ADR Institute of Alberta (ADRIA)
Complaint Resolution Policy
DRAFT 2.3 January 2013

Purpose:

The purpose of this policy is to address, in an open and transparent fashion, all concerns, disputes and complaints that may arise and be brought to the attention of ADRIA concerning:

- **Member conduct:**
  - **Code of Conduct and/or Ethical breaches:** as prescribed by the ADR Institute of Canada at http://www.adrcanada.ca/rules/index.cfm
  - **Professional competency:** issues arising from concerns regarding a member's competency or ability *(mental capacity?).*
  - **Business practices:** issues arising from the business practices of a member in regard to ADR service delivery, including fees and billing.

- **ADRIA functions:**
  - **Board activities:** policies and governance of the Society;
  - **Operational activities:** programs, policies, services, memberships, rosters, directories, offered or administered by ADRIA staff, contractors and volunteers; and
  - **Educational activities**: programs, initiatives, certificates, evaluations, assessments, designations, equivalencies, instructors or coaches, as delivered or administered by ADRIA.

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Applicable to:

A complaint under this policy may be made by:
- ADRIA members, partners, affiliates, clients, sponsors, or students;
- ADRIA staff, contractors, instructors, coaches, or volunteers; or
- Members of the general public.

Internal staff complaints, including complaints raised by those internally contracted to ADRIA, involving compensation, performance, interpersonal relations or HR issues are NOT addressed through this policy, although similar principles apply.

Guiding Principles:

- *ADR First:* The skills and resources of ADRIA will be used to address and resolve complaints in a manner that is consistent with an interest-based, collaborative approach whenever possible.
- *Personal Responsibility and Engagement:* All parties to a complaint will actively participate, and strive to achieve a collaborative resolution and outcome at the earliest possible stage of the process.

- *Confidentiality:* Information about a complaint will only be given to parties directly involved and to others on a need to know basis.
- *Timeliness*: Complaints will be dealt with promptly and resolved as quickly as possible.
- *Fairness:* Review of complaints will be fair, impartial and respectful, allowing all parties to have their perspectives heard.
- *Thoroughness:* Review of complaints will be thorough and as detailed as possible, based upon the information provided by the parties.
- *Accessible and User-Friendly*: The process will be easily accessible and communicated to members. It is designed to be clear and as simple to follow as possible.
- *Transparency:* The parties will be provided clear and understandable reasons for decisions relating to complaints. All parties will be provided with updates during review processes.

Definitions:

Complaint. A complaint is an expression of dissatisfaction from a member or the general public regarding an ADRIA member, or regarding ADRIA's Operational, Educational or Board activities. For ease of reference, all manner of concerns, disputes and/or complaints brought to the attention of ADRIA staff or Board members, formal or informal, shall be referred to as a complaint within this policy.

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Complaint Resolution Process:
The ADRIA complaint resolution process is a progressive effort to resolve a complaint in a confidential, timely fashion at the lowest practical level. The emphasis throughout this process is on personal responsibility, engagement, and constructive dialogue wherever possible. There are three (3) progressive steps to the ADRIA Complaint Resolution process, as detailed in Annex A:
Step 1: Informal
Step 2: Facilitated
Step 3: Written/Formal

A Complainant is the individual lodging a complaint against another individual, policy or practice within ADRIA's jurisdiction.

A Respondent is an individual against whom a complaint has been made, and/or someone responsible for the policy or activity complained about.

An Ombudsperson is an individual who has been appointed by the Board to act as an intermediary, convening authority, or mediator in the complaint process, and to work with the parties to achieve a resolution. The Board may appoint a roster of Ombudspersons, the appointments of which may be from the Board, the staff, or the general membership based on experience, personal reputation and neutrality.

The Board refers to the ADRIA Board of Directors, as elected by the membership.

A Policy is any policy that has been approved by the ADRIA Board of Directors.

ADRIA staff refers to employees and contractors directly employed or engaged by ADRIA to deliver core functions. It does not refer to ADRIA instructors or coaches.

Discipline refers to the corrective action taken in respect to an individual when a complaint is upheld, and/or found to have substance, and/or agreed to as a consequence of a negotiated or mediated outcome. Disciplinary measures are normally considered confidential, and the details are usually not shared with other parties to the conflict, except when considered necessary to safeguard the public. [Note that ADRIC policy mentions disciplinary measures. Should we include, exclude, expand, remain silent, or simply refer to a separate Board policy?]

Referrals:

Matters that cannot be resolved by the ADRIA Complaint Resolution Process, or are referred by the Board of Directors, may be directed to the ADR Institute of Canada's Complaints and Discipline Policy: http://www.adrcanada.ca/rules/complaints.cfm

If a matter falls under the dispute resolution provisions of the ADRIA Bylaw 8.4 (attached) the matter may be referred to Negotiation, Mediation and/or Arbitration. [This bylaw is extremely unclear and contracticts this policy. Needs revision]

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Documenting Complaints:

A record will be kept of any Formal/Written complaint under this process. Information about such complaints will include the parties involved, a description of the complaint, who handled it, what was done to resolve the complaint, the timeframe, and a description of the resolution or an explanation for non-resolution. These records will be maintained by the Executive Director in a confidential file.

