



ACPE

STANDARDS & MANUALS

**2010 Processing
Complaints of
Ethics Code
Violations in
ACPE**

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PROCESSING COMPLAINTS OF ETHICS CODE VIOLATIONS
Association for Clinical Pastoral Education, Inc.

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Preface

ACPE is committed to maintaining high standards of ethical behavior in its programs and by its members. That commitment is evidenced in the first section of the ACPE Standards, the Code of Ethics. The Association recognizes that complaints alleging infractions of the Code by members will be made from time to time by those who work with, are taught by and/or served by ACPE members. That reality necessitates a thorough, balanced and fair process for addressing allegations. This manual provides the guidelines that the Professional Ethics Commission uses for investigating and adjudicating complaints alleging violation of the Code of Ethics (100 Standards).

Note: *Definition of Terms 2010* (www.acpe.edu, manuals section) is an important companion document. Please review it carefully for definitions of relevant terms; they are essential to interpretation and use of *Processing Complaints of Ethics Code Violations in ACPE 2010*.

PROCESSING COMPLAINTS OF ETHICS CODE VIOLATIONS

The Association for Clinical Pastoral Education, Inc

Part One Introduction

I Mission of the Association for Clinical Pastoral Education, Inc. (ACPE)

The Association for Clinical Pastoral Education, Inc. (ACPE) is a professional association committed to advancing experience-based theological education for seminarians, clergy and laypersons of diverse cultures, ethnic groups and faith traditions. ACPE establishes standards, certifies supervisors and accredits centers to provide programs of clinical pastoral education (CPE) in varied settings. ACPE approved programs promote the integration of personal history, faith tradition and the behavioral sciences in the practice of spiritual care.

II Professional Ethics Commission (the “Commission” or “PEC”)

A. Purpose

The purpose of the PEC is to provide: (1) education about issues of professional ethics and (2) orderly and fair processes for adjudicating complaints of ethical violations (100 Standards) made against ACPE members or ACPE centers or satellite programs and against regional or national ACPE entities. Rulings of the PEC are final and binding for ACPE.

B. Functions

1. Educate ACPE members, consumers and other interested persons about ethical practice according to ACPE standards, and inform persons of ACPE procedures to resolve complaints.
2. Impose and monitor sanctions according to the processes of ACPE.
3. Hear appeals and cases on grounds specified by ACPE.
4. Receive and process referrals from the Emergency Review Committee, other Commissions or the ACPE Executive Director of allegations of ethical or felonious misconduct by ACPE members or entities.

C. Authority

The PEC has final authority to determine whether violations of ACPE ethics standards have occurred and to recommend sanctions.

D. Composition

The PEC is comprised of ten members, a representative from each region and the chair. Members are elected for a three year term by the Board of Representatives upon nomination by the Representation and Nomination Committee from the candidate(s) suggested by each region.

Processing Complaints of Ethics Code Violations

Part Two

Persons participating in an ACPE accreditation, certification, ethics, or appeal process consent to that process as described in relevant ACPE materials and give permission for the disclosure of information and materials from one ACPE process to another ACPE process if, in the determination of ACPE representatives, that should be necessary for ensuring compliance with ACPE standards. When one process makes referral to another, the referring body may be asked for additional information and may be informed of the work of the commission to which the referral was made.

I INITIAL FILING REQUIREMENTS

Launching and responding to a complaint is intensive and demanding, not to be undertaken casually. One should study the instructions closely and prepare carefully and thoughtfully for participation.

Filing a complaint for violations of 100 Standards

A. Grievances giving rise to a complaint should first be addressed at the local level. Attempts should be made to resolve grievances in an informal collegial manner.

B. If a grievance about an ACPE member or ACPE center is not resolved informally, the complainant(s) may register a formal complaint with the center. The complaint should be processed according to the procedures of the center for handling complaints, preferably within 60 days of the center's receiving the complaint.

C. If the complaint is not resolved at the center level or issues remain over which ACPE has jurisdiction, the complainant may register a complaint with the Executive Director of the ACPE:

Executive Director
Association for Clinical Pastoral Education
1549 Clairmont Road, Suite 103
Atlanta, Georgia 30033
404-320-1472
acpe@acpe.edu

II COMPLAINTS ALLEGING VIOLATIONS OF THE ETHICS CODE DEFINED

A. A Complaint is a grievance, presented in writing and signed, involving an alleged violation of the ethical criteria established by the ACPE Code of Ethics (Standard 100). Complaints may be registered by those who consider themselves harmed by an alleged violation

or by any person(s) having substantive knowledge of a violation of the ACPE ethics code.

