

Agent/Agency Disciplinary Action Appeal Procedures

1. **Purpose:** The purpose of these procedures is to set out a process, as provided for in the Agent Appointment Agreement and Agency Agreement, by which an agent or an agency that is subject to Disciplinary Action may request review of the Intended Disciplinary Action, based on a mistake of fact or a mistake of law.
2. **Definitions:**
 - a. "Appeal" refers to the appeal process, as allowed under the Agent Appointment Agreement and the Agency Agreement, by which Citizens' Intended Disciplinary Action is reviewed, consistent with these procedures, and shall encompass all stages from the filing of a Notice of Appeal to the rendering of a Final Report by the Hearing Officer.
 - b. "Appellant" refers to an agent or an agency that files a Notice of Appeal seeking reconsideration of Intended Disciplinary Action by Citizens.
 - c. "Citizens" refers to Citizens Property Insurance Corporation.
 - d. "Disciplinary Action" refers to a termination or suspension of an agent or agency for cause resulting from a violation of the applicable agreement, but does not include:
 - i. An Investigative Suspension;
 - ii. A termination of the applicable agent or agency agreement without cause;
 - iii. An administrative termination of the applicable agent or agency agreement;
 - iv. A termination of the applicable agent or agency agreement resulting from the dissolution of Citizens;
 - v. A termination of the applicable agent or agency agreement resulting from the suspension, revocation, expiration, termination, or surrender of the applicable Florida general lines agent's license or the agency's Florida license or registration; or
 - vi. A termination of an agency agreement as a result of that agency becoming the subject of a bankruptcy action.
 - e. "File with Citizens" means that the document being filed is received by Citizens by way of:

- i. For filing Responses to Preliminary Findings or responses to investigative inquiries:

Email: Agent.Review@Citizensfla.com

- ii. For filing a Notice of Appeal with Citizens, by way of either:

- 1. Email: Agent.Appeal@Citizensfla.com or
- 2. Certified mail to:

Citizens Property Insurance Corporation
ATTN: Citizens Agent Appeal Clerk (Legal Services)
2101 Maryland Circle
Tallahassee, FL 32303.

- f. “Final Report” refers to the official report of the Hearing Officer rendered after consideration of the Record, any Written Submissions, and the arguments presented by the parties.
- g. “Hearing Officer” refers to a person who is not an employee of Citizens who has been engaged by Citizens to conduct an independent review of Citizens’ Intended Disciplinary Action and to render a Final Report in accordance with these procedures. The Hearing Officer’s review is limited to a determination of whether the Intended Disciplinary Action is based on a mistake of law or a mistake of fact.
- h. “Intended Disciplinary Action” refers to Disciplinary Action that Citizens intends to take as set forth in a Notice of Intended Disciplinary Action.
- i. “Investigative Suspension” refers to a suspension imposed by Citizens after obtaining information that establishes a reasonable belief that the agent or agency has violated the terms of the applicable agreement. An Investigative Suspension remains in effect until Citizens has completed its investigation and effectuated Disciplinary Action, if any.
- j. “Written Appeal” refers to a written document, filed by an agent or agency that is the subject of Intended Disciplinary Action, notifying Citizens of its intent to engage in the appeal process, and setting forth arguments relative to the Intended Disciplinary Action.
- k. “Notice of Intended Disciplinary Action” refers to written notification of Intended Disciplinary Action (which will be a Notice of Intent to Suspend or Notice of Intent to Terminate) provided by Citizens to the agent or agency that is to be the subject of such Disciplinary Action. The notice will be provided via email to the official email address of the agent or agency.
- l. “Notice of Preliminary Findings” refers to a notice sent to the agent or agency that is the subject of an investigation and may become the subject of Intended Disciplinary Action, which advises such agent or agency of the Preliminary Findings.