A summary of complaints, including total number of Step 2 and Step 3 complaints and the nature of complaints received, will be prepared by the Executive Director and reported to the Board of Directors regularly throughout the year.

Responsibility for Implementation:

This policy respects the accountability framework of ADRIA which provides that:

- Operational and Educational activities are the responsibility of the Executive Director; and
- matters relating to Board policy, activities, decisions and governance are the responsibility of the Board of Directors.

Annex A – ADRIA Complaint Resolution Process & Procedures

Step 1 - Informal

An informal complaint resolution effort is characterized by an individual's personal efforts to seek information and express their concern(s) without recourse to a formal, written complaint. Early, Local and Informal (ELI) engagement is the best approach to most conflict situations, as it is important to ensure that the respondent, or the responsible person, is made aware of the concern and be allowed the first opportunity to offer an explanation or remedy. When appropriate, or in preparation, the complainant could also speak with any person who is most familiar with or responsible for the matter of concern. Informal resolutions are often achieved without recourse to, or without the knowledge of any ADRIA staff or Board member.

The first person a complainant should talk to is the person with whom he or she has the conflict, or is responsible for the activity (the respondent). If the complainant is unable to resolve the matter with the respondent, and/or is unsure about who to talk to, he or she is encouraged to consult with an ADRIA staff member or the Executive Director. He or she will assist the complainant in directing the concern.

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Complaints regarding the **Ethics, Conduct, or Professionalism of ADRIA members** in their practice should first be addressed with the member directly. In such circumstances, ADRIA staff can only offer general assistance and encouragement to the parties in their efforts to resolve their dispute informally. Both complainant and respondent(s) are encouraged to refer to this policy and its guiding principles as they work together to achieve a resolution.

Complaints about practices pertaining to **Educational activities, Membership**, **Designations or Accreditations** will initially be dealt with by the most senior staff member responsible for this activity.

If the complainant is unable to identify the responsible staff member, or for day-to-day operational matters that require greater scrutiny, the **Executive Director (ED)** may be approached for assistance. The ED will usually inquire about any initial resolution efforts, and will consult as appropriate with ADRIA staff to assist. Every attempt should be made by the complainant to resolve the matter informally within the first two (2) weeks after a concern is voiced. To this end, direct dialogue and negotiation between the parties involved is strongly encouraged.

Step 2: Facilitated

If the informal approach does not resolve the matter to the satisfaction of the complainant, the complainant can refer their complaint, **verbally or by e-mail** to the ADRIA Responsible Contact (see table below). Step 2 might be the first occasion that an ADRIA staff or Board member becomes aware of the complaint.

This step in the Complaint Resolution Process is **NOT** characterized by a formal, written complaint, but instead by a genuine interest in further ADR resolution efforts to address issues that have not been resolved though initial, informal efforts. The early submission of a written formal complaint and supporting documentation does NOT, by definition, escalate the complaint to Step 3 (Written/Formal), unless such action is warranted and/or is considered in the best interests of the Society.

The ADRIA Responsible Contact will maintain a personal record of any complaint received, including details of all informal efforts made by the complainant to achieve an early resolution. Whenever practical, complainants will be encouraged to pursue their informal options (Step 1 of the Complaint Resolution Process), and be assisted as appropriate.

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Subject/Type of Complaint	**ADRIA Responsible Contact**
Complaints regarding ethics, conduct or professionalism of an ADRIA member	**Executive Director**
Complaints regarding ADRIA services, programs, activities, operations, education & professional development activities, contractors or volunteers	**ADRIA Staff** – the staff member responsible for the service area relating to the complaint or, if necessary, the Executive Director**.**
Complaints regarding ADRIA staff members	**Executive Director**
Disputes between ADRIA staff members	**Executive Director** (other policies apply)
Complaints concerning the Executive Director	**Board Officer –** Vice-President
Complaints regarding Board Policies, Board actions/decisions and governance of the Society	**Board Officer** –Vice-President
Matters related to Board/staff relations	**Board Officer -** Vice-President (or President if the concern relates to the VP)
Complaints concerning a Board Member	**Board Officer –** Vice President (or President if the concern relates to the VP)

Complaints received at Step 2 will be addressed in a timely fashion by the ADRIA Responsible Contact, and a response can be expected within two (2) weeks. Specific facilitation processes or outcomes are not defined, except to note that they must strive to achieve resolution from the perspective of the complainant and any other parties engaged. Facilitation or mediation services may be offered. Upon conclusion, the Responsible Contact will summarize the outcome and conclusions in an e-mail to the complainant and other parties as appropriate.

