

**PROCESS FOR ADDRESSING  
CONSUMER PROTECTION COMPLAINTS ARISING UNDER**

***SEIA® SOLAR BUSINESS CODE***



**APPROVED  
SEIA Consumer Protection Committee  
January 2016**

**Version 1.1**

**Preamble.** This document describes the process (“Process”) used by the Solar Energy Industries Association, Inc., (“SEIA”) to address complaints submitted under the *SEIA Solar Business Code* (“Code”). SEIA reserves the right to amend the Process. The Process is designed to find fair redress for consumers and to encourage Parties to resolve their differences. For consumers who have exhausted standard business remedies, the Process provides a non-confrontational forum for dispute resolution not intended to replicate or replace actions in court or other adjudicative venues.

1. **Filing a Complaint.** A complaint (the “Complaint”) by any individual, company, or government entity (“Complainant”) alleging a violation of the Code by a company (“Respondent”) may be submitted to SEIA using the *SEIA Solar Business Code: Complaint Form* (“Complaint Form”):
  - a. Online through SEIA’s consumer protection portal at [www.seia.org](http://www.seia.org)
  - b. As an email attachment submitted to SEIA at [consumer@seia.org](mailto:consumer@seia.org)
  - c. In hard copy delivered to the address below:
    - President & CEO
    - Solar Energy Industries Association (SEIA)
    - 600 14th Street, NW - Suite 400
    - Washington, DC 20005
    - Attn: Consumer Protection Committee
2. **Applicable Process and Code Versions.** SEIA shall use the version of the Process in effect at the time of the filing of a Complaint. The version of the Code to be applied shall be that in effect at the time of the alleged violation of Code described in the Complaint.
3. **Actions Brought by SEIA.** SEIA, through its General Counsel, shall have the ability to bring a Complaint based on materials obtained through its regular contact with the industry that appear to be in violation of the Code (e.g. advertising materials). If SEIA is the Party bringing action, its General Counsel shall act as Complainant in the course of the Process as reasonable. SEIA must complete a Complaint Form for recording purposes. Such actions brought by SEIA shall be deemed to pass Initial Review; in such cases, the Process will continue directly to Section 8 below (“Passing Initial Review”) for further proceedings.
4. **Resolution Panels.**
  - a. Each calendar year, the SEIA Ethics Committee established in the SEIA Bylaws will determine a quarterly schedule of service by identifying one or more subsets of three (3) individuals and one (1) alternate from its ranks. Together, the three individuals, with one alternate (to serve in the case of a conflict of interest, unavailability of a panel member, etc.), shall serve as a “Resolution Panel” to review and act upon Complaints during their quarter of service.
  - b. When assigned to a Complaint, a Resolution Panel will remain on the case through final resolution even beyond the end of its quarterly service period.
  - c. Resolution Panel members shall recuse themselves of participating in any Process in which their impartiality is compromised (e.g. conflict of interest, existing business relationships with Party).
  - d. In circumstances in which no subset of the individuals identified by the Ethics Committee is available to constitute an unbiased Resolution Panel of at least three panel members and one alternate, the Ethics Committee may identify additional unbiased, knowledgeable and experienced individuals from elsewhere in SEIA’s membership.
5. **Initial Review.** SEIA will confirm receipt of the Complaint with Complainant and conduct an initial review (“Initial Review”) within ten (10) business days of receipt of Complaint to ensure it:
  - a. Is complete as required in the Complaint Form,

