



# *ACPE*

## **STANDARDS & MANUALS**

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

*Revised June 2015*  
*Interim Changes Highlighted*

**Association for Clinical Pastoral Education**  
One West Court Square, Suite 325, Decatur GA 30030  
Tel. (404) 320-1472      [www.acpe.edu](http://www.acpe.edu)

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

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## Preface

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

**Note: *2015 Definition of Terms* ([www.acpe.edu](http://www.acpe.edu), manuals section) is an important companion document. Please review it carefully for definitions of relevant terms; they are essential to interpretation and use of *2015 Processing Complaints of Ethics Code Violations in ACPE*.**

# **PROCESSING COMPLAINTS OF ETHICS CODE VIOLATIONS**

## **The Association for Clinical Pastoral Education, Inc**

### **Part One -- Introduction**

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

##### **Mission**

Advancing exceptional experience-based theological education and professional practice to heal a hurting world.

##### **Vision**

We will be an organization where people of diverse faith traditions, backgrounds, and cultures collaborate to provide innovative experiential education. We will lead in the theory and practice of clinical education for spiritual care. We will promote and broaden the provision of quality professional theological education in a variety of settings.

##### **Values**

**Education:** We value a process model of education that is student centered, vigorously reflective and potentially transformative. We understand professional competence as the integration of personal story, religious heritage and theological understanding and knowledge of the behavioral sciences. This integration leads to personal awareness, integrity in relationships and receptivity to diversity.

**Diversity:** We value diversity and strive to educate culturally competent clinical pastoral educators and spiritual care providers. We engage in professional development in order to increase cultural awareness.

**Collegiality:** We value relationships marked by accountability, mutual respect, clear communication and ethical practice that supports personal and professional integration and care of self and others.

#### **II. Professional Ethics Commission (the “Commission” or “PEC”)**

##### **A. Purpose**

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

##### **B. Functions**

1. Educate ACPE members, consumers and other interested persons about ethical Clinical Pastoral Education according to ACPE standards; inform persons of ACPE procedures to resolve complaints; participate with other ACPE Commissions in processes and projects to maximize performance according to ACPE Standards within the organization and in CPE practice.

2. Adjudicate cases and appeals on grounds specified by ACPE.
3. Impose and monitor sanctions according to the processes of ACPE.
4. Receive and process referrals from the Emergency Review Committee, other Commissions, the ACPE Executive Director, of allegations of ethical or felonious misconduct by ACPE members or entities.

### **C. Authority**

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

### **D. Composition**

The PEC is comprised of ten members, a representative from each region and the chair. Members are elected for a three-year term (renewable for another term) by the Board of Representatives upon nomination by the Representation and Nomination Committee from the candidate(s) suggested by each region. Preference will be given to people with training in the ACPE, APC or NAJC Ethics Codes and Procedures.

**Note: all references to CPE throughout this document are understood to be ACPE certified Clinical Pastoral Education (ACPE-CPE).**

## Part Two - - Processing Complaints of Ethics Code

**CONSENT:** *Persons participating in an ACPE accreditation, certification, ethics, or appeal process consent to that process as described in relevant ACPE materials and give permission for the disclosure of information and materials from one ACPE process to another ACPE process if, in the determination of ACPE representatives, that should be necessary for ensuring compliance with ACPE standards. When one process makes referral to another, the referring body may be asked for additional information and will be informed of the work of the commission to which the referral was made. The Inter Commission Referral Form is Appendix 13 in both the Accreditation and Certification Commissions' 2015 Manuals.*

### I. WHERE TO BEGIN

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

#### **Making an Ethics Allegation (ACPE Standards 100):**

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

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

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

Executive Director  
Association for Clinical Pastoral Education  
One West Court Square, Suite 325  
Decatur, Georgia 30030  
404-320-1472  
acpe@acpe.edu

or

with the Executive Director of the APC:

Chief Executive Officer  
Association of Professional Chaplains  
1701 East Woodfield Road, Suite 400  
Schaumburg, Illinois 60173  
847-240-1014  
info@professionalchaplains.org.