B. The complaint must name an individual(s) over whom ACPE has jurisdiction. The person filing the complaint consents to these processes and gives permission for the disclosure of all information to the process investigators, adjudicators and the respondent. In most instances, the complainant will be asked to submit an *Ethics Complaint Form* (available from ACPE Executive Director or www.acpe.edu).

C. ACPE Standards in effect at the time of the alleged incident giving rise to the complaint will be used to assess conduct; the ACPE manual and procedures for processing complaints in effect at the time the complaint is addressed by ACPE will be followed.

D. ACPE members who are aware of ethical violations by colleagues that are not threatening to the well being of the member or others are encouraged to engage the member in discussion to clarify the behavior in question and correct it. If this intervention fails, or if an alleged violation appears to be a serious threat to the well being of the member or others, members should consider filing a complaint form following the steps outlined below.

E. Standard 100 of the ACPE Code of Professional Ethics states:

ACPE members agree to adhere to a standard of conduct consistent with the code of ethics established in ACPE standards. Members are required to sign the *Accountability For Ethical Conduct Policy Report Form (ACPE Standards 2010 Appendix 1)* and to promptly provide notice to the ACPE Executive Director of any complaint of unethical or felonious conduct made against them in a civil, criminal, ecclesiastical, employment, or another professional organization's forum.

Any ACPE member may invoke an ethics ... review process when a member's conduct, inside or outside their professional work involves an alleged abuse of power or authority, involves an alleged felony, or is the subject of civil action or discipline in another forum when any of these impinge upon the ability of a member to function effectively and credibly as a CPE supervisor, chaplain or spiritual care provider.

III TIME LIMITS FOR REGISTERING COMPLAINTS

A. Statute of Limitations: Reporting an alleged violation close to its occurrence is important to the effective investigation and evaluation of evidence as well as to the well being of all people involved.

1. The time limit is ten years for a complaint alleging sexual exploitation and six months for a complaint not involving sexual exploitation.

2. Time limits begin with the event that occasions the complaint or with the completion of the educational experience at the site where the event is alleged to have occurred.

B. Exception to Statute: Any complaint *may be made within a longer period* if the delay is caused by fraud, intimidation or other unethical conduct that prevents the earlier emergence of the complaint. In extraordinary circumstances, time limits may be waived by the PEC chair in consultation and agreement with three other PEC members and ethics counsel, at their discretion and at the request of the Executive Director or an Initial Review Panel (IRP), where to do otherwise would seriously jeopardize the safety or welfare of a program or students in the opinion of those waiving the time lines.

IV CONFIDENTIALITY

Confidentiality is of utmost importance. Those involved in investigations, mediations, fact finding reviews, appeals, and record keeping shall respect the parties' confidentiality as far as possible without impeding the pursuit of the truth of the allegations or violating state reporting laws. Parties and witnesses contacted are expected to respect the need for confidentiality in order to protect privacy and fair process for everyone involved. To obtain guidance and support, the parties to the complaint may discuss the complaint with their families and helping professionals; however, all must respect the need for confidentiality.

V BIAS or CONFLICTS OF INTEREST

It is expected that anyone invited to participate in any aspect of processing, mediating, investigating or adjudicating an ethics complaint will decline if they have a conflict of interest or personal or professional relationship with a party or entity that would lead to bias or the perception thereof. A member may challenge the appointment of any person to any of these positions if that member can demonstrate reasonable cause for the member to believe there is conflict of interest or bias. A member does not have unlimited challenges to appointments and the judgment as to whether or not a conflict or bias exists will remain with the people designated to make the appointments.

VI COMPLIANCE WITH PROCESS

ACPE Standard 103.4 says:

In relation to ACPE, members do not make intentionally false, misleading or incomplete statements about their work or ethical behavior.

This is binding on members. It is expected of nonmembers who engage the process.