- b. States a claim that, if true, would likely violate the Code,
  - c. States a claim that is not trivial (e.g. an allegation of Respondent working outside the normal scope of work hours is considered trivial),
  - d. Contains some description and/or documentation to support the claim,
  - e. Demonstrates substantial effort by Complainant to resolve the claim directly with the Respondent without satisfaction,
  - f. Names a Respondent that is currently a SEIA member or was a member at the time of the alleged actions, and
  - g. Is not duplicative, to SEIA's knowledge, of any ongoing litigation, administrative proceeding, or other governmental review (e.g., state licensing board).
6. **Failing Initial Review.** If the Complaint fails Initial Review for any reason other than under Section 2(f), SEIA will notify Complainant and Respondent (collectively "Parties") of such initial determination and inform Complainant of Complainant's option to modify and resubmit the Complaint for review. No further SEIA action will be taken on such Complaint as originally submitted and SEIA may retain a record but not the file of such Complaint. If the Complaint fails Initial Review based on Section 5(f), SEIA will:
- a. Provide Respondent with a copy of the Complaint and Code, along with a letter from SEIA requesting that Respondent resolve the Complaint and notify SEIA of the resolution, and notify Respondent that SEIA maintains the right to share the Complaint with authorities having jurisdiction,
  - b. Offer Respondent the opportunity to consent to SEIA jurisdiction, which requires Respondent to waive claims against SEIA and its representatives and be subject to remedies as outlined in a standing SEIA form document. Should Respondent properly consent, the Complaint will proceed as if it had passed Initial Review.
  - c. If the Respondent fails to respond, or fails to respond on the merits of the Complaint, within thirty (30) days, SEIA reserves the right to forward the Complaint and any accompanying materials and communications from both Parties to the authority having jurisdiction, as determined by SEIA's sole judgement,
  - d. Regardless of the subparagraphs (a) and (b) *supra*, if the Complaint raises a matter of imminent danger to the public, such as alleged criminal activity, immediately forward the Complaint to the authority having jurisdiction (e.g. state attorney general) as determined by SEIA's sole judgement.
7. **Passing Initial Review.** If the Complaint passes Initial Review, SEIA shall notify both Parties that SEIA has accepted the Complaint and provide Respondent the opportunity to resolve the matter directly with Complainant ("Direct Resolution").
- a. SEIA shall provide Respondent with a copy of the Complaint and all additional materials submitted by Complainant and allow Respondent a period of five (5) business days to confirm to SEIA that it intends to engage in a good-faith effort to resolve the Complaint directly with Complainant
  - b. Should Respondent confirm such intent to resolve the Complaint, Respondent shall be provided a period of thirty (30) days for Direct Resolution. If the Complaint is resolved to satisfaction of both Parties during such period, SEIA shall keep a record of the matter and the Complaint process will be considered completed.
  - c. Should Respondent fail to reply to SEIA within the five (5) business day confirmation period, or fail to resolve the Complaint to Complainant's reasonable satisfaction through Direct Resolution, the process shall proceed to a Resolution Panel.
8. **Resolution Panel Commencement.** If Direct Resolution is unsuccessful, SEIA will:
- a. Determine that the members and alternate of the Resolution Panel are without significant business or other relationships with the Parties or might otherwise be biased or compromised in the matter;

- b. Provide the Resolution Panel with a copy of the Complaint, any materials provided with the Complaint, and location (city and state) of alleged violation of the Code;
  - c. Provide notice to the Complainant of the Complaint passing Initial Review and proceeding to the Resolution Panel; advise Complainant of its obligation to maintain the confidentiality of the Complaint and the existence and activities in the Process until its conclusion; provide a brief summary of the backgrounds of the members and alternate of the Resolution Panel; advise Complainant of its right to object in writing to any Resolution Panel member or alternate including the rationale for objection (e.g. conflict of interest); and advise Complainant of its right to object in writing to any member or alternate of the Resolution Panel;
  - d. Provide the Respondent, by written and receipted delivery, with copies of the Complaint, the Code and this Process; advise of the obligation of the Respondent to maintain the confidentiality of the Complaint and the existence and activities in the Process until its conclusion; provide a brief summary of the backgrounds of the members and alternate of the Resolution Panel; advise Respondent of its right to object in writing to any Resolution Panel member or alternate including the rationale for objection (e.g. conflict of interest); and advise on the obligation of the Respondent to submit a written response (the "Response") to the Complaint that addresses the merits of the Complaint and including any supporting documentation or materials within fifteen (15) business days.
9. **Additional Response Time.** During the fifteen-day Response period, Respondent may petition the Resolution Panel in writing ("the Petition") to extend the period to submit the Response.
- a. The Petition should be submitted to the President & CEO of SEIA, who shall promptly distribute Petition and any accompanying materials to the Resolution Panel for review and determination.
  - b. The Petition should only be granted for no more than fifteen (15) additional business days based on Respondent's efforts made in good faith to prepare a more proper and complete Response.
  - c. Under extraordinary circumstances, to be demonstrated in writing by Respondent, Resolution Panel may permit an extension of up to thirty (30) business days from Respondent's receipt of the Complaint in (b) above, for actions beyond the control of Respondent, such as the need to obtain materials from a utility or regulatory body.
  - d. Resolution Panel shall accept or reject the Petition within three (3) business days of receipt from SEIA.
10. **Initial Meeting of Resolution Panel.**
- a. After the period for Response has expired, the Resolution Panel shall meet, which may occur by telephone conference or similar method, to discuss the Complaint and confirm that it arises appropriately under the Code and this Process.
  - b. If the Resolution Panel determines the Complaint is best referred to a governmental entity (e.g., a clearly criminal activity), it shall determine the appropriate entity with jurisdiction, and refer the Complaint to such entity at its discretion after notifying both Parties of its intent to do so.
  - c. The Resolution Panel may ask for additional information from the Parties or from third-party sources, including requesting that SEIA conduct or arrange an independent investigation or research.
  - d. The Resolution Panel, in its sole discretion, shall determine whether to conduct a hearing ("Hearing") on the Complaint.
11. **Summary Resolution.** The Resolution Panel may determine to issue a summary Resolution and Recommendation if the final rulings or findings by courts, arbitration panels, or government agencies, demonstrate unequivocally that the Respondent has violated the Code; if so, the Resolution Panel will

