

THE
PROFESSIONAL ETHICS
COMMISSION
MANUAL[©]

OF

THE ASSOCIATION FOR
CLINICAL PASTORAL EDUCATION

2001

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**PROFESSIONAL ETHICS COMMISSION
MANUAL**

PART I: THE PROFESSIONAL ETHICS COMMISSION INFORMATION

I. FUNCTION

The Professional Ethics Commission (PEC) shall render decisions according to the ACPE Standards and the procedures described in the PEC Manual. The decisions of the PEC are final and binding in complaints brought against an ACPE member or ACPE Center, or against Regional or National ACPE structures. The Professional Ethics Commission shall provide education regarding ethical issues within ACPE.

II. MEMBERSHIP

- A. The Professional Ethics Commission shall be composed of ten members, one representative from each of the nine regions and a chairperson. Members shall be elected for three-year terms on a class basis, so that one-third will be elected each year. These persons shall be elected by the Board of Representatives upon nomination by the Representation and Nomination Committee from the candidate or candidates suggested by each region.

Members shall be eligible to succeed themselves one time after completing a full three-year term or after completing a partial term on the Commission. Following this, the PEC member must rotate off the Commission for one year prior to becoming eligible to return as a member (*Governance Manual*, Article 6, Pg. 3).

- B. The Chair shall serve a single term of three years and must rotate off the Commission for one year prior to becoming eligible for re-election as a PEC member.

The Chair-elect shall be nominated by the Representation and Nomination Committee on recommendation of the Professional Ethics Commission and be elected by the Board of Representatives to serve during the final year of the Chair's term and then shall automatically become Chair. If not already a member of the Commission, the Chair-elect shall serve in addition to members serving in classes. When the Chair-elect becomes the Chair and has an unexpired term on the Commission, the Board of Representatives shall appoint a person from that Region to complete the unexpired term

(Governance Manual, Article 6, Pg. 3).

During the last year in office, the Chair will consult with the Chair-elect of the Commission on outstanding cases in order to provide for an orderly transition. When it appears those cases will not be disposed of before the current Chair's term of office expires, the Chair-elect will assume the role of Chair for all new cases which come before the Commission.

- C. The PEC member shall consult with the Chair prior to the hearing if there is any question about a conflict of interest. The Chair shall make a determination as to whether that person is to be replaced. If a replacement is necessary, the Regional Chair and Regional Director shall designate a substitute. If a PEC member is involved in a complaint in such a way as to suggest the possibility of personal or professional conflict of interest, this member shall not participate in the hearing of the matter, and shall ensure that a representative from that region take his/her place.
- D. In case a Regional Representative cannot be present at a National meeting, the Regional Representative, in consultation with the Regional Chair and/or Regional Director, shall make every effort to select a duly authorized representative from the region and shall brief this person on appeals or final dispositions scheduled to be resolved. The PEC Chair will instruct the person on the PEC process.
- E. It is the responsibility of the ACPE Professional Ethics Commission to train new Regional Representatives.
 - 1. The Chair of the Professional Ethics Commission shall send to a new Regional Representative a copy of the Professional Ethics Commission Manual at the time the new Representative is elected or appointed and shall offer consultation as the new Representative learns the duties of the Commission.
 - 2. The former Regional Representative whom the new Representative is replacing shall provide whatever information is necessary for the new Representative to understand the current situation in the region with respect to ethical matters.
 - 3. At the first meeting that a newly elected member serves (usually the Spring Meeting), the Chair and the Commission shall provide orientation to the new member by reviewing in detail the Professional Ethics Commission Manual and providing necessary information on any cases under consideration by the Commission.

III. EDUCATION

In order to inform members of ACPE as well as consumers and other concerned parties regarding the complaint procedures, ethical standards and issues, the

members of the Professional Ethics Commission shall:

- A. Write appropriate articles for the ACPE News, and periodically publish the Code of Ethics in the ACPE Directory and on the Website.
- B. Encourage and facilitate the presentation and discussion of ethical issues within their respective Regions. This may occur at Regional Meetings, in Certification Reviews, in Accreditation Site-Visits, and in seminars or lectures offered to members of the Region.
- C. Consult with the Standards Committee and Board of Representatives regarding the clarification, changes and interpretations of ACPE Standards.

IV. GUIDELINES FOR REGIONAL REPRESENTATIVES TO THE PROFESSIONAL ETHICS COMMISSION

To be elected to the position of a member of the Professional Ethics Commission reflects the trust one's peers has in the person. The principle task of the PEC is to maintain the integrity of the ACPE as an organization devoted to professional education for ministry.

A major function of the Professional Ethics Commission is to provide an orderly process, in a manner consistent with ACPE professional and ethical standards, for the handling of complaints against ACPE members, Centers, entities or representatives. The Regional Representative to the Commission has a central role in this process.

