

**ASSOCIATION OF PROFESSIONAL CHAPLAINS**  
*and*  
**ASSOCIATION FOR CLINICAL PASTORAL EDUCATION, INC.**

*PILOT PROJECT COMMISSION ON PROFESSIONAL ETHICS*

**Process For Addressing Allegations Of Ethical Misconduct**

*Note: unless otherwise indicated, throughout the Pilot Project these processes supercede the ethics processes described in “The Association of Professional Chaplains Process for Addressing Allegations of Ethical Misconduct” and the ACPE “Processing Complaints of Ethics Code Violations, revised 2005.” All complaints alleging violations of the Code of Ethics within each association will be processed through the Pilot Project unless the complaint reached a Regional Hearing Panel within ACPE before October 31, 2007. A respondent who is a member of both associations retains separate accountability to each association’s Code, standards and statutes of limitations.*

**I. 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 APC and/or ACPE *Code of Ethics*. 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 APC or ACPE ethics code.

**B.** The Complaint must name an individual(s) over whom APC and/or 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 *Pilot Project Ethics Complaint Form*.

**C.** APC and ACPE members who are aware of ethical violations by colleagues which 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.

**D.** Standard 130.34 of the *APC Code of Ethics* states, “Members shall provide the Association immediate notice of any complaint of unethical conduct made against them in a civil, criminal, ecclesiastical, employment or another professional organization’s forum. Members will provide the APC Ethics Commission in a timely fashion the information they request regarding the investigation, adjudication, dismissal or settlement of such complaint. Failure to report or provide accurate, full and truthful information constitutes a violation of this *Code*.” Members in these situations should provide this information as described in VII. A. A finding of unethical conduct in one of these forums may lead to discipline within APC even if the event did not occur within the scope of the member’s professional role as a chaplain or a situation over which APC would have original jurisdiction.

Standard 100 of the ACPE Code of Professional Ethics states: “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 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."

## **II. 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. The APC ethics complaint statute of limitations is seven years from the date of the alleged violation. In cases involving a minor, the statute of limitation is seven years after the minor's eighteenth birthday. The ACPE ethics complaint statute of limitations is ten years for a complaint alleging sexual exploitation and six months for a complaint not involving sexual exploitation. ACPE time limits begin with the event that occasions the complaint or with the completion of the educational experience at that center.

**B. Exception to Statute:** A complaint not received within the time limits above will not be considered unless the Chair of the Ethics Commission, the Executive Director, the President and President-elect of the APC or ACPE Board in consultation with ethics counsel agree unanimously to do so and the following conditions are met:

1. The alleged offense is serious enough that the Commission would likely recommend Dismissal from membership if substantiated;
2. There is significant supporting evidence for the allegations; and
3. There is good cause demonstrated for the complaint not having been filed within the applicable time limit.

**III. 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. People designated by APC and ACPE to mediate, investigate or adjudicate the case must respect these same concerns. In order 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.

**IV. 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 which 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.

**V. COMPLIANCE WITH PROCESS:** The *APC Code of Ethics* Standard 130.33 states, “Members shall respond with honesty and timeliness to any commission or representative of the Association duly authorized to make inquiry into their work.” This is binding on members. It is expected of nonmembers who engage the process.

*ACPE Standard 103.4 says:* In relations to ACPE, members do not make intentionally false, misleading or incomplete statements about their work or ethical behavior when questioned by colleagues. This is binding on members. It is expected of nonmembers who engage the process.

**VI. MEMBER WHO RESIGNS AFTER COMPLAINT IS FILED:** A complaint against a member who resigns from APC or 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 their Association 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 XI. Where applicable, requests for resignation will be deferred until a pending complaint is resolved.

## **VII. FILING A COMPLAINT**

**A.** Complaints should be sent to the APC or ACPE Executive Director (ED). If the complaint is not on a Pilot Project Ethics Complaint Form, the ED will contact the complainant and request this be done if reasonably possible. The ED will supply the complainant the form, a copy of the APC and/or ACPE Code of Ethics as appropriate and a copy of these procedures.

