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## FAIR AND IMPARTIAL

Many words are being written and spoken lately about the hearings process. This arose, I believe, because fresh sets of eyes on the AMC have looked over the governing documents and identified many inconsistencies, ambiguities, and areas for improvement. Current focus is indeed on the hearings process as described in ASIEs Appendix 5. Let's dive into a few of the issues.

Requirements flow down from The Constitution of Mensa<sup>1</sup> (last revised 2023) and the Bylaws of Mensa International<sup>2</sup> (last revised October, 2024).

The Constitution of Mensa does not mention hearings *per se*, but says

A member may not be sanctioned without a fair and impartial process.

The Bylaws elaborate, spelling out Mensa International's own disciplinary processes, and setting some requirements for the disciplinary processes of a National Mensa.

- International Bylaws section 10.2 lists some items that must be included in the national constitution<sup>3</sup> of a national Mensa. One of these is "Proceedings for fair hearings," which is elaborated in section 4 of the auxiliary document, Guidelines of Mensa International<sup>4</sup>.
- Section 13.3 adds, "Every national Mensa must ensure that a fair and reasonable independent internal discipline procedure is in place. This procedure must include an independent appeals procedure."

No one, I trust, will argue against the need for a fair and impartial disciplinary process. Does American Mensa's process meet Mensa International's requirements? We fall short of the mark. There is no appeal process. Our process does require AMC concurrence with certain sanctions, but not with others. This concurrence, when called for, is defined as the final step of the hearing process itself, not an appeal. And since the Hearings Committees always consist of recent AMC members, it's very hard to call this step an independent one, on those occasions when it is called for. (The sample text in the Guidelines has the annual general meeting of the membership as the appeal. This would be our Annual Business Meeting.) Every way you slice it, our Appendix 5 falls short of the requirements of Mensa International, to some degree.

Aside from the lack of appeals, do American Mensa's governing documents describe a fair and impartial process? We need a handle on that slippery word, "fair." The dictionary offers a definition that might be usable: "impartial and just, without favoritism or discrimination." Let's go with that, if we can.

Let's consider a hypothetical case. Suppose Charlie Complainant decides to lodge a hearing complaint against Ronnie Respondent. Initially, there is no hearing in progress and

hence no requirement for confidentiality. Charlie can consult with anyone, publish anything, even reach out to others as co-complainants. Then the complaint is filed. From that point on, a hearing process exists and a curtain of confidentiality descends, to be pierced only at risk of expulsion. In particular, this means that Ronnie Respondent cannot tell Whitney Witness what the issue is, concerning which Ronnie wishes to call on Whitney's testimony.

Is this unfair? Absurd, even? I agree! But this is the rule. I encourage you to ask the Hearings Committee, as I did in researching this article. The process as laid down inherently favors the Complainant over the Respondent.

Compounding the respondent's difficulties, the complainant is allowed to remain anonymous. Certainly there does exist a class of potentially vulnerable complainants that need protection from retaliation, but the American Mensa process makes no attempt to deal with that class specially. Any complainant can be anonymous. I cannot imagine how Ronnie Respondent could even begin to mount a defense against many sorts of charges that could be brought by an unnamed person.

Our current hearing process definition is less than four years old. I do not know why it was last amended, but logically, either the previous process was found to be unfair, or it was fair and is now marred, or we must view fairness is a work of continual improvement. In past decades, the hearings process was open, not secret, and avoided many (but not all) of the problems the current process has.

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<sup>1</sup> Constitution <https://member.mensa.org/node/6887>

<sup>2</sup> Bylaws <https://member.mensa.org/node/7570>

<sup>3</sup> By "constitution of a national Mensa" the international bylaws indicate a National Mensa's document which may be called a Constitution, Bylaws, Articles of Association, or other names, according to national custom.

<sup>4</sup> Guidelines <https://member.mensa.org/node/7492>