- A. **Regional Responsibilities**
 - 1. Offer consultation to ACPE programs and Regional Accreditation Committees to insure local grievance procedures are in keeping with ACPE practices and Standards.
 - 2. Through periodic reports to the Region--for example, in newsletters or in presentations at Regional Conferences --to alert members to areas of ethical concern and of ways of functioning which will enhance ethical and professional conduct.
 - 3. Offer consultation to members in areas of potential conflict/problems. For example, the Regional Representative might offer advice if a supervisor is considering terminating a problematic student. It is important to remember that the Regional Representative functions in an advisory and not judicatory role. This advisory role is of prime significance in contributing to a positive ethical climate in the Region.

4. **Recommend appropriate support and guidance for parties to a complaint at the earliest possible time. The Regional Representative does not function as a mediator in facilitating the resolution of the complaint. The Representative does consult with the parties to the complaint and their support persons, if any, providing clarification of Standards, ACPE Procedures, Professional Ethics Commission procedures, time lines and formats for filing complaints.**
5. **Process a complainant's request for a Regional Review Panel if efforts at informal resolution or formal mediation are not successful. Complaints are reviewed by a Regional Review Panel, investigated then adjudicated by a Regional Hearing Panel. The Regional Representative is not a member of either Panel.**

The Regional Representative's role in the Regional Panel process includes:

- a. **In consultation with Regional Director and Regional Chairperson, to name a three-person review panel, one person to serve as Chairperson.**
- b. **To inform all parties to the complaint of the formation of the Panel and of the Panel Chair.**
- c. **To orient and advise Review Panel members regarding their duties as described in ACPE Standards and Professional Ethics Commission Manual.**

- d. To orient and advise Review Panel members regarding salient issues from Standards implicated in a complaint.
- e. To attempt to ensure that any complaint receives a thorough review and that all potential issues involved are considered. The Regional Representative may participate in Review and Hearing Panel meetings, hearings, or deliberations in an advisory, non-voting capacity.
- f. The Regional Representative receives a copy of the Review and Hearing Panels' reports.

B. PEC Responsibilities

- 1. To serve as a member of the Professional Ethics Commission.
- 2. To inform the Professional Ethics Commission Chair of potential cases for purposes of orientation and scheduling.
- 3. To serve as the presenter of the cases to the PEC in situations where cases arise from the same region as the Regional Representative. In addition to serving as the presenter of the case, the Regional Representative also takes minutes on the discussion but does not vote on the disposition of the case.
- 4. To orient the successor to the Regional Representative to the Commission on procedures and on pending Commission matters.

V. MEETINGS

The Professional Ethics Commission shall meet at the time of the ACPE Annual Conference and, as necessary, will have a mid-year meeting in the Fall. Cases normally will be heard only at these times. If a more immediate meeting is required, this shall be by conference call unless the Commission determines the matter requires a face-to-face session. The case will be processed in as timely a manner as possible and, at most, six months from having been received by the PEC.

The PEC Chair will arrange to have the Commission determine if a hearing is to be held concerning the disposition of the case or an appeal. The determination of a hearing is normally made by a conference call with Commission members within at least four weeks after having been sent information regarding the case.

VI. MINUTES

Except when the Commission is in Executive Session, minutes of each Commission meeting shall be kept by a PEC member acting as secretary. Copies of these minutes shall be submitted by the PEC Chair to the ACPE Board of Representatives for

review. The PEC secretary may be a rotating position, to be filled in order by members of the second year class.

VII. LEGAL CONSULTATION

Legal consultation shall be available to the PEC and to Regional Panels. The expense for the latter will be borne by the Region seeking the consultation.

VIII. BUDGET

- A. In keeping with the practices of ACPE, the Chair of the Commission shall prepare a budget that allows for national and mid-year meetings.
- B. It shall be recognized that extra meetings may be required because of the nature of the Commission mandate. The Commission shall make every effort to minimize the cost of such sessions; for example it may meet and conduct business through the use of conference calls.

IX. UPDATING MANUAL

The Chair and Chair-elect of the PEC in consultation with the Chair of the Standards Committee will review these guidelines at least every third year. The Standards Committee shall review and present changes to the PEC members for acceptance. The updated manual is submitted by the PEC to the Board of Representatives, who approves the PEC manual.

PART II: PROCESSING AN ETHICS COMPLAINT IN THE ACPE, INC.

X. COMPLAINTS

A complaint is a grievance, presented in writing and signed, involving an alleged violation of the ethical criteria established by the *ACPE Standards*. Complaints may be registered by those who consider themselves harmed by an alleged violation or by any person(s) having substantive evidence of a violation of ACPE Standards. The complaint must name an individual(s) or entity(s) over which ACPE has jurisdiction. The person filing the complaint consents to the ACPE process and gives permission for the disclosure to the ACPE investigative and hearing panels, the PEC and the respondent of all information.

Two options exist for addressing a complaint which has not been resolved on the local level:

1. Mediation may be requested by either party. Both parties must agree to this process which is described further in *Section XV*.
2. A formal process of fact-gathering and fact-finding may be instituted. It is described in *Section XVI*.

If mediation is chosen and the complaint is resolved to the satisfaction of all parties, the resolution process is complete. If mediation is chosen and does not produce a

resolution satisfactory to both parties, either party may request the fact-gathering and fact-finding process commence.

