

## **2.5. Complaints, Conflict Resolution, and Appeals**

### **2.5.1. Definitions**

*Complaints:* Concerns raised by anyone about the integrity of AJP labeled products or entities, the AJP certification process, AJP standards, the behavior or actions of AJP representatives, or AJP policies. An example of a complaint would be a complaint of unprofessional behavior on the part of an AJP representative in their capacity as accreditor, standards maintenance, or technical assistance. A customer could also make a complaint, for example, raising questions about whether an AJP certified product comes from a farm or business that truly adheres to AJP standards.

*Conflict resolution:* We are using this term for internal issues between parties that are directly involved in AJP certified farms and businesses. All grievances reported between parties within the AJP certified supply chain will be treated as internal and subject to conflict resolution. AJP standards require that every certified farm or business must have a conflict resolution procedure outlined for the workplace or farmer/buyer or business-to-business contracts. Examples of an internal conflict resolution would be: a worker's claim of the employer's failure to comply with AJP standards, or a farmer's claim of a buyer's failure to comply with AJP standards.

*Appeals:* If either the subject of a complaint or the person submitting a complaint is unsatisfied with the outcome, an appeal can be made to the AJP Management Committee together with the Advisory Council.

It is the intent of AJP and all those involved in certification to the standards to settle disputes at the most local or immediate level (i.e. attempt to work it out between the two parties who disagree first); however, AJP outlines below the procedures for those involved in the AJP Program and those external to the program wishing to make a complaint about the program or about individuals involved in it.

### **2.5.2. Distribution**

This policy is posted on the AJP website and distributed to all AJP certifiers, certified entities and published in the Worker pamphlet that is posted at AJP certified workplaces.

### **2.5.3. Authority and Revision**

This policy is approved by the AJP Advisory Council (AC). It is the responsibility of the AJP and the AJP Management Committee to review the appropriateness of the policy from time to time and to make changes when the need arises. Revisions must be approved by the AJP Advisory Council.

### **2.5.4. Submission of Complaints**

Complaints should be submitted in writing to AJP:  
Agricultural Justice Project  
P.O. Box 510  
4 South Jersey Drive  
Glassboro NJ, 08028  
or  
Fax: 856-881-2027, ATTN: AJP Complaints  
or  
Email: [agjusticeproject@gmail.com](mailto:agjusticeproject@gmail.com)  
Phone: 856-881-2025

The person writing or submitting the complaint should explain their relationship to the project or the individuals mentioned in the complaint.

Exceptions will be made for those who cannot be reasonably expected to submit a complaint in writing. This could include illiteracy or low levels of literacy, language barriers, or cultural reasons. In those cases AJP will work with its partners to ensure that complaints are documented in a complete manner, translated if necessary, and handled on an equal basis with written complaints.

#### 2.5.5. Validity of Complaints

In order for complaints to be valid, they must relate to issues under the authority of the AJP, including but not restricted to: arbitrary judgments, non-professional behavior, financial mismanagement, unethical behavior, discrimination, untimeliness, violations of conflict of interest and breaches of confidentiality. Where appropriate, complaints should be accompanied by documentation of evidence. Hearsay will not be considered as valid evidence.

#### 2.5.6. Confidentiality and Non-Disclosure

The privacy and identity of the complainant shall be protected to the maximum extent possible, with recognition that the complainant's identity may be obvious or may become evident during the investigation.

AJP reserves the right to launch an investigation for any reason at anytime at our discretion. This includes rumors, allegations of abuse, press conferences, and other information obtained by AJP that may be investigated in the same manner as officially submitted external complaints.

