1. The National President shall be the Committee Chair; if the complaint involves the National President then,

2. The National Chair shall be the Committee Chair; if the complaint involves the National Chair then,
3. The National Secretary shall be the Committee Chair; if the complaint involves the National Secretary then,
4. A member of the Alumni Advisory Committee serving on the Conduct Committee.

At no time, may members of the Alumni Advisory Committee that are not a part of the Conduct Committee, insert themselves into or otherwise participate in the national adjudication of a Complaint by the Conduct Committee, as the Complaint may be appealed to the Appeal Committee.

## **VII. Sanctions**

Pursuant to Section 2 of the Constitution, BLSA Canada is empowered to make and enforce its own rules to require members to refrain from conduct disreputable to BLSA Canada or its purposes. This Code of Conduct is a set of rules enacted to further this purpose. Sanctions, as prescribed in this policy, are applicable against members except where superseded by the BLSA Canada Constitution and/or Bylaws. The reviewing body, i.e., the Conduct Committee or the Alumni Advisory Committee must pass any sanctions above a written warning with a two-thirds vote, unless otherwise indicated.

Officers of BLSA Canada are held to the highest standards of conduct, ethics, and professionalism while in the furtherance of their duties. They represent the face of the organization while conducting its business. Sanctions under this policy are administrative in nature, as disciplinary actions affecting their status in office are governed separately by Article 2.06 and 3.03 of the BLSA Canada Bylaws. Sanctions levied against an officer shall be communicated in writing to the appropriate leadership levels and to law school leadership with specific reasoning provided.

Note: the unavailability of disciplinary sanctions under BLSA Canada's Code of Conduct does not alleviate the applicability of sanctions as a member of BLSA Canada or the general applicability of Articles I-V as grounds for the determination of disciplinary actions under Article 2.06 and 3.03 of the BLSA Canada Bylaws.

## **VIII. Available sanctions include, but are not limited to:**

- A. Official Written Warning
- B. Officer Probation & Performance Improvement Plan
- C. Officer Suspension from Duties
- D. Recommendation for Disciplinary Action
- E. Removal from the Executive

## IX. Appeals

Members and officers of BLSA Canada shall be afforded the right to appeal from decisions of the Conduct Committee. All appeals, by the Applicant, shall be addressed and sent directly to the Alumni Advisory Committee. The Applicant has 10 days from the day that the decision was rendered, to appeal the decision of the Conduct Committee.

The Appeals Committee shall be composed of three members of the Alumni Advisory Committee. Only members of the Alumni Advisory Committee that were in no way involved in nor participated in the initial matters of the Conduct Committee shall sit on the Appeal Committee.

To apply for an appeal, the Applicant, formerly the accused or complainant, must draft a submission, no longer than two pages, explaining why the decision of the Conduct Committee was incorrect and should, as a result, be reconsidered by the Appeals Committee. The Appeals Committee is empowered to accept or deny the application for appeal upon review of the Applicant's submission.

If an appeal is accepted, the Appeals Committee is required to review the evidence as presented to the Conduct Committee and reply with a written decision. The Appeals Committee is empowered to:

- A. Affirm the decision of the Conduct Committee and the imposed penalty;
- B. Affirm the decision of the Conduct Committee, but overturn the imposed penalty and instead apply another of the subscribed options as per Article VI Section 08 of this Code;  
or
- C. Overturn the decision of the Conduct Committee and remove the imposed penalty, if applicable.
- D. If the Appeals Committee overturns the penalty imposed by the Conduct Committee as per Article VI Section 9(b) of the Code or overturn a decision of the Conduct Committee and remove the imposed penalty as per Article VI Section 9(c), the members of the Appeals Committee must provide written reasons for its decision within 21 days of receiving the appeal.