XI. CONSULTATION

Consultation provided by the Regional Director 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. Any opinions rendered in consultation shall be advisory only.

Proceeding with a complaint can be a stressful and confusing process for a complainant and respondent. Regional Directors should recommend to the complainant and the respondent at the earliest possible time that they seek a support person for guidance. Such support might come from a former regional representative, active or retired ACPE Supervisors, seminary or denominational representatives or others familiar with the ACPE Standards and procedures.

XII. TIME LIMITS FOR REGISTERING COMPLAINTS

The time limit for filing a complaint with the ACPE Regional Director begins with the event that occasions the complaint *or* with the completion of the educational experience at that center *or* with the completion of the local process to address the complaint, whichever occurs last. The length of time is limited as specified below.

- The time limit for a complaint *not* involving sexual exploitation is six (6) months.
- The time limit for a complaint alleging sexual exploitation that occurred before January 1, 1993, is six (6) months and has elapsed.
- The time limit for a complaint alleging that sexual exploitation occurred between January 1, 1993 and December 31, 1996, is four (4) years and has elapsed.
- The time limit for a complaint alleging that sexual exploitation occurred after January 1, 1997, is ten (10) years.

Any complaint may be made within a longer period if the delay is caused by an occasion of 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, 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.*

XIII. FILING A COMPLAINT

A. Violations of Standards within an ACPE Educational Setting

1. Grievances giving rise to a complaint should first be addressed at the local

level (the entity where the conflict occurred). Attempts should be made to resolve grievances in an informal collegial manner.

2. If a grievance concerning the ethical and/or professional conduct of an ACPE member or an ACPE center is not resolved informally, the complainant(s) may register a formal complaint with the ACPE center. The complaint should be processed according to the procedures of the ACPE center for handling complaints preferably within sixty (60) calendar days of the ACPE center's receiving the complaint.
3. If the complaint is not resolved at the center level, or issues remain over which ACPE not the Center has jurisdiction, the complainant(s) may register a complaint with the Regional Director of the region in which the ACPE center is located. The complaint shall be registered with the Regional Director within thirty (30) calendar days following the notification of the complainant by the Center of its action. The Regional Director may offer mediation as a means to resolve the complaint. If the parties agree to mediation, then the Regional Director shall appoint a mediator(s) and the process for mediation outlined in *Section XV* shall commence.
4. If mediation is not an appropriate process or is rejected by either party, the Regional Director shall, at the request of the complainant, commence the formal fact-finding process (*Section XVI*).

B. Violations of Standards by an ACPE Officer or National Entity

If the grievance is against an ACPE officer, representative or entity, the complainant initiates the complaint process through the ACPE Executive Director within the time limits outlined in *Section XII*. If mediation is chosen, the steps outlined in *Section XV* will be followed. If mediation produces a resolution, the complaint process is finished. If mediation does not produce a resolution satisfactory to both parties, the complainant may request that the fact-gathering and fact-finding process commence (*Section XVI*). The Professional Ethics Commission conducts these processes.

C. Complaints Against a Member no Longer at Site of Complaint Event

A complaint against a member who has left the Center where the event giving rise to the complaint occurred shall be processed according to the ACPE procedures by the Region in which the site is located. The member shall be expected to engage in the process in that Region regardless of what Region he or she lives and works in at the time of the investigation and any hearing.

D. Complaints Against a Member Who Resigns Membership

A complaint about incidents that occurred when the accused was a member of ACPE shall be processed according to ACPE procedures whether or not the person against whom the complaint is lodged is still a member of the Association. If a sanction is imposed against a person who resigns membership, that person cannot rejoin the Association until the conditions of the sanction are satisfied. The Commission recommends action on a request for resignation be deferred until a pending complaint is resolved.

XIV. GENERAL PROCESSING OF COMPLAINTS

A. Standards in Effect

Complaints shall be processed in keeping with current ACPE Standards. In situations in which the Standards have been revised since time of the incident(s) giving rise to the complaint, the rules of conduct contained in the Standards at the time of the incident(s) shall be in effect.

B. General Instructions for Complainants and Respondents

Launching a complaint and responding to a complaint require great amounts of time, close attention to detail, emotional stamina, and respect for oneself and the other people involved in the ACPE complaint process. The formal act of accusing another person of unethical or unprofessional behavior and the response to such an accusation should never be undertaken casually. This is said not to discourage people from entering the process but to invite them to study closely these Instructions and to prepare carefully and thoughtfully for their participation in the ACPE process.

1. Become familiar with the ACPE Code of Professional Ethics, Standards, *Section 100*.
2. Breakdowns in communication, dissatisfaction with the way one has been treated professionally or personally, and concerns for the quality of one's educational experience or opportunities should be addressed at the local level. If these or similar situations cannot be locally resolved and *if the situation is alleged to violate an ACPE ethical, professional and/or educational standard*, a formal written complaint may be filed with the Regional Director. Concerns about unethical behavior which involve harassment -- particularly racial or sexual -- may not be as effectively addressed locally and may need to be sent *simultaneously* to the Regional Director.
3. When a complaint arises in the context of a regional or national committee, commission, or individual encounter, "local" refers to the place of the occurrence. Initial contact in filing a formal written complaint is with the Regional Director or, if a national entity is involved, with the Executive Director of the ACPE. If the Regional or Executive Director is

party to the complaint, the initial contact will be with the Regional Chair or the President of the ACPE.