## II. COMPLAINT BASICS

A. A Complaint is a grievance, presented in writing and signed, involving an alleged violation of the ethical criteria established by the ACPE Code of Ethics (Standard 100). A complaint must identify the specific standard or process alleged violated. Complaints may be filed by those who consider themselves harmed by an alleged violation or by any person(s) having substantive knowledge of a violation of the ACPE ethics code.

B. The complaint must name an individual(s) over whom ACPE has jurisdiction. In filing the complaint, the complainant 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 required to submit a *Complaint Form* (available from ACPE or APC Executive Directors <http://www.acpe.edu> or <http://www.professionalchaplains.org>)

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

D. ACPE Standard 103.4 states: “In relation to ACPE, members do not make intentionally false, misleading or incomplete statements about their work or ethical behavior. This is binding on members. It is expected of nonmembers who engage the complaint process.”

## III. TIME LIMITS FOR FILING COMPLAINTS

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

1. The time limit is ten years for a complaint alleging sexual exploitation and six months for a complaint not involving sexual exploitation. A definition of sexual exploitation is found in the Definition of Terms manual.
2. Time limits begin with the event that occasions the complaint or with the completion of the educational/employment experience at the site where the event is alleged to have occurred.

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

#### **IV. PARTICULAR REPORTING IMPLICATIONS FOR ACPE MEMBERS**

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

*“ACPE members agree to adhere to a standard of conduct consistent with the code of ethics established in ACPE standards. Members are required to sign the Accountability For Ethical Conduct Policy Report Form (ACPE 2015 Standards, Appendix 1) yearly and return it with their annual ACPE dues. Members are required to provide promptly notice on this form (available at [www.acpe.edu](http://www.acpe.edu)) to the ACPE Executive Director of any complaint of unethical or felonious conduct made against them in a civil, criminal, ecclesiastical, employment, or professional organization’s forum, including complaints within ACPE or APC.”*

Note: The above self-reporting requirement introducing Standard 100 is different from a complaint filed against a member. The circumstances of many self-reports will not require any action by ACPE. In cases where an ACPE standard has been violated and/or the safety, well-being, professional reputation of the member or, others are implicated, the situation will be evaluated on its own merits by an Accountability Review Committee composed of the ED, Chair of the Professional Ethics Commission, Chair of the Certification Commission, a Board member.

*“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.”*  
(ACPE Standard 100)

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

#### **V. COMPLAINTS AGAINST FORMER MEMBERS of ACPE**

A. A complaint against a member who resigns after the complaint is filed will be processed according to the procedures outlined below. If a sanction is imposed, the former member cannot rejoin ACPE until the terms of the sanction have been fulfilled.

B. If a complaint is filed against a former member who resigned or was removed from ACPE at least one year prior to the filing of the complaint, the complaint will not be processed or retained. In situations of less than a year, the complaint may go forward.

C. Where applicable, requests for resignation will be deferred until a pending complaint is resolved.

D. In each of the above situations (A-C), if the respondent does not participate throughout the ethics complaint 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 XIV.

## **VI. MEMBER WHO DEFAULTS ON PROCESS**

A. *It is the responsibility of members to keep their contact information current with the ACPE office.* ACPE and its representatives will exercise due diligence (certified mail, email, and phone) to inform a member when an action requires immediate attention. If after forty-five calendar days, service has not been acknowledged by the member to ACPE, the member's credentials may be suspended. Restoration of credentials will be decided on a case-by-case basis according to the professional judgment of the ED, Chair of the Professional Ethics Commission, Chair of the Certification Commission, and a Board member. Notification of suspension will follow section XIV of this Manual.

B. A respondent who does not respond according to the time frame in a notice for information may be considered in default. The process may continue without the materials or input sought from the member. Default negates any rights of appeal of findings or sanctions in a case against the member.

## **VII. BIAS OR CONFLICT OF INTEREST**

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

## **VIII. CONFIDENTIALITY**

Confidentiality is of utmost importance. Those involved in investigations, mediations, adjudications, 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 or evidentiary procedures. Parties and witnesses contacted are expected to respect the need for confidentiality in order to protect privacy and fair process for everyone involved. To obtain guidance and support, the parties to the complaint may discuss the complaint with their families and helping professionals; however, all must respect the need for privacy.