VII MEMBER WHO RESIGNS AFTER COMPLAINT IS FILED

A complaint against a member who resigns from ACPE membership after a complaint has been filed will be investigated and processed according to the procedures outlined below. If a sanction is imposed against the person, the person cannot rejoin ACPE until the terms of the sanction have been fulfilled. If the person does not participate in the initial investigation and/or fact-finding process, there is no right of appeal of the finding or sanction. Notification and publication of the finding and sanction will be as described in Section XIII, p. 12. Where applicable, requests for resignation will be deferred until a pending complaint is resolved.

VIII FILING A COMPLAINT

A. Complaints should be sent to the ACPE Executive Director (ED). If the complaint is not on an Ethics Complaint Form, the ED will contact the complainant and request this be done if reasonably possible. The ED will supply the complainant copies or the web address for the complaint form, the *ACPE Code of Ethics* and these procedures.

B. When the materials are returned, the ED contacts the ED of any other association with whom ACPE may be partnering in this process to confirm membership status and any other inquiries or complaints involving the respondent. The EDs confer as to who will comprise the Initial Review Panel (IRP). Timely availability is a critical factor.

C. When working in partnership, the ED of one association, the ethics commission chair of the other association and ethics consultant (if one) comprise the Initial Review Panel (IRP). When working alone, all participants come from ACPE.

D. If the complaint is against a former member who resigned from the organization prior to the filing of the complaint, the complaint will not be processed or retained.

IX THE INITIAL REVIEW PANEL (IRP)

A. An Initial Review Panel (IRP) convenes telephonically. The ED and the ethics chair with the ethics consultant [if one] determine if there is jurisdiction for the complaint:

1. Is the respondent a member of ACPE;
2. Are the circumstances of conduct alleged within the purview of association standards;
3. Are time limits for filing met or are any exceptions applicable;
4. If alleged conduct were proven, would it violate standard(s) of ACPE?

If no to any question, the complaint is dismissed for lack of jurisdiction.

If yes to 1-4, jurisdiction is established and the ED sends the complaint and response form to the respondent and requests a reply to the ED within 30 calendar days.

B. After the response is received, the IRP reconvenes telephonically to consider the status of the process:

1. If the complaint was not addressed at the local level, and it is appropriate, ED instructs complainant and respondent to engage local resolution processes. Their materials can be re-submitted after local process if no resolution occurs.
2. If a local option has been engaged and not succeeded, or is inappropriate to engage, or issues remain over which ACPE has concern, the IRP may:
 - a. refer materials to another commission of the association;
 - b. hold complaint pending completion of another forum's adjudication;
 - c. suggest mediation to both parties prior to investigation (see **X** below);
 - d. name additional standards to be considered;
 - e. conclude there is cause for an investigation to commence;
 - f. conclude there is not cause for an investigation (may suggest other avenues for addressing situation alleged);
 - g. implement the determined option(s).

If an investigation will commence, an investigator is appointed from the investigative pool.

C. Notification: The ED will notify, by certified mail, the complainant and respondent of the IRP action.

1. If there will be mediation, the ED will assist with those arrangements as set forth in section X.
2. If there will be an investigation, the notification will include the specific allegations, the standards alleged violated and the name and contact information of the investigator. If the IRP has implicated additional standards, the respondent is informed at this time. The respondent's ACPE regional director will receive the above notification also. Henceforth, all associational contact with the parties is only through the investigator until the investigation is complete.

X PROCESSING COMPLAINTS THROUGH MEDIATION

Mediation generally precedes the commencement of the investigative process if it is used. Occasionally it may occur during or after the investigative process if both parties and the IRP and/or investigator concur. Time lines toll during the period in which mediation is being arranged and engaged. If it does not produce resolution, the process continues at the stage it was stopped.

A. The IRP may suggest mediation as a means to resolve the complaint. If the parties agree to mediation, the respondent's regional director and the ACPE Executive Director shall appoint a mediator and the process for mediation outlined in this section shall commence. If either is a party, the ACPE President will fill their role.

B. Information heard in mediation cannot be used in any other part of the process unless the information is available and also obtained outside the mediation process.

C. If mediation is used and the complaint is resolved to the satisfaction of all parties, the resolution process is complete.

D. If mediation is unsuccessful, the complainant may request the process commence or re-commence where it has been halted. The request must be made in writing to the Executive Director within seven days following the completion of the mediation attempt. Time lines for this process recommence with receipt of the request by the Executive Director.