4. Confidentiality is of utmost importance. 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. Parties and witnesses contacted are expected to respect the need for confidentiality in order to protect the privacy and fair process of everyone involved. People designated by ACPE to mediate or adjudicate the situation 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.
5. The parties to the complaint must become familiar with *The Professional Ethics Commission Manual* and *The Standards of The Association for Clinical Pastoral Education*. The ACPE Standards in effect at the time of the incident giving rise to the complaint will be used to assess conduct. Process will follow the current Manual. ACPE Standards 100 *et seq.* are the principles undergirding the ACPE Professional Ethics Commission formal complaint process. (Copies of the PEC Manual and ACPE Standards can be obtained from the Regional Representative to the ACPE Professional Ethics Commission. The name and address of the Regional Representative are available from the Regional Director. The Regional Representative can help persons understand how to follow procedures for filing and answering a complaint. If there are any questions about the process, it is important to contact this person.)
6. Two avenues exist for addressing the complaint: mediation (*see Section XV*) or, a fact-gathering and fact-finding process (*see Section XVI*).
7. All written material submitted by the parties to the Regional Director, to the Regional Representative or to any panel will be distributed to all parties involved in the complaint. 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.
8. Each party to the complaint should consider obtaining a support person to accompany him/her through the complaint process. This support person may or may not be an attorney. A support person helps the party to understand and comply with the procedural details. He or she can listen to the party involved, help articulate a position in written materials, and sit with the party during any meetings or hearings. The support person cannot speak to a panel or the Commission at a hearing. The Regional Director or Regional Representative may be able to assist either party in finding a support person. ACPE is not responsible for any cost

associated with a support person.

9. Early in this process, all parties to a complaint should give serious consideration to notifying the endorsing agency of their denomination or faith group. They may have suggestions about how to proceed.

C. Local Processing of a Complaint

1. Every training center is required to have a Complaint Policy and Procedure. Parties to the complaint should obtain a copy of it and follow its guidelines.
2. Every effort should be made to settle a grievance at the site where the incident occurred
3. If the complaint is not resolved at the Center or issues remain over which ACPE not the Center has jurisdiction, the complainant(s) may register a complaint with the Regional Director of the region in which the ACPE center is located. The complaint shall be registered with the Regional Director within thirty (30) calendar days following the notification of the complainant by the Center of its action.
4. Within fourteen (14) days of receipt of the complaint, the Regional Representative shall send a written notification of the complaint to the person accused of a violation. The respondent shall receive a copy of the complaint and any other written material submitted by the complainant at that time.

D. Distribution of Information

1. Any written information, which is provided by either party to a complaint, shall be made available to all the parties to the complaint. Written information that is 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 for complaints. If all of the complaint or portions of it are referred for further review to another ACPE Committee or Commission by a Regional Panel or the Professional Ethics Commission, a report summarizing the reason for the referral and appropriate portions of the complaint record shall accompany the referral. All persons who provide information regarding a complaint are informed of the above by this paragraph.
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. Neither the mediator nor the mediator's notes nor the notes of any participant in the mediation process may be sought, used or cited as evidence by any party

3. As determined by the Commission and in keeping with the practices of other professional associations, deliberations of the Commission 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 the majority approval of Commission or Panel members involved in the deliberations.
4. When sanctions are imposed resulting in suspension, withdrawal, removal from office, the Chairperson of the Professional Ethics Commission shall inform the Board of Representatives. A similar report shall be prepared for publication in the next issue of the *ACPE News*. When a sanction is fulfilled or lifted, a report shall be prepared for publication in the next issue of the *ACPE News*. Both notifications will be sent to the endorsing agent of the respondent and the local entity of the original incident as well as any current employer.

E. Finality

The findings of a Regional Panel and the findings and/or sanctions of the Professional Ethics Commission are binding on ACPE. They are internal to the organization and not for purposes of civil liability.

XV. MEDIATION

A. Definition

Mediation is a voluntary, cooperative process of conflict resolution using a neutral third party (Mediator). The goal is to assist both sides in reaching a mutually satisfactory and just resolution of the issues. Mediation utilizes discussion and consultation in an effort to help the parties resolve a complaint. Mediation is not judgment on or arbitration of a complaint.

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. Neither the mediator nor the mediator's notes nor the notes of any participant in the mediation process may be sought, used or cited as evidence by any party.

If mediation is unsatisfactory, either party may request that the fact-finding process commence. The Regional Director will forward the request to the Regional Representative.