proceed without a Hearing directly to consideration of a Resolution and Recommendation. The Resolution Panel will only act in summary upon final rulings or findings that are either ineligible for appeal, appeals have been exhausted or waived, or appeal during the Process seems highly unlikely.

12. **Concurrent Action.** If SEIA or the Resolution Panel becomes aware during the course of the Process that the matter asserted in the Complaint is currently being adjudicated by a governmental body (e.g. court), the Resolution Panel shall suspend work on the Process and SEIA shall notify the Parties of such suspension.
13. **Consulting SEIA & External Resources.** In considering whether to conduct a Hearing or issue a summary resolution and recommendation, the Resolution Panel may meet or speak with members of the SEIA Consumer Protection Committee, relevant SEIA State Committees, working groups, staff, or SEIA outside counsel, to be apprised of any ongoing trends or characteristics in the solar policies, market trends, legal guidance, or consumer protection issues. SEIA will work with other entities as needed, including government agencies, to obtain information or materials requested by the Resolution Panel and to arrange any discussions with other SEIA committees, staff, or working groups.
14. **Hearing Logistics Determination.** If the Resolution Panel determines to conduct a Hearing, SEIA will contact Parties to set a date for the Hearing to occur no later than thirty (30) business days from the Resolution Panel determination. If no reply is received from a Party within ten (10) business days of such notice to the Party from SEIA, the date and time of Hearing will be set by SEIA without input from such nonresponsive Party, but in no event less than fifteen (15) business days from the date notice of the Hearing is sent. SEIA will use best efforts to select a date and time reasonably convenient to the Parties, but unresponsiveness or lack of cooperation or accommodation by a Party will not be considered a reason for delay.
15. **Hearing Procedure.**
  - a. In a Hearing, the matter will be initially and objectively summarized and presented to the Resolution Panel by counsel for SEIA, who may advise and assist the Resolution Panel throughout the Hearing and in its deliberations to help assure conformance to the Process.
  - b. The Complainant shall briefly present the Complaint and supporting information, followed by a similar presentation by Respondent.
  - c. The Resolution Panel may ask Parties or their witnesses to provide additional information, oral or written, at the Hearing or for submission within a time certain following the conclusion of the Hearing depending on the nature of the information sought.
  - d. Should either Party wish to submit additional materials based on topics raised during the Hearing, such Party should request the Resolution Panel prior to the end of the Hearing for permission to do so. The Resolution Panel will discuss the matter promptly and provide a response to the requesting Party either before adjourning the Hearing or within one (1) business day thereafter. Failure of the Resolution Panel to provide a response to such request during such timeframe shall be treated as granting such request. Resolution Panel shall provide copies of any such materials properly submitted subsequent to the Hearing to the other Party.
  - e. Following presentations by the Parties and their witnesses, the Resolution Panel will deliberate in private.
16. **Hearing Rules.**
  - a. The Hearing may be conducted, at the discretion of the Resolution Panel, in person, by telephone conference, or by video conference or any combination of those.
  - b. SEIA strives for a cooperative, non-adversarial hearing; the Hearing is not intended to be conducted as a trial, but to resolve the Complaint fairly and simply.