E. Mediation shall commence and be completed within 60 days of the acceptance by both parties of the recommendation.

F. If the complaint is resolved, the mediator and all parties involved in the complaint sign a memorandum of understanding (MOU). The mediator shall forward the original MOU to the ED and copies to all those who signed the MOU. The MOU shall be retained according to Section XVIII F, p. 16.

G. Mediation fees will be paid, in most situations, by ACPE.

XI THE INVESTIGATIVE PHASE

A. The investigator will conduct the investigation according to the processes set forth below. When the process is being done in partnership with another association, whenever reasonably possible, the investigator will represent the association of the respondent. The investigator may work alone or with the assistance of up to three other people from the trained pool chosen at his or her discretion in consultation with the ED and ethics chair. The investigation may be conducted under the direct supervision of a legal or ethics consultant appointed for this purpose.

B. The Investigative Process

1. The investigator will contact the complainant and respondent as soon as reasonably possible after receiving appointment.
2. Each party will be asked to provide a list of people whom the investigator(s) might contact, a means of contact, and a brief statement of what the party expects the person to contribute to knowledge of the allegations.

3. In-person or telephonic interviews will be held with each party before any witnesses are interviewed.
4. If one party is interviewed in person, the other also will be.
5. The process seeks to be conversational rather than confrontational. Cooperation and courtesy are expected from the investigator(s) and the parties. Phone calls are to be returned and requested information produced within reasonable times.
6. The investigator and/or investigator's designees will function as information gatherers. Information is assembled to allow the ethics commission to determine the facts on which a decision will be made as to whether a violation of the Code of Ethics occurred as alleged. The investigator may allege standards violations additional to those named in the complaint.
7. Neither party has a burden of proof. Rather, the investigator's task is to assemble information so that the Commission in its fact-finding can construct the proofs from the evidence it is given. The task of each party is to supply the investigator with accurate and timely evidence throughout the investigation and to state clearly how the evidence relates to the allegations.
8. The investigator(s) will spend as much time as they determine reasonably necessary to gather enough information for the Commission to make an informed decision. The investigators may contact as many people as they determine necessary -- these may be people suggested by the parties, by other sources or originate with the investigator. Some people may be interviewed more than once.
9. The investigators are not required to inform either party of people with whom they have spoken or materials collected. However, any such information shared with one party should be shared with the other before the information is given to the Commission.
10. At the close of the investigation, the investigator will provide the ethics commission chair [ECC] the dossier of the case: a copy of the original complaint form, any written response, a chronological summary of the investigation that includes a summary of each interview and any exhibits submitted; and relevant correspondence. The investigator will provide a brief written report to the Commission consisting of and elaborating the above items. The report may include the investigator's observations of affect and conditions not obvious in the collected data.
11. The above materials will usually be sent by the ECC upon receipt to the complainant and respondent. At the ECC and investigator's discretion, some information may be withheld from the parties if to do otherwise might

seriously jeopardize justice or the physical safety of a party or other witness. Any information sent to one party will be sent to the other.

XII FACT FINDING/ FINAL CASE REVIEW

A. The ethics commission (the ACPE-PEC unless ACPE is partnering with another association, in which event the commission designated by the partner fulfills this role) is the designated fact-finding body. The Commission Chair is the convener and presider at the fact-finding Final Case Review. The Chair may vote only to break a tie.

B. Four members of the Commission and the chair designated for this process constitute a quorum.

C. The investigator and association ethics or legal consultant may participate throughout the case review and Final Case Review but will not be present for the vote on final actions taken.

D. Each party may submit to the Ethics Commission a written response to the materials it receives from the investigator. The response must be sent to the Commission Chair within twenty-one calendar days from when the material is mailed to the party. The Commission may solicit additional information from a party or any other source but will not accept information provided at the party's initiative after the twenty-one day period unless the Chair determines exceptional circumstances.

E. New information obtained from a party (see item D) will be shared with the other party at least two weeks prior to the Final Case Review if time permits. The party receiving the information will have the opportunity to respond to it during the Final Case Review.

F. A Commission member may implicate additional violations of standards previously not cited based on new information or reasonable interpretation of existing information. The respondent will be given notice not less than two weeks prior to the Final Case Review.