## **IX. THE ACPE/APC ETHICS COLLABORATION**

A. The Boards of the ACPE and APC have authorized the two organizations to work collaboratively on ethics investigative and adjudicatory processes. Members from both associations are trained as investigators and members of the two Ethics Commissions are trained to adjudicate jointly. When is a case referred to the ACPE PEC by another ACPE Commission, ACPE will usually handle the case outside the collaborative process but following the procedures in this Manual. The same is true for Commission referrals within APC. Most cases, however, will be processed through the Collaboration whose decisions are binding on parties by the same terms as the actions of their organization's Ethics Commission.

B. When an ED of either APC or ACPE receives a complaint, both confer together to determine membership status of the respondent and decide which ED will manage the case. The Ethics Commission Chair of the other organization will lead the case process. For example, if the ACPE ED takes the case for management, the APC Ethics Commission Chair will lead the case process. Hearing and Appeals Panels will be composed of trained members from each Commission.

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

A. An Initial Review Panel (IRP1) convenes by telephone or by Internet voice connection. The ED managing the case and the Ethics Commission Chair leading the process (EPC), with the ethics consultant [if one], determine if there is jurisdiction for the complaint:

1. Is the respondent a member of ACPE and or APC?
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? And
4. If alleged conduct were proven, would it violate standard(s) of ACPE or APC?

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 a response form to the respondent and requests a reply to the ED within 30 calendar days.

### **B. Cross Commission Referral**

Jurisdiction is established in the case of a cross commission referral and the ED sends a copy of the cross commission referral form and a response form to the respondent and requests a reply to the ED within 30 calendar days.

C. After the response is received, the IRP reconvenes (IRP2) to consider the status of the process:

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

3. If an investigation will commence, an investigator is appointed by the managing ED from the Collaborative investigative pool of the respondent's association.

D. Notification: The ED will notify the parties of the IRP action. Notification will normally be by secure email unless a party has requested certified U.S. mail or specified another means of notification that is both secure and provides notice of delivery. The regional PEC representative of ACPE respondents will be notified. The Regional Director may be informed by the regional representative.

1. If there will be mediation, the ED make the arrangements as set forth in section XI. For ACPE respondents, their Regional Director may assist the ED.
2. If there will be an investigation, the notification will include the specific allegations, the standards alleged violated and the name and contact information of the investigator(s). If the IRP has implicated additional standards, the respondent is informed. Henceforth, all associational contact with the parties is only through the investigator until the investigation is complete.
3. Section XIII governs cases proceeding directly to a Hearing; Section XIII.V those cases proceeding directly to a Sanction.

## **XI. PROCESSING COMPLAINTS THROUGH MEDIATION**

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

B. If mediation is recommended and if the parties agree, the ED and EPC shall appoint a mediator and the process for mediation outlined in this section shall commence. When the respondent is a member of ACPE, the respondent's Regional Director is the third member of the appointing committee. When the respondent is a member only of APC, the APC Certification Chair is the third member of the appointing committee. If any of these are a party, the ACPE or APC President will fill their role.

C. 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.

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

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

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

G. If the complaint is resolved, the mediator and all parties involved in the complaint sign a memorandum of understanding (MOU). The mediator forwards the original MOU to the ED and copies to all those who signed the MOU. The MOU shall be retained according to Section XIX.A.2.

H. Mediation fees will be paid, in most situations, by the respondent's association.

## **XII. THE INVESTIGATIVE PHASE**

A. The investigator will conduct the investigation according to the processes set forth below. 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 EPC. 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. Interviews will be held with each party before any witnesses are interviewed. Interviews can occur in person, by telephone or Internet voice connection.
4. If one party is interviewed in person, the other also will be.
5. The process seeks to be conversational rather than confrontational. Cooperation and courtesy are expected from the investigator(s) and the parties. Phone calls are to be returned and requested information produced within reasonable times.
6. The investigator and/or investigator's designees will function as information gatherers. Information is assembled to allow the Hearing Panel to determine the facts on which a decision will be made as to whether a violation of the Code of Ethics occurred as alleged. The investigator may allege standards violated 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 Hearing Panel 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 Hearing Panel 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 EPC.
10. At the close of the investigation, the investigator will provide the EPC the dossier of the case: a copy of the original complaint form, any written response, a chronology of the investigation, a summary of each interview, relevant correspondence, and any exhibits submitted. The investigator will write a brief report to the EPC 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 case dossier will usually be sent by the EPC upon receipt to the complainant and respondent. At the EPC 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.