#### 2.5.7. Complaints Scope

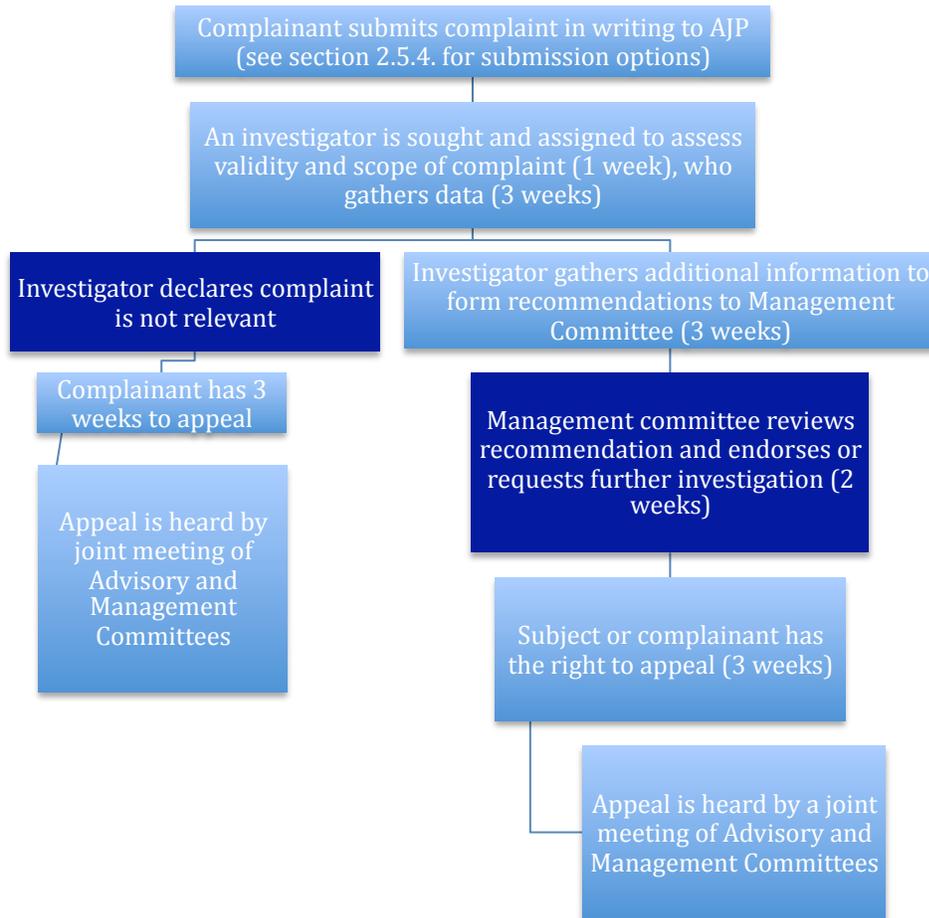
The categories of complaints included in this policy are:

- Complaints regarding interpretations of standards;
- Complaints regarding the professional conduct of AJP representatives and /or personnel and members of the AJP Advisory Council (AJP AC) or Accreditation Committee with regard to their conduct in performing their AJP duties;
- General complaints regarding the decisions and/or functioning of the AJP including but not limited to AJP standard setting and accreditation;
- Complaints about the performance of certification bodies (by individuals or entities not participating in certification program through the certifier in question)
- Complaints about certified operators (by individuals or entities not employed by the operator in question and not having a relationship covered by AJP certification)
- Appeals by accredited certification bodies regarding decisions pertaining to their own accreditation are considered appeals and are to be handled following AJP appeals procedure.

2.5.8. Complaints Process

**TABLE 2.2: Complaints Procedure**

For complaints about AJP personnel or representatives, interpretation of the standards, decisions and functioning of AJP Management or other Committees, performance of certification bodies participating in the program, certified operators



On receipt of a complaint, the AJP Management Committee (any member of the MC with a conflict of interest will leave the room) shall appoint a person or a team to investigate the complaint. The selection criteria for this role are: 1) demonstrated competency and knowledge of the issues 2) having no conflict of interest in the matter. Investigator must have confidentiality and declaration of interest forms signed with AJP and must maintain confidentiality of the parties involved in the investigation until a determination is made or the issue has been resolved.

See Section 7.1.5.9 for the AJP policy on establishing an absence of conflict of interest. The investigator(s) will assess whether the complaint is valid under the above criteria. The subject of the complaint may be approached to determine the validity. The receipt of a complaint shall be acknowledged within three weeks, with a preliminary assessment of the complaint's validity, and an explanation of whether the complaint will be investigated

or not.

If a complaint is deemed to be invalid or irrelevant by the AJP, this will be stated to the complainant, accompanied by the reasons. The complainant will be given one month to respond with more information or a clarification as to why the complaint is pertinent.

Where a complaint is considered valid, an investigation shall be carried out. The investigator may request additional information of the complainant, third parties named as sources of information in the complaint and other parties likely to have information relevant to the investigation.

*Investigation of complaints regarding AJP representatives and/or personnel*

In cases of complaints against AJP personnel or representatives, if the case is within the scope of relevant issues, the investigator shall inform the subject(s) of the complaint within a week. The AJP representatives or personnel shall respond within three weeks to explain or clarify actions taken relevant to the complaint. The investigator will gather information from other sources as relevant. The investigator will review all information obtained and formulate a recommendation within another three weeks. In most cases, the entire process should take no more than 6 weeks.

