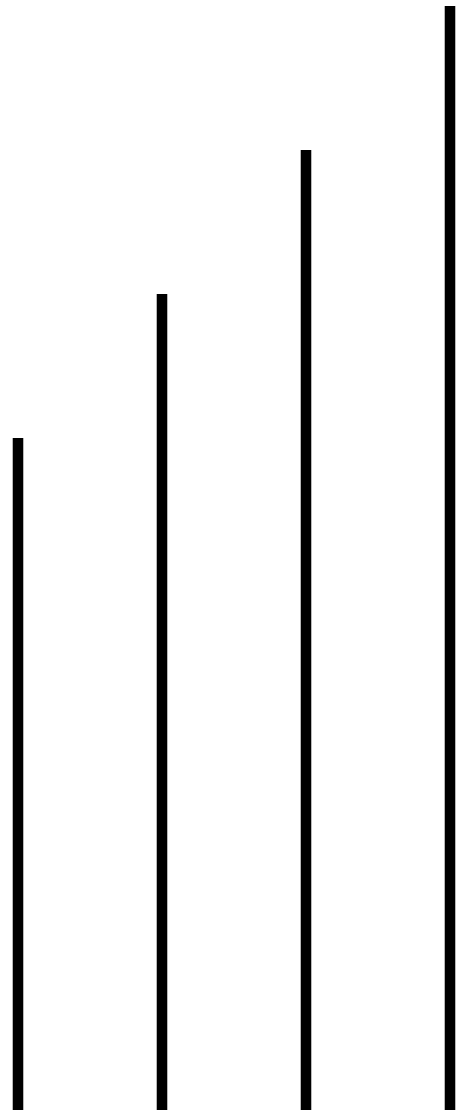


**ACPE**

The Association for Clinical Pastoral Education Inc.

# PROFESSIONAL ETHICS MANUAL





**Processing Complaints of  
Ethics Code Violations  
In ACPE  
2005**

**Professional Ethics Commission  
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**PROCESSING COMPLAINTS OF ETHICS CODE VIOLATIONS**  
**Association for Clinical Pastoral Education, Inc.**

**TABLE OF CONTENTS**

<b><i>Preface</i></b>	iii
<b>Part One Introduction</b>	1
<b>I Mission -- Association for Clinical Pastoral Education, Inc. (ACPE)</b>	1
<b>II Professional Ethics Commission</b>	1
Purpose	1
Functions	1
Authority	1
Composition	1
<b>Part Two Processing Complaints of Ethics Code Violations</b>	2
<b>I Information for Complainants and Respondents</b>	2
A. Filing a Complaint for Violations	2
within an ACPE accredited center	2
against an ACPE officer, representative or national entity	3
against a member no longer at the site of the complaint event	3
against a member who resigns membership	3
B. Time Limits for Filing Complaints	3
C. General Information for Complainants and Respondents	4
D. Distribution of Information	5
E. Finality of Findings	6
<b>II Processing complaints</b>	8
A. Processing Complaints Locally	8
B. Processing Complaints Not Resolved Locally	8
C. Processing Complaints Through <b>Mediation</b>	10
D. Fact-Gathering/Fact-Finding	12
Regional Review Panel	12
Regional <b>Hearing</b> Panel	13
National Cases	17
E. Final Disposition	17

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Processing Complaints of Ethics Code  
Violations Revised 2005

F. Sanction Review	18
G. Notifications	18
H. Appeal	19
<b>Part Three Glossary</b>	<b>22</b>
<b>Part Four Appendices</b>	<b>23</b>
APPENDIX 1 Time Lines for Submitting and Processing Complaints	24
APPENDIX 2 Instructions for Initiating a Formal Complaint	26
APPENDIX 3 Instructions for Responding to a Formal Complaint	27
APPENDIX 4 Records Maintenance	28
APPENDIX 5 Emergency Suspension of Credentials	29

## 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, which is 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 are 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 and the regional ethics panels use for investigating and adjudicating complaints alleging violation of the Code of Ethics.

**NOTE:** Throughout the manual, bold text indicates a term defined in the glossary; text in italics is for emphasis, and underlining highlights the focus of the item.



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

## **Part One Introduction**

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

ACPE is a professional association committed to advancing experience-based theological education for seminarians, clergy and lay persons of diverse cultures, ethnic groups and faith traditions. ACPE establishes standards, certifies supervisors and accredits centers to provide programs of clinical pastoral education 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 made against ACPE members or ACPE centers, satellites or 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, as necessary, on cases referred to the PEC from the regional ethics processes.
3. Hear appeals, on grounds specified by ACPE, of cases from regional ethics processes.
4. Process cases initiated at the national level. May include investigation, recommending mediation, hearing, and sanctioning.
5. 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 determine final disposition of complaints.

#### **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.

## Part Two

### Processing Complaints of Ethics Code Violations

**Note:** Throughout the document all time frames are understood to be calendar days.

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 process to which the referral was made.

#### I Information for Complainants and Respondents

A **complaint** is a **grievance**, presented in writing and signed, involving an alleged violation of the ethical criteria established by ACPE Standards. A **complaint** must identify the specific standard that has been violated.

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.

#### A. Filing a complaint for violations

1. Within an ACPE accredited center
  - 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 regional director of the region in which the center is located. (See Appendix 2 *Instructions for Initiating a Formal Complaint*.)

Processing Complaints of Ethics Code  
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- d. The regional director shall notify the regional PEC representative (hereafter “regional representative”) , and together they shall initiate the formal fact-gathering and fact-finding process (Part Two, II. D).
2. Against an ACPE officer, representative or national entity
    - a. The complainant initiates the **complaint** process through the ACPE Executive Director.
    - b. The Executive Director notifies the PEC chair, and the PEC appoints three of its members to function in the manner of a regional review panel (Part Two, II. D).
  3. Against a member no longer at the site of the **complaint** event
    - a. The **complaint** is processed by the region in which the site is located.
    - b. Members are expected to engage in the process in that region regardless of the region in which they are living and/or working at the time the **complaint** is processed.
  4. Against a member who resigns membership
    - a. A **complaint** about incidents occurring when the respondent was an ACPE member will be processed according to ACPE procedures.
    - b. If a sanction is imposed, the person cannot rejoin ACPE until the conditions of the sanction are satisfied.
    - c. Usually action on a request for resignation will be deferred until a pending **complaint** is resolved.

