Committee members must work to ensure that the residency appeal process is a fair and impartial process. Accordingly, Committee members must uphold high standards of conduct, must avoid conflicts of interest, and must not engage in ex parte communication. The intent of the guidelines below is to preserve trust in the appeal process, ensure uniformity across Committee decisions, and to emphasize adherence to current ABOR policies and State law regarding reclassification requests.

**Standards of Conduct and Ethical Considerations**

- A Committee member, who is not present at an appeal hearing or involved in the Committee decision, should refrain from expressing an independent opinion regarding the appeal to any party to that appeal or to others. Such conduct undermines the credibility of the Committee and the appeal process.

- A Committee member, who is not present at an appeal hearing or involved in the Committee decision, may not insert himself or herself in an appeal matter at the request of a faculty member, administrator, or others. Such conduct undermines the credibility of the Committee and the objective of conducting a fair and impartial appeal proceeding.

- A Committee member cannot act on a matter on appeal based on influences, pressures, or matters outside the merits of the particular case. An example would be a faculty member urging a Committee member to approve specific students to help increase student retention.

- Committee members are prohibited from discussing a residency appeal decision, reviewing the merits of an appeal, or advising future action on an appeal outside of the customary appeal process as established in current ABOR policies and State law.

**Conflicts of Interest**

A conflict of interest exists when a Committee member has a duty or responsibility to more than one person, job, department, college, or organization with interests that may be competing and, therefore, may undermine the member’s objectivity or create the perception that one interest is favored over another. A Committee member must disclose any interest that may affect or compromise the member’s objectivity. The appearance of a conflict of interest arises when a reasonable person would conclude, based on the circumstances, that the Committee member’s ability to make an impartial decision is compromised by the competing interest.

Persons with job duties or functions that present a real, potential, or perceived conflict of interest with residency matters generally are not permitted to serve on the Residency Appeals Committee.

Committee members must recuse themselves from participating in a specific appeal hearing for which a real, potential, or perceived conflict of interest exists. Recusal means that the Committee member declines to participate in the matter. Recusal typically involves a total and complete disassociation with
the appeal. The Committee member must not discuss the matter, make recommendations, provide advice, participate in deliberations, vote, or attempt to influence the outcome of the appeal in any way. A member’s recusal should be noted on the record.

It is the obligation of each Committee member to recognize a real, potential, or perceived conflict of interest and to promptly bring it to the attention of the Committee Chair before the Committee member takes any action related to the residency appeal.

**Ex Parte Communication**

*Ex parte* communication occurs when a party to a case, or someone representing or speaking on behalf of a party to a case, communicates directly with a decision-making authority about issues in or relevant to a case without the other party’s knowledge. *Ex parte* communication is strictly prohibited.

To further clarify, Committee members are prohibited from communicating in writing, in person or via third persons with any party, counsel or representative for any party, an implied representative of any party or a person representing the interest of any party about any matter at issue outside of the customary appeal process. If such contact does occur, the Committee member must promptly inform the initiator of the contact about the prohibition regarding such contacts and then terminate the contact. The contacted member must immediately inform the Committee Chair of the contact.

An example of *ex parte* communication is an appellant seeking advice from a Committee member regarding how to answer specific questions in the appeal hearing. Another example would be a residency staff person encouraging a Committee member to ask specific questions or to consider information that is not in the appellant’s file. Providing such advice is unethical and contrary to a fair and impartial hearing.

If any party provides written material to the Committee or to a Committee member, the written material must be promptly provided to all parties and made part of the record.

The Committee is required to make an appeal determination only after an evidentiary hearing. Committee members cannot act upon their own information. Nothing can be considered as evidence that was not introduced at a hearing of which each party had notice and an opportunity to be present.

(Note: A Committee member may answer procedural questions, such as providing the time or location of the hearing to a party; this does not touch upon a matter at issue in the proceeding.)