B. Procedures for Mediation on the Regional Level

1. The mediation process shall commence and be completed within sixty (60) calendar days of the complaint being received by the Regional Director.
2. A mediator(s) who is acceptable to all parties shall be selected by the Regional Director. If the Regional Director is party to the complaint, the Regional Chair shall perform this function.
3. If the complaint is resolved, a Memorandum of Understanding shall be signed by the Mediator(s) and all parties involved in the complaint. The Mediator(s) shall forward the original Memorandum to the Regional Director and copies of the Memorandum to all those involved in signing the Memorandum. The Memorandum of Understanding shall be retained according to Section XVII.2.
3. If a Memorandum of Understanding is not signed, the complainant may request the fact-finding process commence. The complaint will be handled according to the Procedures for Regional Panels in Processing Complaints (*Section XVI*). This request must be made in writing to the Regional Representative of the PEC within seven (7) calendar days following the completion of the mediation attempt. Time lines for this process commence with receipt of the request by the Regional Director after the mediation.
4. Mediation fees will be paid by the Region.

C. Procedures for Mediation on the National Level

1. Mediation shall commence and be complete within sixty (60) calendar days of the complaint being received by the ACPE Executive Director.
2. A Mediator acceptable to all parties shall be selected by the Executive Director. If the Executive Director is one of the parties to the complaint, the President of the ACPE shall perform this function.
3. If the complaint is resolved, a Memorandum of Understanding shall be signed by the Mediator(s) and parties involved in the complaint. The Mediator(s) shall forward the original Memorandum to the Executive Director and copies of the Memorandum to all those involved in signing the Memorandum. The Memorandum of Understanding shall be retained according to section XVII.2.
4. If a Memorandum of Understanding is not signed, the complainant(s)

may request the Chair of the PEC to commence the fact-finding process. This request must be made in writing within seven (7) calendar days following the completion of the mediation attempt. The complaint will be handled according to the Procedures for the PEC in Processing Complaints (*Section XVI.C.2*) Time lines for this process commence with receipt of the request by the Regional Director after the mediation.

5. Mediation fees will be paid by the ACPE

XVI. THE FACT-GATHERING AND FACT-FINDING PROCESS

The fact-gathering and fact-finding process is engaged if mediation is inappropriate, or both parties do not agree to mediation, or if 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 instances, the fact-finding process will be completed at the Regional level. If sanctions are required, they will be imposed by the PEC upon completion of the work by the Regional panels. Only under particular and limited circumstances will a complaint be heard on appeal to the PEC (see *Section XVI.C.3.b*). The fact-gathering and fact-finding process operates as follows.

A. The Regional Review Panel

1. The regional Review Panel consists of three members appointed by the Regional Representative, in consultation with the Regional Director and the Regional Chair. Persons selected may be ACPE members, members of cognate groups and/or representatives of other disciplines.
2. The expectation is that within sixty (60) calendar days of receiving the complaint from the Regional Representative, the Panel reviews all written material submitted to it. In unusual circumstances, the Regional Director, the Regional Representative and the PEC Chair may extend this time 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.
3. 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 committee if the entity considered the complaint. If the original complaint alleged violation of a particular Standard(s), 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 committee.

4. 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:

- The persons involved have made an inadequate effort to resolve the complaint by discussion and agreement.
- The complaint is without merit:
 - no standing or
 - not within the time lines or
 - does not implicate ethical standards or
 - is insufficiently formed and documented
- 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.
- The relief sought is beyond the power of the ACPE to grant.
- The complaint is within the jurisdiction of another ACPE commission or committee. The complaint would then be referred by the Regional Review Panel to the appropriate commission or committee.
- A hearing is in order: there is reason to suspect that a violation may have occurred, the complaint is properly formed, and is within the Review Panel's jurisdiction.
- Hold for results of another jurisdiction. The complaint has merit but is being addressed in another forum: civil or criminal court, another certifying association, an endorsing agent or faith group or an employer. If holding off an ACPE investigation will not seriously threaten the safety of students or a program, the ACPE process may wait to commence until the completion of the work of the other jurisdiction. Information used in that process may be used in the subsequent ACPE process. The time limits are tolled during this period.

5. If a hearing is in order, a Hearing Panel is constituted.

B. The Regional Hearing Panel

1. **The Regional Hearing Panel is constituted by the Regional Representative to the PEC in consultation with the Regional Director and Regional Chair. One person who served on the Regional Review Panel will be on the Hearing Panel and serve as its Chair. The other two people will be recruited from a national pool of trained panel members. The complainant and respondent shall each be allowed to strike one proposed panel member if there is a perceived conflict of interest. Each is allowed one veto only. Neither is permitted a voice in the selection of a replacement panel member. Both have three (3) days from the time of notification of the panel selection to make their objection known to the Regional Director or the Regional Representative.**

2. **The Regional Hearing Panel operates according to a modified civil law rather than an adapted common law model of adjudication. Neither party has the burden of proof. The 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 throughout the investigation and to state clearly how the evidence relates to the truth of the allegations whenever asked.**

The Hearing 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 what either party submits. When the Hearing Panel determines that it has "enough" evidence to reach a decision, it will schedule a Final Hearing. This is an opportunity for both parties to discuss, separately, one final time with the Panel the evidence upon which a finding will be made.