**B. Time Limits for Filing Complaints:**

1. begin with the event that occasions the **complaint** or with the completion of the educational experience at that center.
2. for a complaint not involving sexual exploitation, six months.
3. for a complaint alleging sexual exploitation occurring after January 1, 1997, ten years.
4. 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 legal counsel, at their discretion, and at the request of a regional panel 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.

### C. General Information for Complainants and Respondents

#### 1. Complaints:

a. may be registered by those who consider themselves harmed by an alleged violation of the ethical criteria established by the ACPE standards or by any person(s) having substantive knowledge of a violation of the standards.

b. must name an individual(s) or entity(ies) over which ACPE has jurisdiction.

2. Obtain and become familiar with the ACPE Standard 100 Code of Professional Ethics for Members and the manual Processing Complaints of Ethics Code Violations available at [www.acpe.edu](http://www.acpe.edu) or from the regional representative (name and address available from the regional director).

a. The regional representative can answer questions about the procedures for filing and answering a **complaint**.

b. ACPE standards in effect at the time of the incident giving rise to the **complaint** will be used to assess conduct.

c. The process will follow the current ACPE manual *Processing Complaints of Ethics Code Violations*.

3. The *complainant consents to the ACPE processes* and gives permission for the disclosure to the ACPE designees and the respondent of all information.

4. One should address a breakdown in communication, dissatisfaction with the way one has been treated professionally or personally, or concern for the quality of one's educational experience at the local level first.

a. If issues cannot be resolved locally and *if the situation is alleged to violate an ACPE ethical or professional standard*, a formal written **complaint** may be filed with the regional director.

b. Concerns about unethical behavior which involves harassment -- particularly racial or sexual -- may not be as effectively addressed locally and may need to be sent simultaneously to the regional director.

5. Confidentiality is of utmost importance.
  - a. Those involved in investigations, **mediations** and **hearings** shall respect the parties' confidentiality as far as possible without impeding the pursuit for the truth of the allegations.
  - b. Parties and witnesses contacted are expected to respect the need for confidentiality to protect the privacy and fair process of everyone involved.
  - c. Parties designated by ACPE to mediate or adjudicate the situation must respect these same concerns.
  - d. To obtain guidance and support, parties to the **complaint** may discuss the **complaint** with family members or helping professionals; however all must respect the need for confidentiality.
6. Each party to the **complaint** should consider having an accompanying support person, who may or may not be an attorney, throughout the process.
  - a. The support person may:
    - i. help the party understand and comply with the procedural details;
    - ii. assist in preparation of written materials; and
    - iii. accompany the party during meetings or **hearings** but not speak on behalf of the party on these occasions. The support person and party may confer privately.
  - b. ACPE is not responsible for any cost associated with having a support person.
7. Early in the process, all parties to a **complaint** should *consider notifying the endorsing agency* of their denomination or faith group.
8. 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 and initiate the steps found in the ACPE policy *Emergency Suspension of Credentials* Appendix 5.

#### **D. Distribution of Information**

1. Any written information provided by either party to a **complaint** shall be made available to all the parties (note: exception for **mediation** Part Two, I. D. 2). Written information gathered at one stage of reviewing a **complaint** shall be made available to the next review if the **complaint** receives further review

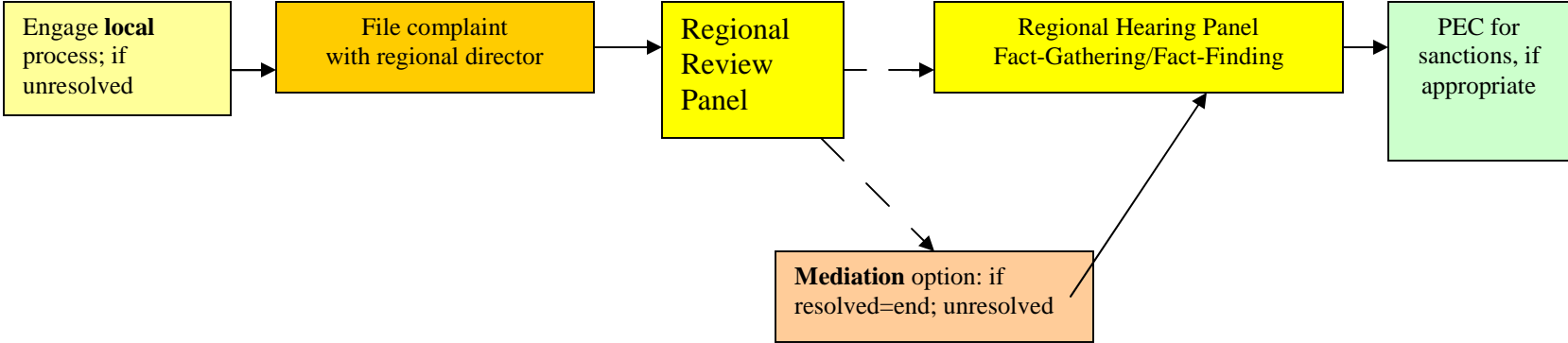
according to ACPE procedures. If all or portions of the **complaint** are referred for further review to another ACPE committee or commission by a regional panel of the PEC, a report summarizing the reason for the referral and appropriate portions of the **complaint** record shall accompany the referral. *This paragraph serves as notice of the above to all persons who provide information about a **complaint**.*

2. 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. The mediator, the mediator's notes or the notes of any participant in the **mediation** process may not be sought, used or cited as evidence by any party.
3. Deliberations of the PEC and regional panels on **complaints** shall be assumed to be confidential. This will be waived only with the written concurrence of both parties to the **complaint** and then only with majority approval of PEC or panel members involved in the deliberations.
4. Notification and publication of sanctions resulting in suspension, withdrawal, enjoinder from practice, or removal from office are handled as described in Part Two, II. G. 3-5.
5. Throughout this manual, the *requirement that information be given to a party will be honored unless to do so would seriously jeopardize the safety of someone*, in the opinion of the PEC chair, regional representative and panel chair.
6. Official files are maintained and stored according to the policy in Appendix 4 *Records Maintenance*.