**B.** When the materials are returned, the ED contacts the ED of other association to confirm membership status and any other inquiries or complaints involving the respondent. The ED’s confer as to who will comprise the Initial Review Panel (IRP). Timely availability is a critical factor.

**C.** The ED of one association, Ethics Commission Chair of the other association and Ethics Consultant (if one) comprise the Initial Review Panel (IRP)

**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.

## **VIII. THE INITIAL REVIEW PANEL (IRP)**

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

1. Is the respondent a member of either/both associations;
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 either or both associations of which the respondent is a member?

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. Whether the complaint was addressed at local level. If not, and it is appropriate, ED instructs complainant and respondent to engage local resolution process. Their materials can be re-submitted after a 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 an association has concern, the IRP may:
  - a. refer materials to another commission of respondent's association;
  - b. hold complaint pending completion of another forum's adjudication;
  - c. suggest mediation to both parties prior to investigation;
  - 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).
  - h. 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. 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.

## **IX. THE INVESTIGATIVE PHASE**

**A.** The investigator will conduct the investigation according to the processes set forth below. When 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 will be also.
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 her or his 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* 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 Ethics 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 Ethics 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; a log of phone calls and 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.

## **X. FACT FINDING/ FINAL CASE REVIEW**

**A.** The *Pilot Project* Ethics Commission 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 (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 member will be given notice not less than two weeks prior to the Final Case Review.

**G.** The Final Case Review may occur telephonically 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.

**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. Telephonic 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 one party wants the Final Case Review sooner *and* the Commission concurs, it may be conducted telephonically or in person (H).

**L.** Parties will receive at least two week's written notification of a telephonic Final Case Review.

**M.** If the Final Review is telephonic, the Commission will invite the parties to participate telephonically for up to one half hour each. If one party declines, the other may still be heard. The Commission bears the cost of the telephonic 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, telephonic 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 week's 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 the parties’ 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 reach one of two decisions:

- 1) No violation of the *Code* occurred.
- 2) A violation of the *Code* did occur and the Commission will consider sanctions.

Y. When Commission finds a violation did occur, it shall recommend one of the following sanctions to the appropriate source of the respondent’s association(s).

- 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 a reduction of membership level, 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/membership is removed until a specifically identified problem or condition is addressed to the satisfaction of the Professional Ethics Commission in conjunction with the National Certification Commission. The member will meet with both Commissions or their designees to demonstrate compliance to their satisfaction before the suspension is recommended lifted.
- 5) Recommendation for Withdrawal of Certification/Membership. In the Commission’s judgment, the member demonstrates an essential lack of professional knowledge,

procedures, character or conduct which are consistent with membership in APC or 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. When membership is withdrawn, the member shall return the Certification/Membership Certificate to the Association office within 30 days.

*For APC Members:* The Commission Chair advises the Executive Committee of its findings and recommendations as soon as possible. The Executive Committee: (1) accepts the recommendations and takes final action, or (2) returns the case to the Commission for further consideration or information before final action. The Board of Directors will review all recommendations for Withdrawal of Certification/Membership and take final action. The review may be done telephonically or at a regularly scheduled meeting at the discretion of the President, ED, ECC and consultant. The Association consultant, if one, and investigator will participate in this review.

*For ACPE Members:* The Commission Chair informs the ACPE Executive Director, the President and President-elect of the 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 enjoinder 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 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-party witnesses.

## **XI. NOTIFICATION OF FINDINGS AND ACTION FOR FINAL CASE REVIEW & APPEALS PROCESS**

**A.** The Ethics Commission Chair will notify the member and complainant of the action taken by the APC Executive Committee or 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 appeals 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 notification shall occur:

*For APC Respondent Members:*

1) When the case is dismissed or the findings and sanctions overturned or the sanction is Admonishment, only the complainant and member shall be notified of the results.

2) When the final action is Reprimand or Probation

a) the member and complainant(s) shall be notified of the findings and action taken; and

b) the action shall be published in the next newsletter of the respondent's association. The information is limited to the member's name and highest degree earned, geographic location, the fact and date of Reprimand or Probation and the specific standards of the *Code of Ethics* which have been violated.