The recommendation may contain suggested corrective actions and/or disciplinary measures. Failure to cooperate with the investigation may result in the investigative team recommending suspension of personnel or the official standing of the individual or entity with AJP. The recommendation and all supporting information will be submitted by the designated investigator to the Management Committee at the conclusion of the investigation.

*Investigation of complaints regarding AJP performance*

In cases of general complaints against AJP performance not directed against an individual member, the investigator shall carry out a review to determine whether performance was in line with documented policy and procedure. The AJP may treat a complaint against an individual as a complaint against AJP performance where the AJP recognizes that the complaint levied against the subject applies to the conduct of AJP, its representatives and/or personnel generally.

If policy and procedure are not being followed, the investigator shall determine the reasons.

If policy and procedure are being followed the investigator shall determine whether amendments to these would be justified in light of the complaint. In cases where there is a lack of policy or procedure, the investigator shall determine whether there is a need for such. The investigator shall present the findings to the AJP Management Committee together with recommendations for appropriate corrective actions if any. In most cases, six weeks should be adequate for determinations of this kind.

### *Complaint Resolution*

Upon receiving the final report from the investigator, the AJP Management Committee shall review the issues and recommendations and specify any required corrective actions and/or disciplinary measures in a timely manner. At this time the Management Committee can recommend or request additional investigation. If the recommendations are endorsed by the Management Committee at this time, the person submitting the complaint and the subject or relevant parties for carrying out the recommendations will be informed of the findings and recommendations. The recommendations for corrective actions shall be implemented in the timeframe included with the corrective actions.

Once an investigation has been completed, the resolution shall be communicated to the complainant and the subject of the investigation by a representative of the AJP Management Committee. If no further issues arise, the AJP shall deem the complaint to be resolved and the file closed. On closure of a complaint, the AJP Management Committee will consider whether the complaint demonstrated actual or potential weaknesses in the AJP quality system and where necessary define corrective or preventive actions. AJP will keep a record of all such actions. If as a result of a complaint, the AJP Management Committee decides to change existing policy or add new ones, the change will be posted on the website and announced to AJP clients.

The subject or complainant shall have the right to appeal the investigator's findings through the AJP appeals process (see 2.5.11).

### *Summary of Steps in Complaints Process*

1. Investigator assigned to assess validity and scope of complaint (1 week)
2. Investigator gathers preliminary information to determine validity and scope of complaint and communicates finding to complainant and, if AJP representatives or personnel are involved, to them (3 weeks)
3. If investigator declares complaint is not relevant for further investigation, complainant can appeal within 3 weeks.
4. If found to be relevant for further investigation, investigator gathers additional information to formulate recommendations and submits findings and recommendation to Management Committee (3 weeks).
5. Management Committee reviews findings and recommendations and decides by consensus whether to endorse recommendations or request further investigation. Management Committee informs all relevant parties of this decision (2 weeks).
6. Subject or complainant has the right to appeal (3 weeks).
7. AJP files records.
8. AJP assesses if a change in the quality system is needed and if so, change will be made and posted to website and sent out to clients.

### 2.5.9. Urgency

At the discretion of the AJP Management Committee and in discussion with the AJP AC, the procedural timeframes for dealing with what are considered serious complaints may

be reduced so as to resolve an issue within the shortest possible time.

#### 2.5.10. Records of Complaints

Complete files containing all information related to the investigation of complaints shall be maintained for five years.

#### 2.5.11. Appeals to Complaints Submitted to AJP

If the person or entity who has submitted a complaint to AJP or the subject of a complaint submitted to AJP is not satisfied with the outcome of the complaints process (the findings and corrective action), either party has the right to appeal the decision. This appeal must be made in writing within three weeks and must include reasons for requesting the appeal. The appeal will be heard by a joint meeting of the Management Committee and the Advisory Council.