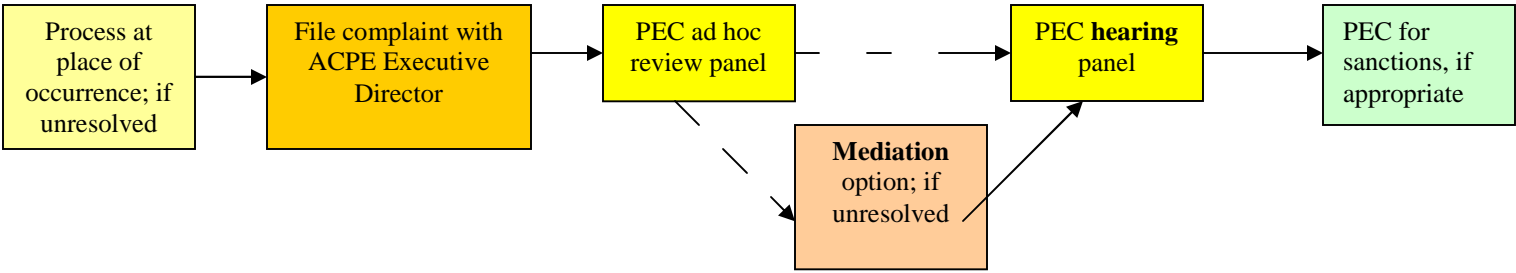
### **E. Finality of Findings**

The findings of a regional panel and/or sanctions of the PEC are binding on ACPE. They are internal to the organization and not for purposes of civil liability

**Complaints occurring in the context of the region**



**Complaints involving a national entity**



Processing Complaints of Ethics Code Violations in ACPE

## II Processing Complaints

### A. Processing Complaints Locally

1. Every effort should be made to settle a **grievance** at the site where the incident occurs.
2. If informal efforts to settle the **grievance** are unsuccessful, parties to a **complaint** at an ACPE accredited center should obtain and follow the center **complaint** policy and procedure required of all ACPE accredited centers.
3. From the time the individual or center receives the **complaint**, the entity is required to process and respond according to its **local complaint** policy within 60 days, unless the policy specifies otherwise.
4. Consultation provided by the regional director (or ACPE Executive Director if a national entity is involved) involves the discussion of a **grievance** before it is presented as a formal **complaint**. This **consultation** is advisory and could involve making recommendations on how to proceed. Opinions rendered in **consultation** are advisory only.

### B. Processing Complaints Not Resolved Locally

1. If the **grievance** is not resolved or issues remain over which ACPE has jurisdiction, the complainant may register a **complaint** (Appendix 2 *Instructions for Initiating a Formal Complaint*):
  - a. if in an ACPE accredited center, with the regional director of the region in which the ACPE center is located and within 30 days of notification to the complainant by the center of its action on the **complaint**.
  - b. if in the context of a regional committee or individual encounter, with the regional director of the region in which the incident occurred and within 30 days of the failure to resolve the issue. If the regional director is party to the **complaint**, initial contact is with the regional chair.
  - c. The original **complaint**, along with any other written materials submitted by either party to the **local** entity, must accompany the **complaint** sent to the regional director.
  - d. The regional director notifies the regional representative of the **complaint**. Within 14 days of receipt of the **complaint**, the regional representative sends written notification of the **complaint**, a copy of the **complaint** and any other written material submitted by the

**complainant** to the person or entity accused of a violation.

- e. The respondent is expected to reply to the **complaint** within 30 days of receiving notification from the regional representative. Follow Appendix 3 *Instructions for Responding to a Formal complaint* and do *not* solicit supporting testimony from colleagues or students at this time.
  - The time frame for regional review begins with the regional PEC representative's receipt of the response.
  - If no response is received, the process will go forward.
  - If either party fails to respond timely to requests for information through out the process, any notes of oral communications with said party will be used by the regional panels and PEC.
  - In unusual circumstances, the regional director, regional representative and PEC chair may extend time limits if requested by the regional review panel.
  - On the basis of its evaluation of these materials the panel decides how to proceed with the **complaint**.
- f. The region has 120 days to process the complaint unless an extension is granted. If the respondent makes no response, the process goes forward.

2. If a national entity is involved and a **grievance** is not resolved informally or issues remain over which ACPE has jurisdiction, the complainant may register a **complaint** (See Appendix 2 *Instructions for Initiating a Formal Complaint*.) with the ACPE Executive Director. If the Executive Director is party to the **complaint**, initial contact is with the ACPE President.

- a. **Complaint** must be registered within 30 days of the failure to resolve the issue.
- b. The original **complaint**, along with any other written materials exchanged between the parties and related to the incident, must accompany the **complaint** sent to the Executive Director.
- c. The Executive Director notifies the PEC chair of the **complaint**.
- d. Within 14 days of receipt of the **complaint**, the PEC chair sends written notification of the **complaint**, a copy of the **complaint** and any other written material submitted by the complainant to the person accused of a violation.
- e. The respondent is expected to reply to the **complaint** within 30 days of receiving notification from the PEC chair.