- m. "Performance Standard" refers to a standard for accurately and correctly following Citizens' established procedures for binding and effectuating coverage, a violation of which does not rise to the level of misconduct or wrongdoing.
- n. "Preliminary Findings" refers to Citizens' findings of fact after investigating an agent or agency that may become the subject of Disciplinary Action, but prior to giving that agent or agency an opportunity to respond to such facts.
- o. "Record" refers to any investigative report and any materials upon which Citizens based its Intended Disciplinary Action. The record shall include any relevant evidence that Citizens has in its possession which would tend to exculpate the agent or agency that is the subject of Intended Disciplinary Action, as well as any written responses and materials received from such agent or agency in its defense.
- p. "Serve" means to provide a copy of documents or materials to a party. As used herein, service of documents relevant to the Appeal shall be by email, hand delivery, or some other form of expedited mail or courier service which is reasonably expected to effect delivery on the next business day.
- q. "Written Submission" refers to a written document filed by either party setting forth arguments relative to Citizens' Intended Disciplinary Action and that responds to or supplements a Written Appeal.

3. **Notice of Preliminary Findings / Notice of Intended Disciplinary Action:** Prior to imposing discipline, Citizens will give the agent or agency Notice of Intended Disciplinary Action which will specify the facts and authority supporting the Intended Disciplinary Action. The Appeal process does not apply to any individual finding of a violation of a Performance Standard, but does apply to any discipline imposed as a result of a violation of a Performance Standard. A copy of the Record will be provided to the agent or agency that is the subject of Intended Disciplinary Action at or before such time as the Notice of Intended Disciplinary Action is issued.

For violations of the agreement that are not violations of a Performance Standard, Citizens will issue a Notice of Intended Disciplinary Action only after such time as the agent or agency that is the subject of an investigation has been provided a Notice of Preliminary Findings and given an opportunity to respond. The Notice of Preliminary Findings shall set forth, in detail:

- a. A clear and concise statement of each relevant fact discovered during the course of the investigation;
- b. The applicable provisions of the Agent Appointment Agreement or Agency Agreement, including any materials incorporated by reference, that Citizens believes have been violated, if any;
- c. An explanation as to how the facts discovered relate to the applicable provisions of the Agent Appointment Agreement or Agency Agreement, including any materials incorporated by reference;
- d. A copy of all documents and other relevant materials gathered supporting the factual findings.

If the agent or agency that is the subject of an investigation desires modifications to the Preliminary Findings, the agent or agency shall file a Response to Preliminary Findings with Citizens within five business days of receiving the Notice of Preliminary Findings.

The Response to Preliminary Findings must specifically identify each finding in the Notice of Preliminary Findings that the agent or agency disputes. For each such finding, the agent or agency must state, with specificity, what it believes the correct finding should be, and provide documentation supporting such proposed finding.

After reviewing and considering the information and documentation presented in the Response to Preliminary Findings, Citizens will:

- a. Provide a revised Notice of Preliminary Findings to the agent or agency which amends those Preliminary Findings which are determined to be incorrect after a review of the Response to Preliminary Findings;
- b. Perform additional investigation into the relevant facts; or
- c. Proceed to finalize its investigation of the agent or agency which may include, but which is not limited to preparing an investigative report and providing a Notice of Intended Disciplinary Action to the agent or agency.

In the absence of a timely Response to Preliminary Findings, Citizens shall proceed to finalize its investigation and take whatever action is deemed necessary and appropriate in accordance with these procedures.

4. **Right to Appeal:** An agent or agency that is the subject of Intended Disciplinary Action may file a Written Appeal of the Intended Disciplinary Action.
5. **Timeframe for filing Written Appeal:** A Written Appeal must be filed with Citizens no later than 10 days from the date of the Notice of Intended Disciplinary Action. If the tenth day falls on a weekend or legal holiday, then the Written Appeal is due on the next regular business day. If a Written Appeal is not timely received, the right to Appeal is waived. The Appellant must demonstrate compliance with the ten day filing deadline through the use of a return receipt requested (if filed via certified mail) or through the use of confirmation of electronic delivery (if filed via email). The 10 day period is not extended by service of the Written Appeal by certified mail.
6. **Contents of Written Appeal:** Any Written Appeal filed with Citizens shall contain the following:
 - a. The name, address, email address, and telephone number of the Appellant and the Appellant's representative or attorney, if applicable;
 - b. Identification and thorough explanation of the specific mistake(s) of law or fact upon which the Appellant contends Citizens based its Intended Disciplinary Action;
 - c. A statement of the specific statutes or other legal authority that the Appellant contends require reversal or modification of the Intended Disciplinary Action,

including an explanation of how the facts relate to the specific statutes or other authority; and