### **XIII. FACT FINDING/ HEARING PANEL**

- A. The Hearing Panel is the designated fact-finding body. The EPC is the convener of the Hearing and keeps the official notes for the Minutes. The EPC may vote only to break a tie.
- B. Four designated members of the Commission(s) conducting the Hearing, along with the EPC, must be present for a Hearing.
- C. The investigator and association ethics or legal consultant may be present during the Hearing but will not participate in the vote on final actions taken.
- D. Each party may submit to the EPC a written response to the materials it receives from the investigator. The response must be sent to the EPC within twenty-one calendar days from when the material is secure emailed or sent by other means as described in X.D. to the party. The Hearing Panel 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 EPC determines exceptional circumstances.
- E. New information obtained from a party (see item D) will be shared with the other party at least two weeks prior to the Hearing if time permits. The party receiving the information will have the opportunity to respond to it during the Hearing.
- F. A Hearing Panel member may implicate additional violations of standards previously not cited based on new information or reasonable interpretation of existing information. The respondent will be given notice not less than two weeks prior to the Hearing.
- G. The Hearing may occur in person or via telephone or Internet voice connection.
- H. The Hearing will usually be held in within three months of the EPC's receipt of the Investigator's report *and* the responses to it from the parties.

I. If the Hearing is held in person, parties will receive at least one month's written notification of the meeting date, time and place. Each party 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.

J. If the Hearing is held electronically, parties will receive at minimum two-week's written notification. The EPC will invite the parties to participate for up to one half hour each. If one party declines, the other may still be heard. The two Associations bear the cost of the electronic Hearing.

K. The Hearing Panel meets or speaks first with the complainant if he or she elects to participate, then with the respondent.

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

M. The parties will not be present or heard at the same time before Hearing Panel and will not be present for any portion of the Hearing other than their own testimony.

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

O. The EPC will explain the Hearing process to each party and give each an opportunity to make a brief opening and closing statement. The Hearing 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. The party may not offer new evidence at this time.

P. The Hearing Panel may question the party about discrepancies in the information and invite the party's explanation.

Q. The Hearing Panel may ask the party what he or she feels would be a reasonable outcome.

R. The Hearing Panel 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."

S. When reviewing cases of racial or sexual harassment, the Hearing 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.

T. The Hearing Panel will issue its findings in writing within twenty-one calendar days of the Hearing. No new evidence may be submitted or solicited at a party's initiative after this review. The Hearing Panel at its discretion may seek clarification from any source.

U. After reviewing the evidence and deliberating, the Hearing Panel shall decide:

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

V. When the Hearing Panel finds a violation did occur, it recommends one of the following sanctions:

1. Admonishment: The Hearing Panel finds that the member did violate the *Code*, acknowledges the violation, and that education regarding appropriate ethical conduct is proportionally sufficient to the violation and will insure future compliance with the *Code of Ethics*.
2. Reprimand: This is a serious rebuke of the member. It is based upon an assessment that the member has accepted full responsibility for the violation, articulates and understands the consequences of the violation; that the Reprimand is proportionally sufficient to the violation and is adequate to ensure future compliance with the *Code of Ethics*. It may include increased supervision or other stipulations for continued practice and membership as recommended by the Hearing Panel.
3. Probation: It is unclear whether the member fully understands, can articulate empathically and accept responsibility for the violation and its consequences. For a designated period of time, the member will follow specific instructions under the direction of the EPC or designee. Before the member is restored to full status, the member will meet all the terms imposed by the Hearing Panel and appear before it to demonstrate fulfillment of the terms to its satisfaction.
4. Suspension: The Hearing Panel finds that the member does not understand and/or accept responsibility nor appreciate the serious nature and/or consequences of the violation. Removal of Certification and/or membership is not disproportionate to the violation. Either or both are removed until a specifically identified problem or condition is addressed to the satisfaction of the Professional Ethics Commission in conjunction with the Certification Commission of the respondent's association. The member will meet with both Commissions or their designees to demonstrate compliance to their satisfaction before the suspension is recommended lifted.