3. The Regional Hearing Panel usually holds a final hearing within sixty (60) calendar days of its formation. In unusual circumstances, the Regional Director, the Regional Representative and PEC Chair may extend this time if requested by the Regional Hearing Panel.
4. The Hearing Panel gives each party written notice at least two weeks prior to the final hearing. If parties attend the final hearing, they are responsible for their own expenses related to the hearing.
5. At its discretion, the Hearing 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 two weeks' written notice of the hearing.
6. Two weeks prior to the final hearing, the Panel must send to each party any written information which was submitted or solicited by the opposing party. The Panel will decide if further documentation submitted after this time will be considered. If it is, this information will immediately be forwarded to the other party.
7. 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 the physical safety or emotional well being of a witness. However, the Panel will usually send copies or inform the parties of information produced from its own investigation. Information sent to one party must be sent to the other.
8. The Regional Representative may attend the final hearing as consultant to the Panel.
9. Each party speaks individually with the Hearing 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. It may hear any other witnesses and the Respondent in whatever order it determines.
10. The Panel will explain its process to each party and give each party

an opportunity to make brief opening and closing statements. The Panel 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.

11. 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 those records cited by the Complainant will be deemed to have been waived by the Complainant's introduction of a portion of them into the Hearing. The Complainant may withdraw the evidence and the records from consideration when the Respondent asserts the need. If the Complainant asserts that the Respondent's introduction is immaterial or irrelevant, the Regional Representative or Panel Chair will review the material in question *in camera* and make a decision as to its relevancy. That decision will be final.
12. The Panel is required to keep official minutes of the hearing and to 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 (7) calendar days prior to the hearing. Parties may make their own recordings only of their own portion of the hearing. Recordings and minutes are not available to non-party witnesses.
13. Following the final hearing, one of the following rulings shall be made:
 - No violation of ACPE Standards occurred.
 - A violation of ACPE Standards did occur and the matter is referred to the Professional Ethics Commission for sanctions.

The Regional Hearing Panel will make its ruling based on the preponderance of the evidence. This is a qualitative not a quantitative standard and means: "whether it is more likely than not that a violation occurred." If the Panel rules that a violation did occur, it will refer the case to The ACPE Professional Ethics Commission for final sanctions. Respondents may appeal to the PEC if criteria set forth in C.3 of this section are met. If the Panel rules that a violation did not occur, the complainant may appeal to the PEC if the criteria set forth in C.3 of this section are met.

14. When evaluating cases of racial or sexual harassment, the Panel 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.

15. The Regional Hearing Panel will hold its final deliberations and issue its written findings within twenty-one (21) calendar days of the hearing. No new evidence may be submitted or solicited by the parties after the final hearing. The Panel at its discretion may continue its investigation.
16. When a case is referred to the Professional Ethics Commission for final disposition, the Regional Hearing Panel will forward its dossier which includes the written complaint and written response, a chronology of its investigation, exhibits it considered, minutes of the final hearing, the summary of its deliberations and statement of its findings to the PEC Chair. When a case is referred to the Professional Ethics Commission on appeal from either party, the Hearing Panel will forward the previously cited material plus all written materials received from either party and any witnesses. In addition, the appellant shall file with the Commission a statement of the grounds for the appeal. This statement will direct the commission to any materials that support the grounds for the appeal.

C. The ACPE Professional Ethics Commission

The Commission receives complaints which (1) are referred by a Regional Hearing Panel for final sanctions after a regional hearing, (2) have not been resolved on the national level, or (3) are being appealed from a Regional Hearing Panel. The Commission processes referrals within six (6) months of receipt.

1. Final Disposition Cases

When the case is referred for final disposition, the Commission will review the dossier sent by the Regional Hearing Panel or the ad hoc Review Panel to determine by simple majority vote which of the following dispositions will be imposed:

- Admonishment, with specific recommendations to enhance professional or ethical practice.
- Reprimand, with specific instructions to be followed under the direction of the Professional Ethics Commission for a designated period of time.

- Probation for a designated period of time with specific instructions to be followed under the direction of the Professional Ethics Commission.
- Suspension of certification to practice as an ACPE supervisor for a designated period of time, with specific instructions to be followed under the direction of the Professional Ethics Commission to reinstate certification.
- Withdrawal of membership as an ACPE member and/or withdrawal of certification as an ACPE supervisor. If application for ACPE membership or certification as an ACPE supervisor is made in the future, such application will be made to the Professional Ethics Commission.

The Professional Ethics Commission may provide specific instructions to be followed under the Commission's direction for a designated period of time before the Commission will act on the application. The Commission decision will be to grant, defer, or deny ACPE membership and/or certification as an ACPE supervisor.

2. National Cases

If the case is brought to the commission from a situation in which a national mediation was not held or was unresolved, the Commission will appoint three of its members to function in the manner of a Regional Review Panel as described in *Section XVI*. They will collect evidence from the principals and others who can supply information concerning the case. This *ad hoc* Review Panel will determine one of the following:

- The persons involved have made an inadequate effort to resolve the complaint by discussion and agreement.
- The complaint is without merit.
- The relief sought is beyond the power of the ACPE to grant.
- The complaint is within the jurisdiction of another ACPE commission or committee.
- The complaint merits a hearing, which will be conducted by the Professional Ethics Commission in the manner of a Regional Hearing Panel. There is no appeal.