- d. A statement of the relief sought by the Appellant, stating precisely the action the Appellant wishes Citizens to take with respect to the Intended Disciplinary Action.
7. **Effect of the Written Appeal:** Upon timely filing a Written Appeal with Citizens, the Intended Disciplinary Action will be automatically tolled pending the Final Report by the Hearing Officer. However, if an Investigative Suspension of the Appellant is already in effect, such Investigative Suspension will continue for the pendency of the Appeal.
8. **Assignment of a Hearing Officer / Transmittal of Record:** No later than five business days after the timely filing of a Written Appeal, Citizens will engage the services of a Hearing Officer. Upon assigning a Hearing Officer, Citizens will transmit a copy of the Notice of Intended Disciplinary Action and the Written Appeal to the Hearing Officer. Citizens shall also transmit the Record to the Hearing Officer. Citizens will serve the Appellant with the Record on or before the day it is provided to the Hearing Officer.
9. **Duties of the Hearing Officer:** The Hearing Officer shall have the following powers and duties as they pertain to the Appeal:
 - a. The Hearing Officer may not engage in any ex parte communications about the Appeal, except, and only to the extent necessary to coordinate the scheduling of a hearing for oral arguments. If the Hearing Officer receives any ex parte communication about the Appeal, he or she shall promptly notify all parties.
 - b. Upon being assigned, the Hearing Officer must expediently serve the parties written instructions regarding how to go about filing any Written Submissions as provided in these procedures.
 - c. The Hearing Officer must provide the time, date, dial-in / conference-in instructions or location, if applicable, for oral arguments.
 - d. The Hearing Officer shall, no more than 45 days after the Notice of Intended Disciplinary Action, file with Citizens a Final Report, or if applicable, a preliminary report as set forth herein, which shall include a caption, statement of the issues, findings of fact and conclusions of law (including conclusions regarding the applicable provisions of the Agent Appointment Agreement or Agency Agreement), separately stated. The timeframe for filing the Written Submission as set forth in these procedures may be shortened by the Hearing Officer as necessary to allow for a Final Report or a preliminary report in 45 days.
10. **Written Submissions:** No later than seven days after receiving the Written Appeal, Citizens may submit its own Written Submission, responding to the facts and arguments set forth in the Written Appeal and setting forth arguments for sustaining the Intended Disciplinary Action. Any Written Submission will be filed with the Hearing Officer and simultaneously served upon the Appellant.

No later than five days after receipt of Citizens' Written Submission, the Appellant may file an additional Written Submission, that is limited to responding to the facts and arguments set forth in Citizens' Written Submission, or newly discovered information that

was unavailable during the investigation.

11. **Additional Evidence:** The Hearing Officer's review shall be limited to the Record, the Written Appeal, any Written Submissions, and any oral arguments presented as permitted by this procedure. Additional evidence shall not be permitted.
12. **Computation of Time:** Unless otherwise specified herein, any period of time set forth in these procedures will be determined by counting the sequential calendar days from the act or event from which the time period begins. In counting the calendar days from the act or event, the day of the act or event from which the period begins to run shall not be included. The last day of the period shall be included. However, if the last day is a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.
13. **Oral Argument:** The Hearing Officer will schedule a hearing where each party has an opportunity to present oral arguments. The arguments will be limited to 20 minutes each, unless the time is extended by the Hearing Officer. The purpose of the hearing is not to provide new evidence or testimony, but is for each party to provide explanation of its position and answer questions posed by the Hearing Officer. When possible, the hearing should be conducted telephonically, via video conference, or by way of use of some other media that does not require physical appearance of either party. If use of such media is not possible, then the hearing shall be held in Tallahassee, Florida. Each party will bear its own travel costs if such costs are incurred.
14. **Burden and Standard of Review:** The burden is upon the Appellant to demonstrate that the Intended Disciplinary Action is based on a mistake of fact or law.