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

5. Recommendation for Withdrawal of Certification and/or Membership. In the Hearing Panel's judgment, the member demonstrates an essential lack of professional knowledge, procedures, character, or conduct consistent with membership in ACPE.

This recommendation may also represent the judgment of the Hearing Panel that the member's action constitutes a threat to the well being of the member, the Association and/or the public.

\*The EPC informs the ACPE Executive Director, the President and President-elect of the recommended disposition of the case. If the respondent is a dual member with APC, the APC ED is also notified. These same people receive a copy of the deliberations, sent to the parties, that states the final disposition of the complaint. If sanctions result in suspension, withdrawal, removal from office, or enjoinderment from practice, the parties shall be informed by the EPC within 24 hours of the decision.

W. The EPC may appoint a scribe, who may or may not be a Panel member, to take official minutes and a deliberations summary of the Final Case Review. These are available to the parties; personal notes of individual panel members are not and will be destroyed.

#### **XIV. NOTIFICATION OF FINDINGS AND ACTION FROM HEARING & APPEALS PROCESSES**

A. The EPC will notify the member and complainant of the action taken by the Commission(s). The notification to both parties of the complaint will be sent by secure email or by other means at the request of a party as described in X.D. and shall include notification that either may appeal the decision. The limited grounds for appeal will be stated. Both shall be instructed not to make the notification public until the appeal process is over.

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

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

1. A copy of the deliberations summary stating the final disposition shall be sent to the parties and the ACPE Executive Director, President and President-elect by the EPC and if the respondent is a member of APC, to the APC ED.
2. If sanctions result in suspension, withdrawal or removal from office or enjoinderment from practice, the parties shall be notified within 24 hours of the decision. The ED shall inform the Board of Representatives and a report of the sanction shall be published in the next issue of the ACPE newsletter. The published notifications will be sent by the ED to the endorsing agent of the respondent and local entity of the original incident as well as any current employer.
3. When the respondent is a dual member with APC, APC notification practices will also be followed.
4. 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.

## XV. APPEAL PROCESS

**A. Who may appeal:** The respondent can appeal Findings and/or sanctions; the complainant may appeal only the findings. The appealing party is the Appellant.

**B. Basis:** An appeal must be based on one or both of these grounds: (a) the party was refused reasonable opportunity to obtain and/or present evidence to the Hearing Panel within these guidelines and that could have substantially altered the outcome, and/or (b) gross irregularity in the proceedings as established by these guidelines and that could have substantially altered the outcome. There are no other grounds.

**C. Time Requirements:** An appeal must be submitted in writing to the Executive Director (ED) managing the case by/on the 30<sup>th</sup> day from Appellant's receipt of notice of the Hearing Panel decision (X.D.). The Appeal must state the grounds (B. above) and provide any written material presented to the Hearing Panel that s/he believes justifies the appeal.

**D. Action:** The ED has sole discretion to extend the 30-day deadline for extraordinary circumstances presented to the ED by the Appellant in writing prior to the 30<sup>th</sup> day. If the extension is denied, the Appellant must meet the 30 day deadline or the decision of the Hearing Panel remains in full force and effect as the final action of the Association(s). The ED will forward the appeal and the written information used by the Hearing Panel in its determination to the Appeals Panel Chair.

**E. Panel:** The Ethics Commission Chair who did not chair the Hearing will chair the Appeal Panel. The original ED will continue as case manager. Three members of the Ethics Commission(s) who did not serve on the Hearing Panel or have previous association with the particular case will comprise the Appeals Panel appointed by the ED and Appeals Panel Chair.