G. The Final Case Review may occur electronically or in person.

H. If the Commission has a regularly scheduled meeting within three months of the time it receives the investigator's report, the Final Case Review will be conducted at that meeting. At its discretion, the Commission may hold the Final Case Review another time (see item K).

I. Parties will receive at least one month's written notification of the meeting date, time and place if the Final Case Review occurs in person.

J. Parties will be invited to meet for up to an hour with the Commission. Attendance will be at the party's own expense. A party may appear even if the other elects not to

appear. Electronic appearance for either party may be arranged at the discretion of the Commission.

K. If the Commission does not have a regularly scheduled meeting within three months, the Chair will inform both parties. If both parties and the Commission agree that the case may wait for Final Review until the next scheduled meeting, Final Case Review will occur then. If the respondent has been suspended, that will remain in effect until after the Final Case Review and any appeal. If the Commission, or one party wants the Final Case Review sooner *and* the Commission concurs, it may be conducted electronically or in person (See item H).

L. Parties will receive at least two week's written notification of an electronic Final Case Review.

M. If the Final Review is electronic, the Commission will invite the parties to participate for up to one half hour each. If one party declines, the other may still be heard. The Commission bears the cost of the electronic interview.

N. The Commission meets or speaks first with the complainant if he or she elects to participate.

O. At its discretion, the Commission may invite written information, electronic testimony, or appearance at the Final Case Review by non-party witnesses. These witnesses are not required to comply, may be responsible for their own expenses, and should receive at least two weeks' written notice of the review.

P. The parties will not be present or heard at the same time before the Commission and will not be present for any portion of the Final Case Review other than their own testimony.

Q. Each party may be accompanied by a support person who will not be permitted to speak to the Commission but is free to consult with the party. The party will bear any costs associated with the support person.

R. The Commission will explain its process to each party and give each an opportunity to make a brief opening and closing statement. The Commission will devote the remainder of the time to asking questions to clarify the written materials, witness testimony or any other relevant issues it elects to address. The party may not offer new evidence at this time.

S. The Commission may question the party about discrepancies in the information and invite the party's explanation.

T. The Commission may ask the party what he or she feels would be a reasonable outcome.

U. The Commission will make its decision based on a preponderance of the evidence. This is a qualitative not a quantitative standard of proof and means: “whether it is more likely than not that a violation occurred.”

V. When reviewing cases of racial or sexual harassment, the Commission will apply the “reasonable person” standard. The evidence will be reviewed from the perspective of a reasonable person similarly situated to the complainant in terms of gender, race, sexual orientation, age, disability, religious preference, and national origin.

W. The Commission will issue its findings in writing within twenty-one calendar days of the Final Case Review. No new evidence may be submitted or solicited at a party’s initiative after this review. The Commission at its discretion may seek clarification from any source.

X. After reviewing the evidence and deliberating, the Commission shall decide:

1. No violation of the *Code* occurred.
2. No violation of the *Code* occurred, but the Commission has concerns about the respondent’s practice or perspective. These concerns may be set forth in a letter of information that may offer suggestions for further action on the part of the respondent to address the concerns. This letter is not considered a reportable disciplinary action for any forum.
3. A violation of the *Code* did occur and the Commission will consider sanctions.

Y. When the Commission finds a violation did occur, it recommends one of the following sanctions:

1. Admonishment: The Commission finds that the member had been unaware of having violated the *Code*, and that education regarding appropriate ethical conduct is sufficient to correct the violation and insure future compliance with the *Code of Ethics*.
2. Reprimand: This is a serious reproof or rebuke of the member, and is based upon an assessment that the member has accepted full responsibility for the violation and that the Reprimand is adequate to ensure future compliance with the *Code of Ethics*. It may include increased supervision or other stipulations for continued practice and membership as recommended by the Commission.
3. Probation: The Commission is unclear whether or not the member fully understands and/or accepts responsibility for the violation. For a designated period of time, the member will follow specific instructions under the direction of the Professional Ethics Commission or its designee. Before the member is restored to full status, the member will meet all the terms imposed by the

Commission and appear before the Commission to demonstrate fulfillment of the terms to the Commission's satisfaction.