- The time frame for PEC review begins with the PEC chair's receipt of the response.
- If no response is received, the process will go forward.
- If either party fails to respond timely to requests for information throughout the process, any notes of oral communications with said party will be used by the PEC.
- In unusual circumstances, the Executive Director and PEC chair may extend this time if requested by the PEC ad hoc review panel (Part Two, II, D. 3). On the basis of its evaluation of these materials the panel decides how to proceed with the **complaint**.

f. The PEC has 120 days to process the **complaint** unless an extension is granted. If the respondent makes no response, the process goes forward.

3. Two options exist for addressing a **complaint** that has not been resolved on the **local** level:

- a fact-gathering/fact-finding process (See Part Two, II. D) or
- **mediation**. (See Part Two, II. C)

### C. Processing Complaints Through Mediation

**Mediation** generally precedes the commencement of the fact-gathering/fact-finding process by the **hearing** panel if it is appropriate and used. Occasionally it may occur during the fact gathering/fact finding process if both parties and the regional panel agree. 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.

1. The regional review panel (or PEC review panel, if a national case) may suggest **mediation** as a means to resolve the **complaint**. If the parties agree to **mediation**, the regional director and regional representative (ACPE Executive Director and PEC chair if a national case) shall appoint a mediator and the process for **mediation** outlined in this section shall commence.
2. 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. (See Part Two, I. D. 2. )
3. If **mediation** is used and the complaint is resolved to the satisfaction of all parties, the resolution process is complete.
4. If **mediation** is unsuccessful, the complainant may request of the regional representative that the fact-finding process commence. If a national case, the Executive Director forwards the request to the PEC chair.

5. Mediation on the regional level

- a. **Mediation** shall commence and be completed within 60 days of the acceptance by both parties of the regional review panel's recommendation
- b. The regional director and regional representative shall select a mediator acceptable to all parties. If either party is party to the complaint, the regional chair shall perform that person's function.
- c. 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 regional director (or regional chair, if the regional director is party to the **complaint**) and copies to all those involved in signing the MOU. The MOU shall be retained according to Appendix 4 *Records Maintenance*, # 6.
- d. If an MOU is not signed, the complainant may request the fact-gathering/fact-finding process proceed. The **complaint** will be handled according to Part Two, II. D. 1 & 2. The request must be made in writing to the regional representative within seven days following the completion of the **mediation** attempt. Time lines for this process commence with receipt of the request by the regional representative after the **mediation**.
- e. **Mediation** fees will be paid by the region.

6. Mediation on the national level

- a. **Mediation** shall commence and be completed within 60 days of the acceptance by both parties of the PEC/review panel's recommendation.
- b. The Executive Director and PEC chair shall select a mediator acceptable to all parties. If the Executive Director is one of the parties to the **complaint**, the ACPE President shall perform the Executive Director's function.
- c. 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 Executive Director (or ACPE President, if the Executive Director is party to the **complaint**) with copies to all involved in signing the MOU and the PEC chair. The MOU shall be retained according to Appendix 4 *Records Maintenance*, # 6.
- d. If an MOU is not signed, the complainant may request the PEC chair to

proceed with the fact-gathering/fact-finding process. The request must be made in writing to the PEC chair within seven days following the completion of the **mediation** attempt. The **complaint** will be handled according to Part Two, II. D. 3. Time lines for this process commence with receipt of the request by the PEC chair after the **mediation**.

e. **Mediation** fees will be paid by ACPE.

#### **D. Fact-Gathering/Fact-Finding**

The fact-gathering and fact-finding process is engaged if:

- **mediation** is inappropriate or
- both parties do not agree to **mediation** or
- the **mediation** process has not produced a resolution and the complainant elects to proceed further.

Fact-gathering is a cooperative process between the panel and the parties. Fact-finding is the final conclusion by a panel based on the preponderance of the evidence. In most cases, the fact-finding process will be completed at the regional level. Sanctions, when required, are imposed by the PEC upon completion of the work of the regional panels. A complaint will be heard on appeal to the PEC only under particular and limited circumstances. See Part Two, II. H.2.

##### 1. Regional Review Panel

- a. The regional review panel consists of three members appointed by the regional representative in consultation with the regional director. Persons selected may be ACPE members, cognate group members and/or representatives of other disciplines who have been trained in these or similar processes. No person who has been a complainant or respondent in an association's process in the past five years should accept appointment.
- b. As soon as possible after receiving the **complaint** from the regional representative, the panel reviews all written material submitted to it.
- c. The panel reviews the **complaint** to determine if it is complete and reflects the situation addressed by the **local** entity.
  - The **complaint** cannot allege a situation not brought before the **local** entity if the entity considered the **complaint**.
  - If the original **complaint** alleged violation of a particular ACPE standard or failed to articulate any standard, no additional standards may be implicated *unless the panel itself names them*.
  - Whether or not violation of standards was alleged at the **local** level, the panel may identify any standard which it believes could have been violated *if* the alleged situation is found to have

occurred as set forth in the **complaint**. The panel's evaluation is not restricted to the information given or heard by the **local** entity.

- d. The panel is empowered to examine written information submitted by the parties and to initiate requests for further information from the parties and other sources. This information is not shared with either party at this phase of the process. After reviewing the **complaint**, the regional review panel shall rule one or more of the following:
- i. The persons involved have made inadequate efforts to resolve the **complaint** by discussion and agreement.
  - ii. The **complaint** is without merit:
    - has no standing,
    - is not within time lines,
    - does not implicate ethical standards, or
    - is insufficiently formed and documented.
  - iii. The **complaint** is incomplete. At the discretion of the review panel, it may be returned to the complainant for correction and resubmitted to the regional director within the time lines for filing. The time lines for the regional review will commence anew when the corrected version is received.
  - iv. The relief sought is beyond the power of ACPE to grant.
  - v. The **complaint** is within the jurisdiction of another ACPE commission or committee. The **complaint** is then referred by the regional review panel to the appropriate national commission or committee chair
  - vi. Hold for results of another jurisdiction. The **complaint** may have merit but is being addressed in another forum, such as civil or criminal court, another certifying association, an endorsing agent or faith group, or an employer.
  - vii. Based on findings and/or sanctions of another forum, case should be (1) dismissed without further inquiry, (2) go directly to the PEC for sanctions, or (3) be referred to another commission.
  - viii. The parties will be asked to consider the **mediation** option (Part Two, II. C. 5).
  - ix. Suggest a resolution. If both parties accept and implement the suggestion, the case is finished without a **hearing**. This option will not be used when physical contact or severe ethical breaches are alleged.
  - x. A **hearing** is in order.
- e. If a **hearing** is in order, a regional **hearing** panel is constituted.