#### 2.5.12. AJP Conflict Resolution

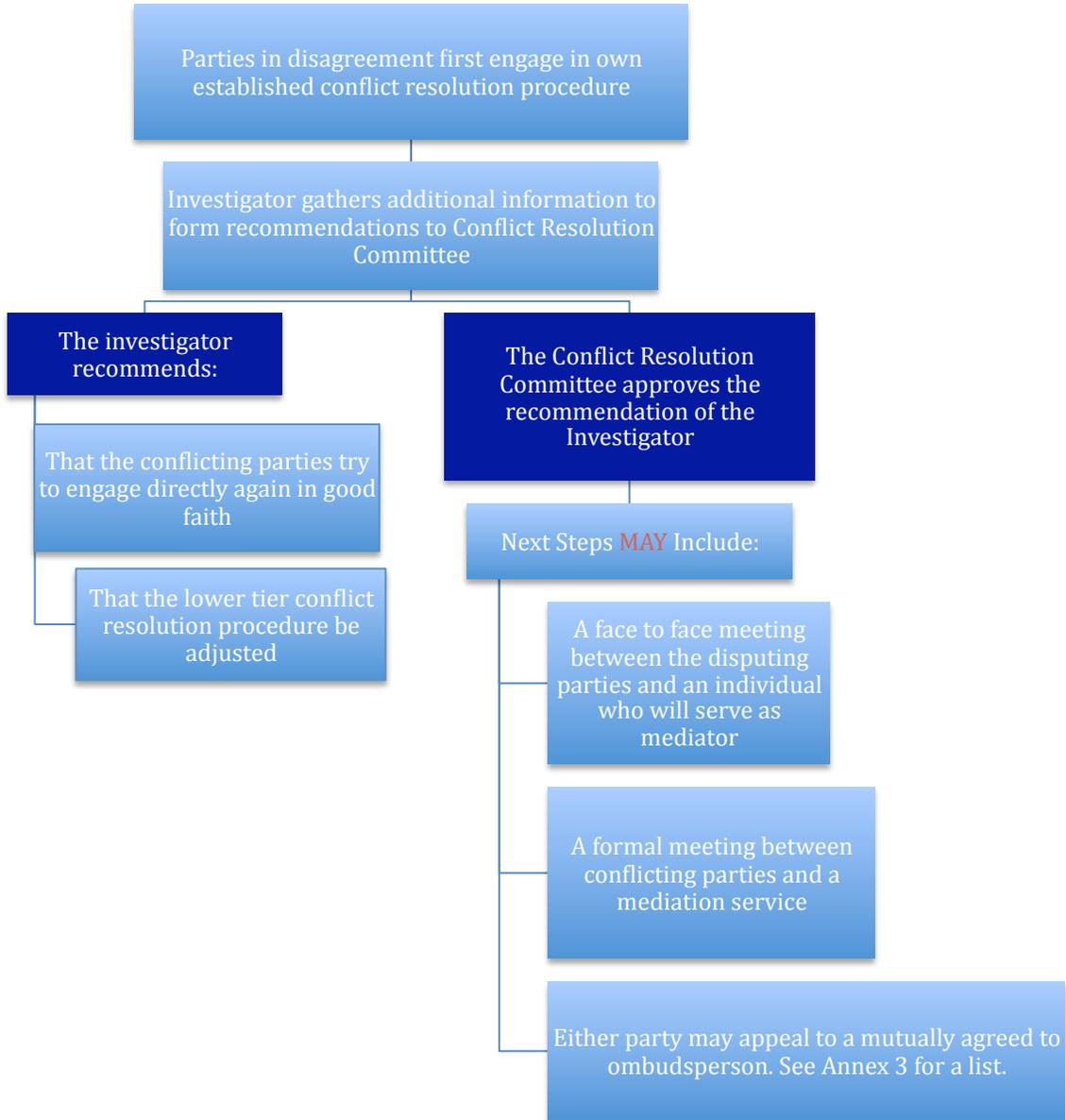
AJP defines conflict resolution as a process through which two or more parties who disagree about an issue can resolve their differences. AJP requires that all certified entities and all AJP accredited certifiers have conflict resolution procedures in place and documented. AJP also has a conflict resolution procedure for any conflicts that arise within the AJP Management Committee, Advisory Council, or between certifiers and or worker or farmer organizations and AJP. In addition, the AJP conflict resolution process can always be used as another tier in conflict resolution for certified entities or accredited certifiers. In these cases it serves as an appeal of the lower tier conflict resolution outcome. Any individuals working for a certified entity, or working for an accredited certifier or approved worker organization may request use of the AJP conflict resolution process. The owner of a certified entity may bring such a request as well.

#### 2.5.13. Scope

The issues raised pertain to the AJP standards.

2.5.14. Conflict Resolution Procedure

**TABLE 2.3: Conflict Resolution and Appeals Procedure**



In the event of an unresolvable conflict internal to or between certified entities engaging directly with each other as part of the AJP program, for conflicts between farmer/farmworker, farmer/buyer, or food business/food business employee this process will be followed. If a certified farm or business has a conflict with their certifier, it will be handled first by the certifier’s own appeals process, and only if that process fails to produce acceptable results will the parties turn to the AJP appeals process.

