

Joint Discipline

Streamlining the U.S. actuarial profession's discipline process

Overview

- Background
- The current process
- Proposed changes
- How the proposed process would work
- Current process vs. proposed process
- Advancing the proposal

Background

- The presidents and presidents-elect of the U.S.-based actuarial organizations conducted a comprehensive review of the current discipline process
- They concluded that the current process is sound, but identified inefficiencies
- U.S.-based organizations approved in principle a proposal to address these inefficiencies

The current process

- Too many hearings
 - Two to three hearings if subject actuary is a member of one organization
 - Fact-finding hearing
 - Disciplinary panel hearing
 - Appeal hearing (potential)
 - Up to seven hearings if subject actuary is a member of three organizations
 - Two additional hearings for each organization

The current process

- Too many hearings =
 - Inefficient and potentially financially costly
 - Potential for disparate outcomes
- May be a need for more transparency
 - Current confidentiality requirements may create impression that process strives to protect actuaries rather than public
- Failure to address shortcomings could threaten the profession's independence
- Profession could become vulnerable to external criticism; similar to U.S. auditors and U.K. actuaries

The proposal: holdovers

- Retain key attributes of current system
 - Examples:
 - ABCD will continue to perform investigations and make appropriate discipline recommendations
 - The subject actuary will continue to be judged by panel of his/her true peers
 - Each organization will retain ultimate control over its membership

The proposal: improvements

- Streamline the current process
 - Number of hearings reduced to two or three regardless of how many memberships the subject actuary has
 - Decisions generally apply to all memberships except in cases of expulsion and long-term suspensions
- Develop case studies
 - ABCD will be charged with developing case studies to assist panels and increase consistency
 - Process will not change how investigative bodies operate

How the proposal works

- Disciplinary panels
- Decisions
- Appeal process

Disciplinary panels

- Discipline recommendations will be submitted to a single representative Joint Discipline Panel
 - Appointed by leaders of the organizations
 - Majority of panel's members will be from subject actuary's organizations
- Joint Discipline Panel will decide whether to accept, reduce, dismiss, or increase recommended penalty

Decisions

- Any decision to impose discipline would be by a supermajority of the discipline panel members
- Decisions for no discipline (w/ or w/o counseling), a private or public reprimand, or suspension up to two years are final
- Determinations of expulsion or suspension greater than two years are referred to the member's organizations for further review and final decision

Appeal process

- All appeals will be considered by a Joint Appeal Panel
 - Appointed by leaders of the organizations
 - Joint Appeal Panel members must be different than Joint Discipline Panel members
- Grounds for appeal are limited to procedural errors or if new evidence surfaces that was not reasonably available at time of disciplinary hearing
- Appeal Panel can affirm the decision or remand the case to either new or same discipline panel (depending on the reason for remand)
- Appeal Panel decisions are by a simple-majority vote

Current process vs. proposed process

<u>Current process</u>	<u>Proposed process</u>
Hypothetical example: Subject Actuary is FCAS, MAAA, and FCA	
A complaint of a violation of the Code of Professional Conduct is referred to the ABCD.	
The ABCD reviews and decides complaint has merit; opens an investigation; investigator reports findings	
The ABCD reviews report and agrees complaint should move forward; recommends a fact finding hearing	


Current process vs. proposed process

<u>Current process</u>	<u>Proposed process</u>
Following the hearing, ABCD recommends discipline and sends report to CAS, Academy, and CCA.	Following the hearing, ABCD recommends discipline and sends report to CAS, Academy, and CCA. Each organization forwards to the Joint Discipline Council.


Current process vs. proposed process

<u>Current process</u>	<u>Proposed process</u>
Upon receipt of the discipline recommendation, the three organizations initiate their own internal discipline procedures. In each of the three organizations, the matter is referred to a discipline committee.	Upon receipt of the discipline recommendation, the Joint Discipline Council appoints a discipline panel. The panel has a majority of members in each of the participating organizations of which the subject actuary is a member.

Current process vs. proposed process	
<u>Current process</u>	<u>Proposed process</u>
Each organization holds a disciplinary hearing under its own procedures. The subject actuary may appear at each hearing.	The Disciplinary Panel holds a hearing to consider the matter under the joint discipline provisions. The subject actuary may appear at the hearing.
Each discipline panel reaches its own (and potentially different) discipline decision.	The Disciplinary Panel reaches a discipline decision, avoiding a situation in which different discipline outcomes are implemented for the same violation.


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Current process vs. proposed process	
<u>Current process</u>	<u>Proposed process</u>
The subject actuary notifies each organization that he/she is appealing the decision, which initiates three appeal processes.	The subject actuary notifies the Joint Discipline Council that the panel's decision will be appealed, initiating one appeal process. The grounds for the appeal must be stated and are limited to a purported procedural error or presentation of new evidence that was not reasonably available earlier.


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Current process vs. proposed process

<u>Current process</u>	<u>Proposed process</u>
Each organization carries out its own appeal process and makes its own decision.	An Appeal Panel is formed by the Joint Discipline Council that meets the same selection criteria established for Disciplinary Panels. The panel holds a hearing and makes a decision.
The discipline decisions are implemented.	The discipline decision is implemented.

Advancing the proposal

- Implementation task force has been formed and is directed to finalize the proposal details
- Members will vote on bylaw/constitutional amendments to allow organizations to enter into joint discipline agreement