## 2. Regional **Hearing** Panel

- a. The regional **hearing** panel is constituted by the regional representative

in consultation with the regional director. Usually one person who served on the regional review panel is chair, and two other people from outside the region are recruited from a national pool of trained panel members to constitute the panel.

- If there is a perceived conflict of interest, the complainant and respondent shall each be allowed to strike one proposed panel member.
- Each is allowed one veto only.
- Both have three days from the time of notification of the panel selection to make their objection known to the regional representative.
- Neither is permitted a voice in the selection of a replacement panel member.

b. At any point in the process, the panel may instruct the parties to return to the **local** level for further discussions and possible resolution. The panel also may determine that situations of which they become aware should be referred to the Certification Commission and/or Accreditation Commission for their further review. Timelines **toll** during this period.

c. The panel operates according to modified civil law rather than an adapted common law model of adjudication.

- Neither party has the burden of proof.
- The **hearing** panel constructs the proofs from the evidence it assembles.
- The **hearing** panel communicates with both parties and other relevant sources throughout its investigative process. It does not wait until the final **hearing** to assemble and evaluate evidence.
- The task of each party is to supply the panel with accurate and timely evidence when requested throughout the investigation and to state clearly how the evidence relates to the truth of the allegations whenever asked.

d. The panel decides what evidence is relevant and material, whether to accept or reject it, and the weight given to particular evidence. The panel is free to seek additional evidence beyond that submitted by either party. When the panel determines it has “enough” evidence to reach a decision, it schedules a final **hearing**. This provides one final opportunity for both parties to discuss separately with the panel the evidence upon which a finding will be made.

e. The panel usually holds a final **hearing** within 120 days of the region’s beginning the process. In unusual circumstances, the regional director, regional representative and PEC chair may extend the time if requested by the panel.

- f. The panel gives each party written notice at least 14 days prior to the final **hearing**. If parties attend the final **hearing** they are responsible for their own expenses related to the **hearing**.
- g. At its discretion, the panel may request written information, telephonic testimony or appearance at the final **hearing** by witnesses other than the parties. Those witnesses are not required to comply, may be responsible for their expenses, and should receive at least 14 days written notice of the **hearing**.
- h. Fourteen days prior to the final **hearing**, the panel must send each party any written information submitted or solicited by the opposing party. The panel will decide if further documentation submitted after this time will be considered. If so, it will forward this information immediately to the other party.
- i. At its discretion, the panel may withhold information produced from its own investigation until the final **hearing**, if to do otherwise might jeopardize justice or a witness's physical safety or emotional well being. However, the panel will usually send copies or inform the parties of information produced from its own investigation. Information sent to one party to investigation must be sent to the other.
- j. The regional representative may attend the final **hearing** as a consultant to the panel.
- k. The panel will explain its process to each party, giving each an opportunity to make brief opening and closing statements. The panel will devote the rest of the time to asking questions to clarify written materials, witness testimony or any other relevant issues it elects to address.
- l. Each party speaks individually with the panel. Although the party may be accompanied by and confer with a support person, only the party is permitted to speak with the panel. The panel will hear the complainant first, then any other witnesses and the respondent in whatever order it determines.
- m. If the complainant introduces evidence from student, personnel or other records which are confidential, and the respondent asserts a need to cite additional material from those records, the confidentiality of the records cited by the complainant will be deemed to have been waived by the complainant's introduction of a portion of them to the review or **hearing** panel.

- The complainant may withdraw the evidence and the records from consideration when the respondent asserts the need to submit (or submits) additional materials from them.
  - If the complainant asserts that the respondent's introduction is immaterial or irrelevant, the regional representative and/or panel chair will review the material in question and make the decision as to its relevancy.
  - That decision is final.
- n. The panel is required to keep official minutes of the **hearing** and provide a written summary of its deliberations.
- The official minutes and summary are available to both parties; personal notes of individual panel members are not available.
  - The panel may record electronically, at its discretion, the **hearings** but not its deliberations.
  - Parties may request recordings or transcriptions of their portion of the **hearing** at their own expense. Requests must be made in writing seven days prior to the **hearing**.
  - Parties may request their own recordings only of their own portion of the **hearing**.
  - Recordings and minutes are not available to non-party witnesses.
- o. Following the final **hearing**, one of the following rulings shall be made.
- i.* No violation of ACPE standards occurred.
  - ii.* A violation of ACPE standards did occur, and the matter is referred to the PEC for sanctions.
- The **hearing** panel makes its ruling based on the **preponderance of evidence**. Respondents may appeal to the PEC if criteria set forth in Part Two, II. H. 2 "Grounds for an Appeal" are met. If the panel rules a violation did not occur, the complainant may appeal to the PEC if the criteria in Part Two, II. H. 2 "Grounds for an Appeal" are met.
- p. When evaluating cases of racial or sexual harassment, the **hearing** panel will apply the **reasonable person standard**.
- q. The panel at its discretion may continue its investigation. The **hearing** panel holds its final deliberations and issues its written findings within 21 days of the **hearing**. The chair of the regional **hearing** panel sends the minutes, deliberations summary and findings to the regional representative who forwards them with a cover letter to the parties and the regional director.
- r. When a case is referred to the PEC
- i.* for final disposition: the **hearing** panel forwards its dossier, which includes the written **complaint** and written response, a

chronology of its investigation, any other exhibits pivotal to its decision, minutes of the final **hearing**, the summary of its deliberations, and statement of its findings to the regional representative who forwards the appropriate material to the PEC chair.

ii. on appeal from either party: the **hearing** panel forwards the previously cited material plus all written materials received from either party and any witnesses. In addition, the appellant shall file with the PEC a statement of the grounds for the appeal. This statement directs the PEC to any materials that support the grounds for the appeal.