In the event of an internal conflict all parties should comply with AJP standards and first

engage in good faith direct dialogue consistent with their established policies to resolve the issue. Only if this direct conflict resolution process is exhausted should this AJP appeals process be initiated. The Conflict Resolution Committee of the AJP Advisory Council will only come in to play when all steps in a complaint or a conflict resolution process of a certified entity have been exhausted but the parties are still not satisfied.

Understanding that all parties benefit from a timely resolution of any conflict, AJP pledges that if an appeal is brought to the AJP Conflict Resolution Committee it will be given the highest priority, with the goal of steps #1, #2, #3, and #4 below taking place and decided in the timeframe of 4 to 6 weeks. This, however, must be understood as a goal and not a strict requirement, as a particularly complicated situation may take more time to clarify and to resolve. Likewise, in urgent cases when deemed necessary a more expedited timeline can be implemented.

An appeal can also be initiated if the internal process is deemed by either party to be either (1) not in fact in compliance with AJP standards, or (2) not being implemented in good faith.

#### 2.5.15. Conflict Resolution Procedure in Steps

##### *Step 1:*

Once a request is received for the use of the AJP Conflict Resolution Procedures, the AJP Advisory Council Conflict Resolution Committee will assign an investigator to gather information on the dispute and propose a plan for resolving the conflict. The investigator will be free from conflict of interest.

##### *Step 2:*

The investigator will submit a summary of the information gathered about the dispute, the relevance of it within AJP's scope, and recommendations for next steps for the disputing parties to the Conflict Resolution Committee. This committee is comprised of Advisory Council members with broad stakeholder representation of farmers, workers, buyers, NGOs, etc., who are free of conflict of interest in the specific matter. The committee will work by consensus and will vote only in the event that consensus cannot be reached (any vote requiring three-fourths to be final).

Steps recommended may include:

- A face to face meeting with disputing parties and their representatives and an individual who will serve as a mediator or
- A formal meeting between the conflicting parties with a mediation service. In many areas of the country (in 30 states), there are Centers for Dispute Settlement which offer conflict resolution and mediation services by trained mediators free of charge to farms or for a moderate fee. A mediation session allows both parties to fully state their understanding of what happened, facilitates good listening to one another, and then helps work out a practical solution to the conflict that is acceptable to both parties.

- In cases when a dispute has not gone through or not satisfactorily gone through the appropriate lower tier conflict resolution procedure of a certified entity or accredited certifier the investigator may recommend
- That the conflicting parties again try direct engagement in good faith
- Changes to the lower tier conflict resolution procedure to make it more effective.

*Step 3:*

The AJP Conflict Resolution committee approves the recommended next steps or requests further information gathering.

*Step 4:*

The AJP conflict resolution committee implements the appropriate recommendations and works with the disputing parties to resolve the conflict/disagreement.

*Step 5:*

The final step can be for either party to appeal to an impartial and respected ombudsperson participating in the Agricultural Justice Project from a list pre-selected by AJP, and mutually agreed to by both parties involved in the dispute. Should the final appeal call for the reinstatement of an employee, the employer has the option of offering a severance package that is mutually acceptable.

2.5.16. Rights and Responsibilities of Individuals Participating in AJP Conflict Resolution Procedure

- Participating in the AJP appeals process in no way prevents either party from exercising their legal rights in seeking remedy if unsatisfied with the outcome (such as if a legal violation is alleged).
- Any certifier or worker organization or other parties involved may at anytime choose to discontinue using the conflict resolution process and seek legal advice. AJP retains the right to inform certifiers of the actions of certified entities or to forward the actions of accredited certifiers and approved worker organizations to the accreditation committee for consideration.
- Any party (i.e. a worker, farmer, etc.) may seek the assistance of a colleague or any other representative he/she chooses to accompany, represent, and/or advise him or her in any of the steps of the conflict resolution procedure.
- In the case of a termination, an employer has the option to offer a severance packet rather than reinstate a worker. (See Standards, 4.1.13.c.ii)
- Steps may be waived by written agreement of both parties, but the parties shall have at least one meeting before a conflict is submitted to the AJP Advisory Committee conflict resolution committee.
- The AJP certified entities or accredited certifier or approved worker organization involved will make relevant parts of any files and records available, in confidentiality, for the purposes of the conflict resolution process