4. **Suspension:** The Commission believes that the member does not understand and/or accept responsibility for the violation. Certification and/or membership is removed until a specifically identified problem or condition is addressed to the satisfaction of the Professional Ethics Commission in conjunction with the ACPE Certification Commission. The member will meet with both Commissions or their designees to demonstrate compliance to their satisfaction before the suspension is recommended lifted.

Sanctions 2 – 4 may include the provision that for a specified period of time, the supervisor may not serve on regional or national committees, commissions, the Board and/or in other ACPE leadership roles.

5. **Recommendation for Withdrawal of Certification and/or Membership.** In the Commission's judgment, the member demonstrates an essential lack of professional knowledge, procedures, character, or conduct consistent with membership in ACPE. This recommendation also represents the judgment of the Commission that the violation constitutes a threat to the well being of the member, the Association and/or the public.

The Commission Chair informs the ACPE Executive Director, the President and President-elect of the recommended disposition of the case. These same people receive a copy of the deliberations, sent to the parties, that states the final disposition of the complaint. If sanctions result in suspension, withdrawal, removal from office, or enjoinderment from practice, the parties shall be informed within 24 hours of the decision.

Z. The ED and Commission Chair will appoint a scribe who may or may not be a Commission member. The scribe will keep official minutes and a summary of the Final Case Review. These are available to the parties; personal notes of individual panel members are not and will be destroyed. The Commission may record electronically, at its discretion, the conversation with the parties. Its deliberations will not be recorded. The Commission's deliberations are assumed confidential. Parties may request recordings or transcriptions of the case review at their own expense. Requests must be made in writing to the Commission Chair seven days prior to the review. Parties may receive recordings or transcriptions only of their own portion of the Final Case Review. Recordings, transcriptions, and minutes are not available to non-parties.

XIII NOTIFICATION OF FINDINGS AND ACTION FOR FINAL CASE REVIEW & APPEAL PROCESS

A. The Commission Chair will notify the member and complainant of the action taken by the ACPE officers noted above. The notification to both parties of the complaint

will be sent by certified mail, return receipt requested, and shall include notification that either may appeal the decision. The limited grounds for appeal will be stated. Both shall be instructed not to make the notification public until the appeal process is over.

B. No public notification shall be made until after the appeal process is completed.

C. When no appeal is filed, an appeal denied, or after the appeal process is completed, the following notifications shall occur:

A copy of the deliberations stating the final disposition shall be sent to the parties and the ACPE Executive Director, President and President-elect. If sanctions result in suspension, withdrawal or removal from office or enjoinder from practice, the parties shall be notified within 24 hours of the decision. The Commission Chair shall inform the Board of Representatives and a report of the sanction shall be published in the next issue of the ACPE newsletter. When a published sanction is fulfilled or lifted, a report shall be published in the next issue of the ACPE newsletter. Both published notifications shall be sent to the endorsing agent of the respondent and local entity of the original incident as well as any current employer.

XIV APPEAL PROCESS

A. Three members of the Ethics Commission who did not serve on the Final Case Review Panel or have previous association with the particular case will comprise the Appeal Panel. Their decision will be final and binding on the Association and member(s).

B. Findings and/or sanctions can be appealed by the respondent on the grounds stated below at "E".

C. The complainant may appeal the finding but not the sanctions.

D. Each party has thirty days from receipt of notice of the finding (sent by certified mail, return receipt) and sanction to register an appeal with the ED. This must include a statement of the grounds for the appeal and the evidence supporting them.

E. An appeal is limited to one or more of the following grounds: (a) the party was refused reasonable opportunity to obtain and present evidence within *these* guidelines that *could have substantially altered the outcome*; (b) gross irregularity in the proceedings as established by these guidelines *that could have substantially altered the outcome*.

F. The Commission will provide the Appeal Panel the dossier it received from the investigator as well as the minutes and summary of its deliberations and any other materials it determines relevant to the Panel's deliberations.

G. Whether the criteria for appeal have been met will usually be decided by the Appeal Panel on the basis of the written material submitted without a formal hearing. Substantial deference will be given to the recommendation of the Ethics Commission. Parties or Commission members may be contacted by phone or mail for additional information to assist the Appeal Panel in reaching its decision.