### 3. National Cases

- a. The PEC appoints three of its members to an ad hoc review panel to function in the manner of a regional review panel as described in Part Two, II. D. 1. This panel will collect evidence from the principals and others who can supply information about the case. The panel will determine one or more of the following:
  - i. The persons involved have made an inadequate effort to resolve the **complaint** by discussion and agreement.
  - ii. The **complaint** is without merit.
  - iii. The relief sought is beyond the power of ACPE to grant.
  - iv. The **complaint** is within the jurisdiction of another ACPE commission or committee and is referred to the appropriate commission or committee.
  - v. The parties will be asked to consider the **mediation** option (Part Two II. C. 6).
  - vi. The **complaint** merits a **hearing**, which will be conducted by the PEC in the manner of a regional **hearing** panel.
- b. The PEC **hearing** will proceed as described in Part Two, II. H. 6. The panel determines one of the following:
  - i. no violation of ACPE standards occurred, or
  - ii. a violation of ACPE standards occurred; the case is referred for final disposition according to Part Two, II. E. *Final Disposition*.
- c. There is no appeal.

### **E. Final Disposition**

1. The PEC receives complaints:
  - a. referred by a regional **hearing** panel for final disposition after a regional **hearing**.

- b. not resolved on the national level through **mediation**.
  - c. being appealed from a regional **hearing** panel.
2. The Commission usually processes referrals within six months of receipt.
3. The Commission reviews the dossier sent by the regional **hearing** panel or the ad hoc review panel and, by simple majority vote, imposes one of the following dispositions:
- a. admonishment, with specific recommendations to enhance professional or ethical practice.
  - b. reprimand, with specific instructions to be followed under the direction of the PEC for a designated period of time.
  - c. probation for a designated period of time, with specific instructions to be followed under the direction of the PEC.
  - d. suspension of ACPE supervisor certification for a designated period of time, with specific instructions to be followed under the direction of the PEC to reinstate certification. If application for ACPE supervisor certification is made in the future, such application will be made to the PEC.
  - e. withdrawal of ACPE membership and/or withdrawal of ACPE supervisor certification. If application for ACPE membership or certification is made in the future, such application will be made to the PEC. The PEC may provide specific instructions to be followed under its direction for a designated period of time before it will act on the application. The PEC decision will be to grant, defer or deny ACPE membership and/or ACPE supervisor certification.

## **F. Sanction Review**

A sanction will be reviewed at the end of the specified time. If the PEC determines a reasonable need to continue monitoring the person under sanction, the PEC may impose further sanctions or probation for an additional specified time. Such additional sanctions will not be imposed lightly, will reflect concern for the well being of students, clients and/or other ACPE members, and will be reviewed within six months of imposition.

## **G. Notifications**

1. All parties to the **complaint** shall receive a copy of the deliberations giving the decision of the PEC within 30 days of the **hearing**.

2. Following the **hearing**, the PEC chair shall, in executive session, inform the ACPE Executive Director, President and President-elect of the disposition of the **complaint**.
2. A copy of the deliberations sent to the person against whom action has been taken, which states the final disposition of the **complaint**, shall be sent to the principal parties in the **complaint**, and the ACPE Executive Director, President and President-elect.
3. If sanctions result in suspension, withdrawal, removal from office, or enjoinder from practice:
  - a. the parties shall be informed within 24 hours of the decision.
  - b. the PEC chair shall inform the Board of Representatives.
  - c. a report of the sanction shall be published in the next issue of the ACPE newsletter.
4. When a published sanction is fulfilled or lifted, a report shall be published in the next issue of the ACPE newsletter.
5. 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.

## **H. Appeal**

1. Each party to the **complaint** has 30 days in which to appeal a decision of a regional **hearing** panel.
2. Grounds for an appeal are limited to the following:
  - a. gross irregularity in the proceedings,
  - b. a party having been refused reasonable opportunity to obtain and present evidence or testimony,
  - c. clear manifestation of bias in the conduct of the case, or
  - d. abuse of discretion on the part of the **hearing** panel,any one of which could have substantially altered the outcomes.
3. If the case is brought to the PEC on appeal from either party, the

appellant must *state the specific reasons for appeal* as listed in Part Two, II. H.2. The PEC shall review the written materials submitted by the regional panel, the appellant's statement of grounds for the appeal, and any written statements by the appellant or the regional **hearing** panel on the issue of granting an appeal.

4. Whether the criteria for appeal have been met will usually be decided on the basis of the written material, without a formal **hearing**. Substantial deference will be given to the decision of the **hearing** panel. Parties and the **hearing** panel may be contacted by telephone or mail for additional information to assist the PEC in reaching a decision.
5. If the PEC determines the criteria for appeal have not been met, no **hearings** are held. If sanctions are required, they are imposed according to Part Two, II. E *Final Disposition*.
6. If the PEC upholds the appellant, the PEC grants an appeal **hearing** that proceeds as follows:
  - a. Parties to the complaint will be notified in writing at least 14 calendar days in advance of a **hearing**.
  - b. Parties are encouraged, but not required, to attend the **hearing**. Parties bear their own expenses. They may be accompanied by one support person who may advise them but may not speak to the PEC during the **hearing**.
  - c. The written material submitted by the regional **hearing** panel or the ad hoc review panel is the primary source of information for the PEC deliberations.
  - d. Each party may meet separately with the PEC in executive session for up to 45 minutes -- five minute opening and five minute closing statements by the party, with the rest of the time for the PEC to ask questions of the party to clarify written material and anything else relevant to the case the PEC may wish to explore.
  - e. No non-party witnesses will be called at these **hearings**. The previous testimony of such witnesses may be submitted as part of the written record by the regional **hearing** panel.
  - f. No new materials may be introduced at these **hearings** unless the review is based on criteria in Part Two, II. H.2.b.
  - g. The PEC reviews evidence heard from the parties that is incorporated in the findings of the **hearing** panel.