Step 3 – Written/Formal

If early resolution efforts do not achieve a resolution in a timely fashion or to the satisfaction of the complainant, a written formal complaint may be forwarded or requested. The submission of a written complaint is **NOT** a mechanism for bypassing Steps 1 and 2 of the Complaint Resolution Policy, as the complainant is obligated to detail all prior efforts to achieve a resolution, and may be directed to earlier steps in the policy if required.

A formal complaint is characterized by an written submission, including a clear statement of the complaint, resolution efforts to date, and the outcome(s) desired. The Respondent and ADRIA Responsible Contact must be clearly identified. Written complaints are usually accompanied by supporting documentation, and may be submitted to:

- The **ADRIA Executive Director** for all operational and professional development issues, and for any complaints regarding the ethics, conduct or professionalism of ADRIA members;
- The **Vice President of the Board** for issues pertaining to Board policies or conduct of the Society; or
- The **President of the Board** (only in rare circumstances).

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Written formal complaints will be acknowledged within 2-3 business days. When a complainant is referred back to an earlier step in the Complaint Resolution Process (Informal or Facilitated), this shall be clearly explained in order to avoid confusion.

To ensure that this policy's guiding principles are fully applied to achieve a mutually satisfactory outcome for all parties, the Step 3 resolution options detailed below will be carefully considered by the *Board Officers or Executive Director (in consultation with the Board) ?* The complainant and respondent(s) will be advised of the selected recourse mechanism within two (2) weeks of receipt of the written complaint:

Option A (preferred) – referral to an ADRIA Ombudsperson

Upon receipt of a referral from either the Executive Director or the Board, the Ombudsperson will contact the parties to commence an attempt to resolve the issue(s). The Ombudsperson shall attempt to resolve all issues using various tools at his or her disposal and in a manner deemed most appropriate by the Ombudsperson in consultation with the parties. All parties are encouraged to work with the Ombudsperson, noting that:

a. If the complaint is not resolved by efforts of the Ombudsperson, the Ombudsperson may refer the matter to the ADRIA Board for review and determination (Options B & C). Similarly, for the parties, any dispute that is not resolved through an Ombudsperson may be appealed to the Board of Directors; or

b. If the complaint is resolved by the efforts of the Ombudsperson, the Ombudsperson will send a confirmation letter to the parties and write a report of the complaint, documenting the parties, the issue, steps taken and the resolution. What actually happened or what was discussed during this process will be confidential and not part of the report. The report will be submitted to the ADRIA Board and/or the Executive Director, as appropriate.

The Ombudsperson will make every effort to complete this work within sixty (60) days from the date of receipt of the written complaint.

Option B: Board Review Panel

Where a matter needs be referred to a Board Review Panel, a three (3) member panel shall be appointed by the ADRIA Board of Directors. The panel will consist of at least two (2) members of the Board, with a third panel member being the Executive Director, an ADRIA staff person, an ADRIA member at large or, depending upon the severity or nature of the complaint, a subject matter expert or professional from outside ADRIA. At the discretion of the Board, a two (2) member panel can be appointed for less complex complaints, with at least (1) Board member appointed.

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The Review Panel will contact the complainant and the respondent within one (1) week of being struck, disclose the complaint as appropriate, and schedule a meeting within thirty (30) days to be attended by the parties. During this meeting the parties will have an opportunity to provide their views on the matter and present evidence. A written decision of the panel shall be provided to the parties within two (2) weeks of the meeting date. The results will later be presented to the Board as a whole, and there is no appeal.

Option C: Board Determination

Where a matter is referred directly, or by an Ombudsperson to the ADRIA Board of Directors, the Board may choose to determine the matter at a whole Board meeting or refer it to an ADRIA Board Review Panel (Option B).

At the earliest opportunity, if the Board determines it will deal with the matter, the complainant and respondent(s) will be advised in writing of that decision and, if required, the date of the next scheduled ADRIA Board meeting. The Board will further inform the parties of the process the Board chooses to use in resolving the matter, what additional information the Board requires, and whether the Board wishes the parties to appear (in person or by teleconference).

When the Board determines the matter as a whole, a written determination of the Board will be provided to the parties within two (2) weeks, representing a final, non-appealable decision on the matter.

Attachment 1: Bylaw Provisions

8.4 DISPUTE RESOLUTION

1. This Section applies to any dispute arising out of the Society's affairs and between members, or between the Society or its Director or its Officer and either,

   a. a member or a person who is aggrieved and who has for not more than 6 months ceased to be a member; or

   b. a person claiming through the member or aggrieved person or claiming under the Bylaws, ?????

2. Any dispute subject to Subsection 1 will be resolved by:

   a. Direct negotiation between the affected parties. If resolution is not achieved, then by the provisions of the Complaints and Dispute Resolution and Process Policy by

   b. Mediation pursuant to the *National Mediation Rules* of ADRIC. The place of mediation will be in Alberta. The language of the mediation will be English. If resolution is not achieved, then by

   c. Arbitration pursuant to the *Simplified Arbitration Rules* of ADRIC. The place of arbitration will be in Alberta. The language of the arbitration will be English, and the decision will bind all parties.

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