The Hearing Officer shall consider the Record, the Written Appeal, any Written Submissions, and any arguments presented by the parties, in order to determine whether or not:

- a. Citizens' Intended Disciplinary Action is based on a mistake of fact; or
- b. Citizens' Intended Disciplinary Action is based upon a mistake of law.

In determining whether Citizens' Intended Disciplinary Action is based upon a mistake of fact, it is the Hearing Officer's duty to review the Record, the Written Appeal, any Written Submissions, and any arguments presented and determine whether the factual findings upon which Citizens based the Intended Disciplinary Action were "clearly erroneous." A finding of fact is clearly erroneous when there is no evidence to support such a finding in the Record, or the Record clearly contradicts such a finding.

In determining whether Citizens based its Intended Disciplinary Action upon a mistake of law, it is the Hearing Officer's duty to review the Record, the Written Appeal, any Written Submissions, and any arguments presented and determine whether Citizens' conclusion of law is "clearly erroneous." A conclusion of law is clearly erroneous if the application of the facts thereto renders a result contrary to the language of the statute upon which it is based, or contrary to the language of the provision of the Agent Appointment Agreement or Agency Agreement upon which it is based.

15. **Final Report:** In the Final Report, the Hearing Officer shall conclude whether Citizens' Intended Disciplinary Action is based on a mistake of fact or law.

In the Final Report, the Hearing Officer must reach one of the following determinations:

- a. Citizens' Intended Disciplinary Action is sustained.
- b. If the Hearing Officer concludes that the Intended Disciplinary Action is based upon a mistake of law, the Hearing Officer must make a determination as to the appropriate application of the facts to the law.
- c. If the Hearing Officer concludes that the Intended Disciplinary Action is based upon a mistake of fact, the Hearing Officer must determine whether the mistake of fact can be resolved based upon the evidence in the Record:
 - i. If the mistake of fact can be resolved based on the greater weight of the evidence in the Record, then the Hearing Officer must determine whether the Intended Disciplinary Action may be sustained given the correct findings of fact.
 - ii. If the evidence in the Record cannot resolve the factual disputes between Citizens and the Appellant, then the Hearing Officer shall remand the matter back to Citizens to conduct further investigation and specify the facts to be developed.
 1. In such instance, the Hearing Officer shall issue a preliminary report specifying what factual issues remain outstanding, and providing instructions for obtaining and filing additional information with the Hearing Officer.
 2. No later than 10 days after the issuance of such a preliminary report, Citizens and the Appellant shall, in accordance with the instructions of the Hearing Officer, file any additional information obtained relevant to the outstanding factual issues. Any materials filed by one party shall be simultaneously served upon the other party. Materials relevant to other issues not so identified as outstanding in the preliminary report shall not be considered by the Hearing Officer.
 3. Citizens and the Appellant may also file, no later than 15 days after the filing of the preliminary report, additional Written Submissions setting forth their respective positions relative to the newly obtained information that is relevant to the outstanding factual issues. Any Written Submissions filed by one party shall be simultaneously served upon the other party.
 4. No later than 10 days after the due date for additional written submissions, the Hearing Officer shall file a Final Report with Citizens. If after that time, the factual disputes cannot be resolved based on the evidence, then the Hearing Officer shall enter a determination as to whether the Intended Disciplinary Action may be sustained applying the facts that are not at issue on remand.

16. **Citizens Action Subsequent to Final Report:** Upon receipt of the Final Report from the Hearing Officer, Citizens shall take action consistent with the Final Report.