- c. The Resolution Panel, in its sole discretion, may make any ruling on the procedures for the Hearing consistent with this Section in order to simplify and expedite the Hearing.
- d. The Parties may be represented by counsel at all times in connection with the Process, whether or not a Hearing is conducted, although the Parties are not required to have counsel.
- e. The role of counsel at a Hearing or otherwise in the Process is to facilitate the resolution and recommendation of the Resolution Panel and not to confront, harass, or challenge the other Party or its witnesses.
- f. The Resolution Panel should be respectful of the Parties and their reputations; it should work in a manner more similar to a mediation than to a judicial proceeding.
- g. Either or both Parties may call witnesses following their presentations, provided that notice of such (including names of witnesses, identification of their relevance and expertise if any, and a short description of their testimony) is transmitted to SEIA at least seven (7) business days prior to the Hearing. No witnesses will be heard unless this notice requirement is strictly observed.
- h. SEIA will share witness lists and Hearing logistical information with both Parties at least five (5) business days prior to the Hearing.
- i. No written or oral interrogatories, depositions, or document requests by the Parties will be permitted.
- j. Resolution Panel, in its sole discretion, may limit the time for the Parties, their witnesses, or their counsel to speak in the interests of efficiency and to avoid redundancy. Members of the Resolution Panel or counsel for SEIA may direct questions to the Parties, their witnesses, or their counsel.
- k. There will be no cross-examination of the other Party or the other Party's witnesses by the Parties or their counsel during the Hearing; instead the Parties or their counsel may request members of the Resolution Panel or counsel for SEIA to direct follow-up questions to the Parties or their witnesses.
- l. No Hearing will be held in the absence of a Complainant (unless the matter has been permitted to proceed anonymously for good cause), but a Hearing may proceed in the absence of a Respondent.
- m. Lack of responsiveness or refusal to follow the Process by a Complainant can result in an incomplete Complaint, which constitutes grounds for the Resolution Panel to dismiss the Complaint with no appeal allowed. Lack of responsiveness or refusal to follow the Process by a Respondent can constitute independent grounds for the Resolution Panel to reach its resolution and recommendation.
- n. The Hearing will not be recorded or transcribed; but SEIA's counsel may take notes during the Hearing and maintain a summary of the Hearing as part of SEIA's record.
- o. The above Hearing procedure is set by SEIA at its exclusive discretion and does not provide procedural mechanisms typically found in judicial or arbitration proceedings.

**17. Resolution and Recommendation.**

- a. Once a Hearing has concluded, or if the Resolution Panel has determined to issue a summary resolution and recommendation, the Resolution Panel shall reach a resolution ("Resolution") and/or make a recommendation ("Recommendation") within five (5) business days to the SEIA Executive Committee of the Board ("Executive Committee").
- b. Any Resolution or Recommendation shall include the Resolution Panel's findings as well as its suggested remedy, which include but are not limited to a/an:
  - i. Voluntary course of action to be taken by the Parties, such as restitution, monetary settlement, amended agreement, or otherwise (which, if rejected by the Respondent, will be reconsidered by the Resolution Panel for a resolution or recommendation below)
  - ii. Cautionary verbal or informal admonition (not published)
  - iii. Private letter of censure (not published)

- iv. Public letter of censure (including providing information to the media on the precise reason for, and scope of, the censure)
- v. Public or private loss of one or more SEIA membership benefits
- vi. Public or private suspension of SEIA membership
- vii. Public expulsion from SEIA membership (subject to SEIA Bylaws (*Sec. 4.8*) and District of Columbia law)
- viii. Referral of the matter to the governmental authority or authorities having jurisdiction
- c. Suspension or termination of SEIA membership or benefits may result in the forfeiture of any dues already paid by Respondent to SEIA, which are non-refundable.
- d. In addition to or in substitution for the remedies listed above, if the Executive Committee determines that a Complaint establishes any of the below, SEIA may refer the Complaint to one or more governmental bodies having jurisdiction over the Complaint in its sole determination:
  - i. An intentional violation of the Code
  - ii. A flagrant, reckless disregard of the Code
  - iii. A repeat material violation of the Code by Respondent
  - iv. That the Respondent's violation of the Code likely constitutes criminal action