The PEC Hearing will proceed as described in 3.e. below. The vote of the Panel determines one of the following:

- No violation of ACPE Standards occurred.
- A violation of the ACPE Standards did occur. The case is referred for final disposition according to XVI.C.1.

3. Appeal Cases

- a. If the case is brought to the Commission on appeal from either party, the person appealing must state the specific reasons for the appeal as listed in *XVI.C.3.b*. The Commission 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 appellee or the Regional Hearing Panel on the issue of granting an appeal.**
- b. Grounds for the appeal are limited to the following: (i) irregularity in the proceedings, (ii) a party having been refused reasonable opportunity to obtain and present evidence or testimony, (iii) clear manifestation of bias in the conduct of the case or (iv) abuse of discretion on the part of the Hearing Panel.**
- c. Whether or not the criteria for appeal have been met will usually be decided on the basis of the written material submitted without a formal hearing. Substantial deference will be given to the decision of the Hearing Panel. Parties or the Hearing panel may be contacted by phone or mail for additional information to assist the Commission members in reaching their decision.**
- d. If the PEC determines the criteria have not been met, no hearings are held. If sanctions are required, they are imposed according to *Section XVI.C.1*. Otherwise, the case is closed.**
- e. If the PEC upholds the appellee, the PEC grants an appeal hearing that will proceed as follows:**

 - i. Parties to the complaint will be notified in writing at least thirty (30) calendar days in advance of a hearing.**

- ii.* Parties are encouraged to attend the hearing but are not required to. Parties bear their own expenses. They may be accompanied by one support person who may advise him or her, but may not speak to the Commission during the Hearing.
- iii.* The written material submitted by the Regional Hearing Panel or the ad hoc Review Panel will be the primary source of information for the Commission's deliberations.
- iv.* Each party may meet separately with the Commission in executive session for up to forty-five (45) minutes. The party will be allowed five-minute opening and five-minute closing statements. The remainder of the time will be for the Commission to ask questions of the party in order to clarify the written material and anything else relevant to the case it may wish to explore.
- v.* 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.
- vi.* No new materials may be introduced at these hearings unless the review is based on criteria *XVI.C.3.b (ii)*.
- vii.* The Commission reviews the evidence heard from the parties and incorporated into the findings of the Regional Hearing Panel.
- viii.* The Commission deliberates until it is ready to vote on whether the preponderance of evidence convinces the members of the Commission that a violation of the Code of Ethics occurred. Before the vote is taken, the Commission may opt for a five (5) minute silent break for reflection. The vote is by secret ballot. Seven members of the Commission must vote. The Commissioner from the Region in which the complaint arose does not vote. The chair votes only in case of a tie. A simple majority carries the decision.
- ix.* In the case of an appeal, the vote determines one of the following:

 - The decision of the Regional Panel is upheld

and the Commission will deal immediately with final disposition according to *XVI.C. 1*.

- The decision of the Regional Panel is overturned. If a decision of guilt is overturned, the case is finished. If a decision of not guilty is overturned, the Commission will impose a final disposition based on its decision outlined in *Section XVI.C. 1*.

4. 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 person found guilty of an offense, the Commission 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 association members, and will be reviewed within six months of imposition.

5. Notification

- a. All parties to the complaint shall receive a copy of the decision of the Professional Ethics Commission within thirty (30) calendar days of the Hearing. If sanctions are imposed resulting in suspension, withdrawal, removal from office or enjoinderment from practice, the parties will be notified within twenty-four (24) hours of the decision.
- b. Following the hearing, the Chair of the Commission shall, in Executive Session, inform the Executive Director, the President, and president-elect of ACPE of the disposition of the complaint.
- c. A copy of the formal letter 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, the Executive Director, President and President Elect of ACPE.
- d. When sanctions are imposed resulting in suspension, withdrawal, removal from office, the Chairperson of the Professional Ethics Commission shall inform the Board of Representatives. A similar report shall be prepared for publication in the next issue of the *ACPE News*. When a sanction is fulfilled or lifted, a report shall be prepared for publication in the next issue of the *ACPE News*. Both notifications shall be sent to the endorsing agent of the

respondent and the local entity of the original incident as well as any current employer.

6. Finality

The ruling of the Professional Ethics Commission is final and binding for the Association for Clinical Pastoral Education, Inc.

7. Minutes

Minutes of this executive session will be recorded by the Commissioner from the Region in which the complaint arose, and stored in a confidential file by the Chair.

XVII. RECORD MAINTENANCE

Official files on all cases are maintained by the Chair of the Panel or Commission considering the case until the case is concluded. The official file is then sealed and placed in the National 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 Chair of the PEC for storage at the National ACPE office. The record shall contain:
 - a. The dossier sent by the Regional Panel to the PEC;
 - b. Any correspondence between the Panel and Commission;
 - c. A copy of the findings and/or sanctions of the PEC;
 - d. A copy of the Code of Ethics and relevant Standards in effect at the time of the PEC action;
 - e. 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.
 - f. Files will be kept for ten (10) 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 (10) years, except withdrawals shall be kept indefinitely.
 - g. 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.
 - h. 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.
 - i. 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 the ACPE Executive Director (in consultation with legal counsel) for extraordinary circumstances.
2. For complaints which 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 in 1.