- h. The PEC deliberates until it is ready to vote on whether the **preponderance of evidence** convinces the members of the PEC that a violation of the ACPE Code of Ethics occurred.
- Before the vote is taken, the PEC may opt for a five minute silent break for reflection.
  - The vote is by secret ballot.
  - Seven members of the PEC must vote.
  - The commissioner from the region in which the **complaint** arose does not vote.
  - The chair votes only in case of a tie or to constitute a seventh member.
  - A simple majority carries the decision.
- i. In the case of an appeal, the vote determines one of the following:
- The decision of the regional **hearing** panel is upheld and the PEC will deal immediately with final disposition according to Part Two, II. E. *Final Disposition*.
  - The decision of the regional **hearing** panel is overturned. If a decision of guilt is overturned, the case is finished. If a decision of not guilty is overturned, the PEC will impose a final disposition based on its decision outlined in Part Two, II. E. *Final Disposition*.
- j. The ruling of the PEC is final and binding for ACPE.

## Part Three Glossary

**Complaint** -- a **grievance**, presented in writing and signed, involving an alleged violation of the ethical criteria established by ACPE Standards 100 Code of Professional Ethics. A **complaint** must identify the specific standard alleged to have been violated.

**Grievance** -- an alleged violation of ethical and/or professional conduct believed to afford reason for a complaint.

**Hearing** -- meeting in which all parties involved have an opportunity to present their positions in cases of **complaints** or appeals.

**Local** -- ACPE accredited center or place of occurrence when a **complaint** arises in the context of a regional or national committee, commission or individual encounter.

**Mediation** -- process through which persons or parties involved in a **complaint** attempt to resolve the **complaint** through discussion, consultation and negotiation using a trained, third party neutral.

**Preponderance of evidence** -- qualitative, not quantitative standard; means whether it is more likely than not a violation occurred.

**Reasonable person standard** -- evidence is 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 as relevant to the particular situation.

**Toll** - -suspend, or temporarily stop, the time limits.

## **Part Four Appendices**

APPENDIX 1	Time Lines for Submitting and Processing Complaints	24
APPENDIX 2	Instructions for Initiating a Formal Complaint	26
APPENDIX 3	Instructions for Responding to a Formal Complaint	27
APPENDIX 4	Records Maintenance	28
APPENDIX 5	Emergency Suspension of Credentials	29

## APPENDIX 1

### SUMMARY OF TIME LINES FOR PROCESSING COMPLAINTS \*

- A. Time limit for filing a **complaint** (Part Two, I.B) begins with the event that occasions the **complaint** *or* with the completion of the educational experience at the center:
- For a **complaint** not involving sexual exploitation, 6 months.
  - For a **complaint** alleging sexual exploitation, 10 years.
- In extraordinary circumstances, time limits may be waived by the PEC Chair.  
Part Two, I.B.4.
- B. From the time the entity (individual or center) receives the **complaint**, the entity is required to process and to respond according to its **local complaint** policy, preferably within 60 days, unless the policy dictates otherwise. Part Two, II.A.3.
- C. Once complainants receive the response from the entity, they have 30 days to register a **complaint** with the regional director (ACPE Executive Director, when applicable) if the **complaint** is not resolved or if issues remain over which ACPE, not the entity, has jurisdiction.. The regional director (Executive Director) notifies the regional representative (PEC chair) of the complaint. Part Two, II.B.1.a.-b. & 2.a
- D. Regional representative (PEC chair) sends notification to the respondent within 14 calendar days of receipt of the **complaint**. Part Two, II.B.1.d.
- E. Respondent is expected to respond within 30 days. Part Two, II.B.1.e.
- F. Region has 120 days to process **complaint** unless an extension has been granted. Time frame begins with receipt of response from respondent. Part Two, II.B.1.f.
- G. **Mediation** will be completed within 60 days of acceptance by both parties of the regional review panel's (PEC/review panel's) recommendation. Part Two, II. C.5.a. & 6.a.
- H. If **mediation** is unsuccessful, complainant(s) may request in writing within seven days of completion of the **mediation** attempt that the regional representative (PEC Chair if a national entity) commence the fact-gathering/fact-finding process. Part Two, II. C.5.d. & 6.d.
- I. Review panel is expected to review all written material submitted as soon as possible after receiving the **complaint**. Part Two, II.D.1.b.
- J. If incomplete **complaint** is filed, review panel may return it to the complainant for correction. Time line for regional processing restarts after receipt of the corrected complaint. Part Two, II.D.1.d.iii.

Processing Complaints of Ethics Code  
Violations Revised 2005

- K. Parties notify the regional representative (or PEC Chair) within three days of notification of the appointment if they wish to object to any appointee to the **hearing** panel. Part Two, II.D.2.a.
- L. **Hearing** panel usually holds final hearing within 120 days of the region's beginning the process. In unusual circumstances, the regional director, regional representative and PEC chair may extend the time if the **hearing** panel requests. Part Two, II.D.2.e.
1. Parties receive at least 14 days notice prior to a final hearing. Part Two, II. D.2.f.
  2. Parties receive any written information submitted or solicited by the opposing party 14 days prior to a final **hearing**. Part Two, II D.2.h.
  3. Any witnesses requested by the hearing panel receive at least 14 days notice before the **hearing**. Part Two, II. D.2.g.
  4. Parties request recordings or transcriptions of their portion of the **hearing** (at their own expense) in writing 7 days prior to the **hearing**. Part Two, II. D.2.n.
  5. **Hearing** panel holds deliberations and issues written findings within 21 days of the final **hearing**. Part Two, II.D.2.q.
- M. A complainant(s) or respondent(s) has 30 days to appeal the finding of the regional hearing panel to the PEC. Part Two, II.H.1.
- N. PEC usually processes the final disposition or appeal within 6 months. Part Two, II.E.2.
- O. If appeal hearing is granted, parties to the complaint are notified in writing 14 days in advance of a **hearing**. Part Two, II.H.6.a.