3) When the final action is Suspension or Withdrawal of Membership

a) the member and the complainant(s) shall be notified of the findings and action taken; and

b) the action shall be published in the next APC newsletter. The information is limited to the member's name and highest degree earned, geographic location, the fact and date of Suspension or Withdrawal of Membership and the specific standards of the *Code of Ethics* that have been violated.

c) the above APC newsletter notice shall be sent to the member's denominational adjudicatory and present or last known employer.

*FOR ACPE Respondent Members:*

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.

## **XII. APPEALS PROCESS**

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

**B.** The finding and/or sanctions of Admonishment, Reprimand, Probation and Suspension can be appealed by the respondent. **APC only:** Recommendations for Withdrawal of Membership are automatically reviewed by the Board of Directors and are not subject for Appeal. **ACPE:** all sanctions are subject to appeal on the grounds stated.

**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, (b) gross irregularity in the proceedings as established by the these guidelines *which could have substantially altered the outcomes*.

**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 Appeals Panel in reaching its decision.

**H.** The Appeals Panel will review the dossier, record of findings as well as any additional information presented by the member or complainant if the reason for appeal is XII. E. (a). The Appeals 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's Panel are final and binding on the Association(s) and members.

**XIII. FOR APC** recommendations for withdrawal of membership will always be reviewed by the Board of Directors telephonically or at their next regularly scheduled meeting. They are not subject to Section XII appeal under these guidelines. The investigator and/or Association legal or

ethics consultant for the case will participate in the review. If the member wishes to speak to the Board, the member will be allotted up to one half hour. The member may bring a support person who will not be permitted to address the Board. The member bears all his or her own expenses including any support person. No new evidence will be received. The member should speak to the reason for the appeal. The complainant will not be invited to meet with the Board. The member and complainant will be notified in writing by the APC President of the Board's decision. The Board may make any of the decisions set forth in Section XII. H. No information about the review other than the Board's decision will be given.

**XIV. 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.

**XV.**

***Part 1 -- EMERGENCY BOARD OF REVIEW for APC members:***

**A.** An emergency board of review may be established to protect the public welfare, the rights of APC members, and/or the interests of the Association.

**B.** This board will consist of the Executive Director, the President, the Ethics Commission Chair and the Certification Commission Chair. Association legal or ethics counsel may participate at the discretion of the Executive Director .

**C.** Upon notification that a member's conduct and actions appear to be so egregious that waiting for action and decision through the normal APC process presents an unacceptable level of risk to the public, the member, or the Association, the Emergency Board of Review will have the authority to meet, to consider the material, to temporarily withdraw membership credentials for up to 90 days and to make ultimate disposition of the case within the same period. The Emergency Board of Review, at its discretion, may choose to notify the employing institution, the faith group or other appropriate body that the member's actions are under investigation, including the nature of the complaint.

**D.** The member shall be notified in writing by the Ethics Commission Chair, who will serve as Chairperson of the Emergency Board of Review, of the withdrawal of credential for up to 90 days.

**E.** The Emergency Board of Review shall direct the investigation, adapting Sections IX and X as it determines necessary and make ultimate disposition of the case within 90 days. The Emergency Board of Review may use the Association legal or ethics counsel or members of the Ethics Commission to assist in this investigation.

**F.** Findings and actions of the Emergency Board of Review may be appealed as described in the Appeals process in Section XII. If actions are appealed, credentials will continue to be withdrawn until appeal is completed.

**G.** Notifications and publication will follow procedures in Section XI.

***Part 2 -- Emergency Suspension of Credentials for ACPE Members***

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.

**XVI. 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 by the Commission, 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*. No other information may be released except that of Section XI. C. 3.c. and Section XV. C., and under the terms of Section XVII. E, *and the equivalent provisions for ACPE members*.

**XVII. 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 respondent's association's 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.

**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 respondent's 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 envelope containing the files.

**B.** 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. (For ACPE members, 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, [for APC: to the Executive Committee before final action and to the Board members deciding an appeal]

**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 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 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. a 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 XVII. A., except that the file shall be kept indefinitely by APC. ACPE will destroy files for F. 1 – 3 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 National Chair for Certification and the National Ethics Chair. When the Association learns of the member's death, the file will be destroyed.