H. The Appeal Panel will review the dossier, record of findings and, if the reason for appeal is XIV E. (a), any additional information presented by the member or complainant. The Appeal Panel may take one of the following actions:

1. Dismiss the original complaint and findings and set aside the action taken;
2. Reinstate the complaint, reverse or modify the findings and impose sanctions;
3. Reopen the investigation and request additional information;
4. Uphold the original findings but modify the action, e.g. reduce or increase level of sanction or modify the requirements of the member;
5. Uphold the original findings and sanction.

Decisions by the Appeal Panel are final and binding on the Association and members.

XV SANCTION REVIEW

A sanction will be reviewed at the end of its specified time. If the Commission determines a reasonable need to continue monitoring the member, the Commission may recommend further sanctions or probation for an additional specified time to the appropriate people of each association. Such additional sanctions will not be imposed lightly, will reflect concern for the well being of the member, the public or the Association, and will be reviewed by the Commission within six months of imposition.

XVI EMERGENCY SUSPENSION OF CREDENTIALS

When there is compelling evidence that a CPE student(s) is in immediate danger because of the functioning of any person authorized to supervise by ACPE, the Executive Director shall enjoin the person from supervisory practice for 72 hours.

During this period, the Executive Director of ACPE shall appoint an Emergency Review Committee of four additional persons, as follows: 1) the member's regional director or regional chair, 2) regional certification or regional accreditation chair, 3) ACPE President or President-elect, 4) Certification Commission or Professional Ethics Commission chair.

This panel shall investigate the concern. Should the panel determine by majority vote that a student(s) is endangered, it is authorized to suspend credentials for up to sixty days, pending a competency review by the regional certification committee and/or action by the PEC. The Executive Director shall notify the administrative person responsible for the ACPE program of any actions taken under this provision. In the event of the unavailability of the Executive Director, the ACPE President shall assume this role.

XVII RELEASE OF INFORMATION DURING A PROCESS

When asked about allegations against a member, *only* the following information shall be provided by the Association or those working for it on a particular case.

- A. The existence of a complaint and whether or not an investigation is in progress. This includes cases under review, being appealed, and subject to review for Dismissal.
- B. That a complaint has been received, an investigation completed and the member has been disciplined for violations of the *Code of Ethics*.

Other release of information addressed in XIII C.

XVIII RECORDS RETENTION

Official files on a case are maintained by the investigator or Commission Chair considering the case until the case is concluded. The official file is then sealed and placed in the ACPE national office. Investigators and Commission members may keep notes for personal use only. Such notes and all other materials not part of the official dossier of the case will be destroyed at the time of the final disposition of the case. These materials are not part of the official record and not available to parties or other forums.

- A. Upon final action, a sealed copy of the record of the process shall be sent by the Chair of the Ethics Commission for storage at the national office. The record shall contain:
 - 1. the dossier sent by the investigator to the Commission;
 - 2. a copy of the findings and/or sanctions;
 - 3. a copy of the Code of Ethics, this process and the relevant Standards in effect at the time of the ethics action;
 - 4. a copy of the formal letter to the person against whom action has been taken. The letter will state the final disposition of the complaint. It shall be placed on the outside of the envelop containing the files.

B. Files will retained for ten years from the date of final disposition. If no further complaints are brought against the person during that period, the files shall be destroyed at the end of ten years. Files concerning withdrawals of membership or certification will be kept indefinitely.

C. If a complaint is brought against a person whose file is being maintained at the national office, the file will be available to the Commission prior to its sanctioning recommendation. The cover letter is available to the IRP.

D. If a person is sanctioned a second time during the ten-year period, the first file remains appended to the second throughout the second ten-year period.

E. Except as provided in these procedures, no one is to have access to the contents of these files without a Court order or without the written consent of the Ethics Chair, association President and association Executive Director (in consultation with counsel) for extraordinary circumstances.

F. For complaints that do not reach the Commission because:

1. resolution is agreed to prior to a Final Case Review, or
2. mediation produces a signed agreement, or
3. they are dismissed,

the dossier, signed agreement, or reason for dismissal will be kept according to the procedures described above in Section XVIII. A. Files pertaining to F. 1-- 3 will be destroyed after 10 years.

G. If membership is withdrawn, the file shall be kept indefinitely. Should the person apply for reinstatement, the file will be given to the Certification Chair and the Commission Chair. When the Association learns of the member's death, the file will be destroyed.