\* all time frames refer to calendar days.

## APPENDIX 2

### INSTRUCTIONS FOR INITIATING A FORMAL COMPLAINT

In the written **complaint**:

1. Identify by name and organizational position the person(s) against whom the **complaint** is being made.
2. State the relationship between the person making the **complaint** and the person(s) against whom the **complaint** is being made.
3. Describe the specific incident or incidents that occasion the **complaint**.
  - Present information concisely and, if possible, in chronological order.
  - Focus on facts: specific words or actions, dates, locations, potential witnesses.
  - Avoid adjectives.
  - As each fact is stated, cite any documentation to substantiate it.
  - Give names, addresses and phone numbers of persons with direct knowledge of the incidents whom an investigator could contact. It is not necessary, or frequently desirable in terms of respect for confidentiality, for you to contact these people for information at this time. An investigator will ask you and those whom you designate for specific information throughout the process.
4. Cite the ACPE standard(s) the **complaint** alleges has been violated by the incident(s). Briefly relate how the alleged conduct violates the specific standard's mandate.
5. Describe what efforts, if any, have been made on the **local** level to resolve the **complaint** or to alter the conduct alleged in the **complaint**. Give dates, times, circumstances, witnesses.
6. Identify what action or remedy the complainant is seeking. Remedies are limited, for example, ACPE cannot provide or order monetary remedies or restitution.
7. Attach any supporting documents as an appendix to the **complaint**.
8. Include the following statement: "I acknowledge that I understand and consent to the release of information as described throughout the *Processing Complaints of Ethics Code Violations* manual and the investigative process as described throughout the *Processing Complaints of Ethics Code Violations* manual."
9. Sign and date the **complaint** and submit to the regional director.

### APPENDIX 3

#### INSTRUCTIONS FOR RESPONDING TO A FORMAL COMPLAINT.

In a written response to a **complaint**:

1. Confirm, deny or modify the information stated in the **complaint** related to:
  - your name and organizational position.
  - relationship between you and the person making the **complaint**.
2. Describe the incident alleged in the **complaint** from your perspective.
  - Present any information not given in the **complaint**, if relevant to the situation at the time it was alleged to occur.
  - Offer additional facts not listed in the **complaint**.
  - Avoid adjectives.
  - Give names, addresses and phone numbers of any people with direct knowledge of these alleged incidents whom an investigator could contact. It is not necessary, or frequently desirable in terms of respect for confidentiality, for you to contact these people for information at this time. An investigator will ask you and those whom you designate for specific information throughout the process.
3. Explain your interpretation of the ACPE standard(s)'s mandate which the **complaint** cites.
  - If you acknowledge that the incident occurred as recited in the **complaint** but believe the **complaint** is not in violation of the standard, state why.
  - If you acknowledge an incident occurred but differently from the facts alleged in the **complaint**, state how the incident does not violate the ACPE standard(s) cited in the **complaint**.
  - If you deny the incident occurred, simply state the denial.
4. Describe what efforts, if any, have been made on the **local** level to resolve this **complaint** or to alter the conduct alleged in the **complaint**. Give dates, times, circumstances, witnesses.
5. Identify what action, remedy or outcome you seek from the ACPE process.
6. Attach any supporting documents as an appendix to the **complaint**.
7. Include the following statement: "I acknowledge that I understand and consent to the release of information as described throughout the *Processing Complaints of Ethics Code Violations* manual and the investigative process as described throughout the *Processing Complaints of Ethics Code Violations* manual."
8. Sign and date the response and submit to the regional director.

## APPENDIX 4

### RECORDS MAINTENANCE

Official files on all cases are maintained by the chairs of regional panels or the Commission considering the case until the case is concluded. The official file is then sealed and placed in the ACPE office. Regional panel members and PEC 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.

1. Upon final action of the PEC, a sealed copy of the record of the ACPE ethics process shall be sent by the PEC chair for storage at the ACPE office. The record shall contain:
  - a. the dossier sent by the regional panel to the PEC;
  - b. any correspondence between the panel and the Commission;
  - c. a copy of the PEC minutes and deliberations;
  - d. a copy of the Code of Ethics and relevant ACPE standards in effect at the time of the PEC action; and
  - e. a copy of the notification to the person against whom action has been taken. It will state the final disposition of the **complaint**. It shall be placed on the outside of the envelope containing the files.
2. Files will be kept 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, except withdrawals of membership or certification shall be kept indefinitely.
3. If a **complaint** is brought against a person whose file is being maintained at the ACPE office, the file will be available to the PEC prior to its sanctioning or appeal process at the discretion of the PEC chair.
4. 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.
5. Except as provided in this section, no one is to have access to the contents of these files without a court order or without the written consent of the PEC chair, ACPE President and ACPE Executive Director (in consultation with legal counsel) for extraordinary circumstances.
6. For complaints that do not reach the PEC because:
  - a. a resolution is agreed to during the regional panel phase prior to a final **hearing**, or
  - b. **mediation** produces a signed agreement, or
  - c. they are dismissed by a regional panel,

the dossier, signed agreement or reason for dismissal will be sent and kept according to the procedures described above (items 1-5).

## **APPENDIX 5**

### **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, in consultation with the director of the respective region, appoint an Emergency Review Committee of four additional persons, as follows: 1) the 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.