XVIII. APPENDICES

INSTRUCTIONS AND FORMATS FOR NOTIFICATIONS AND REPORTS

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APPENDIX I

INSTRUCTIONS FOR INITIATING A FORMAL COMPLAINT

In the written complaint submitted to the Regional Director the writer must do the following:

1. Identify by name and organizational position the person or persons 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 the names, addresses and phone numbers of people with direct knowledge of these incidents whom an investigator could contact.
4. Cite the ACPE Standard(s) (Section 100) which the complaint alleges were violated by the incident(s) recited. Briefly relate how the alleged conduct violates the specific Standard's mandate.
5. Describe what efforts, if any, have been made to resolve the complaint or to alter the conduct alleged in the complaint. Give dates times, circumstance, witnesses.
6. Identify what action or remedy the complainant is seeking.
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 and the investigative process as described through the PEC Manual.*
9. Sign and date the complaint.

APPENDIX II

INSTRUCTIONS FOR RESPONDING TO A FORMAL COMPLAINT

In a written response to a complaint submitted to the Regional Director the writer should:

1. Confirm, deny, or modify the information stated in (1) and (2) of the complaint.
2. Describe the incident or incidents alleged in (3) of the complaint from the respondent's 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 the names, addresses, and phone numbers of any people with direct knowledge of these alleged incidents whom an investigator could contact.
3. Explain the respondent's interpretation of the ACPE Standard(s) mandate which the complaint cites. If the respondent acknowledges that the incident(s) occurred as recited in the complaint, but believes that the complaint is not in violation of the standard, state why. If the respondent acknowledges 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 the respondent denies the incident occurred, simply state the denial.
4. Describe what efforts, if any have been made 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 the respondent seeks from the ACPE process.
6. Attach available documentation as an appendix.
7. Include the following statement: *I acknowledge that I understand and consent to the release of information and the investigative process as described through the PEC Manual.*
8. Sign and date the response.

APPENDIX III

SUGGESTED FORM: NOTIFICATION THAT A FORMAL COMPLAINT HAS BEEN FILED

DATE:

TO:

FROM: _____
Regional Representative to Professional Ethics Commission

THROUGH: _____
Regional Director

A formal complaint has been filed against you by _____. In keeping with ACPE Standards, efforts should have been made to resolve this at a local program level according to the Center's grievance procedures. If this has not been accomplished, please inform me of what actions you have taken in an attempt to resolve the problem. The complaint will be reviewed by a Regional Review Panel consisting of _____, _____, and _____ (Chair).

If the Regional Review Panel concludes that a hearing of this complaint is in order, a Regional Hearing Panel will be constituted and you will be notified by the Chair of the dates and location of a Final Regional Hearing.

While I cannot advise you on substantive issues in the complaint, I can advise you on procedural issues. If the case is sent to the Professional Ethics Commission, I will serve as presenter/recorder but will not vote on the outcome.

The complainant alleges you violated ACPE Standard(s) _____, based on the following incidents(s). _____.

In keeping with Commission procedures, all material submitted by parties is available to all other parties to the complaint. In most cases, succinct but well articulated documentation of your position is more helpful to a constructive addressing of the issues than are volumes of materials.

Enclosed is a copy of the current Professional Ethics Commission Manual. Please review the entire section on Processing Complaints, Part II. In Appendix II you will find suggestions for responding to a complaint. Please follow these suggestions carefully to facilitate the process.

Please contact me with your questions. These processes are not easy for anyone. Thank you in advance for your attentiveness and cooperation.

APPENDIX IV

SUMMARY OF TIME LIMITS FOR PROCESSING COMPLAINTS

- 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 sixty (60) days.
- Once the Complainant receives the response from the entity, he or she has thirty (30) calendar days to register a complaint with the Regional Director (or Executive Director, when applicable) if he or she is not satisfied with the action of the entity where the complaint was first filed, or if issues remain over which ACPE, not the entity, has jurisdiction.
- The Regional Representative will send notification to the respondent within fourteen calendar days.
- The Region has one hundred twenty (120) calendar days from receipt of the complaint to process it unless an extension has been granted.
- When Mediation is chosen by the parties, it shall be completed within sixty (60) calendar days of the complaint being received by the Regional or Executive Director.
- Parties will notify the Regional Director within three days of their being notified of the appointment of the Hearing Panel if they wish to object to any appointee.
- Parties receive two weeks notice prior to a Final Hearing.
- If the Complainant or Respondent has cause to appeal the finding of the Regional Panel, he or she has thirty (30) calendar days to make an appeal to the ACPE Professional Ethics Commission.
- If there is a finding that the ACPE Code of Ethics has been violated, or if the Complainant or Respondent appeals the findings of the Regional Hearing Panel, the ACPE Professional Ethics Commission has six (6) months to process the final disposition or appeal. The resolution of the ACPE Professional Ethics Commission is final and binding for the ACPE.