18. **Executive Committee Action.** At its next regularly scheduled meeting or at a special meeting, and with proper notice, the Executive Committee, acting with powers of the SEIA Board of Directors (the "Board"), will vote upon the Recommendation of the Resolution Panel with two-thirds vote required for passage, except for recommendations of expulsion, which require a three-fourths vote per SEIA Bylaws. No further input from the Parties, their witnesses or their counsel, will be considered by the Executive Committee. Upon approval of the Recommendation, written notice will be provided to the Parties by SEIA. Upon rejection, the SEIA will inform the Resolution Panel, which may take subsequent action reflecting guidance of the Executive Committee.

19. **Appeal Process.** Following the decision by the Executive Committee:

- a. SEIA shall promptly provide notice of the decision of the Executive Committee to both Parties along with the decision, notice of the opportunity of either Party to appeal ("Appeal") the Executive Committee's decision to the Board, and the procedure for Appeal.
- b. In an Appeal, the Board will not conduct a *de novo* review of the resolution and recommendation of the Resolution Panel nor of the decision of the Executive Committee. The Board's review will be limited to a determination whether the result is generally reasonable and whether the Process was adequately applied.
- c. Appeals must be made in writing and delivered to the SEIA within ten (10) business days of receiving notice of decision above.
- d. Upon receiving an Appeal, at its next regularly scheduled meeting or at a special meeting, and with proper notice, the Board, or a subset thereof selected by vote of the Board, shall review the record, Resolution, and Recommendation of the Resolution Panel, the decision of the Executive Committee, and the materials provided upon Appeal by the appealing Party. The Board shall either grant the Appeal in whole or in part, in which case the matter is returned for reconsideration by the Resolution Panel, or deny the Appeal, in which case there is no further recourse for either Party. SEIA shall notify the Parties promptly of the final result of the Appeal to the Board.
- e. SEIA's record of the Appeal will include a summary of the procedure and result of the Appeal.

20. **Final Action.** Barring referral of matters to government authorities, final action on the Complaint (e.g., issuance of a public letter) will not be taken by SEIA until any opportunity for Appeal by the Parties has been exhausted, denied or otherwise forfeited.

21. **Ethics Committee Participation.** The structure and charter of the SEIA Ethics Committee are stated in the SEIA Bylaws. Members of the Ethics Committee are expected to make themselves available to serve on Resolution Panels when requested, barring conflicts of interest.
22. **Confidentiality.** SEIA's efforts to balance assurance of confidentiality of the Complaint, the Parties, and the process with its purpose of advancing consumer protection shall include the following:
- a. SEIA, the Resolution Panel, the Executive Committee, the Board, and the Parties and any employees or persons related to any of the foregoing are required throughout the Process and beyond its conclusion to keep confidential any information, documents, or materials of any kind relating to any Complaint, including but not limited to the papers and statements submitted by the Parties and their witnesses, the resolution and recommendation of the Resolution Panel, the decision of the Executive Committee, and the final result in an appeal to the Board if any, except any of those materials that were already known to the Parties prior to this Process, are properly made public by SEIA or the Parties, or are reasonably available through public sources.
  - b. SEIA will use best efforts to follow the Process in confidence. None of the members of the Resolution Panel, either individually or collectively, nor SEIA staff, shall contact the Parties (or others not referenced in the Complaint or Response or supporting documentation) to discuss the Complaint, to engage in investigation or research, or for any other purpose. SEIA will contact Parties for administrative purposes, such as scheduling a Hearing, but will not discuss the substance of a Complaint with a Party outside the scope of the Process.
  - c. SEIA shall redact materials received from the Parties or from other sources of information, and from the record, any personal, confidential or sensitive information (e.g. social security numbers) not necessary for SEIA's consideration of the matter through this Process.
  - d. Where the final result in a matter involves publication, SEIA will do so on the SEIA website or elsewhere.
  - e. On at least a quarterly basis, for the purposes of furthering consumer protection, SEIA will publish summary information on the SEIA website or elsewhere regarding each Complaint that has been addressed finally under this Process through a decision by the Executive Committee not changed through an appeal to the Board. The summary information will have names and other identifying information removed. The purpose of this publication of summary information is primarily educational and not punitive.

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