**F. Action:** The Appeals Panel will give substantial deference to the factual findings of the Hearing Panel.

1. The Appeals Panel will deny the appeal if it determines that
  - a. The Appellant was not refused reasonable opportunity to obtain and have evidence presented to the Hearing Panel; or
  - b. The Appellant may have been refused reasonable opportunity to obtain and have evidence presented to the Hearing Panel but that the omitted evidence would not have substantially altered the decision of the Hearing Panel; or
  - c. There were no gross irregularities in the proceedings before the Hearing Panel; or
  - d. There may have been gross irregularities in the proceedings before the Hearing Panel but that those did not substantially alter the decision of the Hearing Panel.

If the appeal is denied, the decision of the Hearing Panel remains in full force and effect as the final action of the Association(s).

2. The Appeals Panel will accept the appeal if it determines that the decision of the Hearing Panel was substantially altered because
  - a. The Appellant was refused reasonable opportunity to obtain and/or present evidence to the Hearing Panel; and/or

- b. Gross irregularities existed or occurred in the Hearing Panel proceedings.
3. If the appeal is accepted, the Appeals Panel may, in its sole discretion:
    - a. Send the case back to the Hearing Panel for further proceedings so that all evidence may be presented and considered; or
    - b. Send the case back to the Hearing Panel for further proceedings that do not include any gross irregularities; or
    - c. Determine that it can disregard any gross irregularities that occurred and that the evidence before the Hearing Panel is otherwise complete. In which case, the Appeal Panel may issue a final decision on the underlying complaint by:
      - (i) Dismissing the complaint, or
      - (ii) Determining that a violation of some or all Standards alleged occurred and imposing such sanction as may be justified and that were available to the Hearing Panel. (Parties, Hearing Panel members, investigators and others may be contacted for information to assist the Appeals Panel in this determination.)

**G. Finality:** A final decision by the Appeals Panel is not subject to any further appeal and constitutes final and binding action by the Association(s).

## **XVI. SANCTION REVIEW**

A sanction will be reviewed at the end of its specified time. If the Commission or its designee determines a reasonable need to continue monitoring the member, it 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 and/or the Association, and will be reviewed by the Commission within six months of imposition.

## **XVII. EMERGENCY SUSPENSION OF CREDENTIALS**

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

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

This panel shall investigate the concern. Should the panel determine by majority vote that a student(s), CPE program, supervisor's colleagues or self 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.

## **XVIII. RELEASE OF INFORMATION DURING A PROCESS**

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

- A. The existence of a complaint and whether or not an investigation is in progress. This includes cases under review, being appealed, and subject to review for Dismissal.
- B. That a complaint was received, processed to completion, and the member has been disciplined for violations of the *Code of Ethics* if the sanctions are greater than Admonishment or Reprimand.

Other release of information is addressed in XIV.

## **XIX. RECORDS RETENTION**

Official files on a case are maintained by the EPC until the case is concluded. The official file is then sent to the ACPE national office where it remains until notice of the respondent's death. Files are electronic with access limited as described below. Investigators and Hearing Panel members may take notes during the process for personal use only. Such notes and all other materials not part of the official dossier of the case will be destroyed by the time the case is concluded. These materials are not part of the official record and not available to parties or other forums.

- A. Upon final action, the record of the process shall be sent by the EPC to the national office in care of the Executive Director or designee. The record shall contain:
  - 1. the original complaint and response; if there was an investigation, the report and its appendices or attachment sent by the investigator to the Hearing Panel. If the case proceeded directly to mediation, a Hearing, or sanction, the materials relevant to engaging these steps as well as the original complaint or referral and responses to them.
  - 2. if the complaint was settled through mediation, an original signed MOU;
  - 3. if there was a Hearing, a copy of the Minutes/Deliberation Summary (findings and/or sanctions);
  - 4. if an appeal was filed, a copy of the appeal letter, Minutes/Deliberations Summary from any Appeal action;
  - 5. a copy of the letter(s) after Commission's final action to the person against whom action has been taken. The letter will state the final disposition of the complaint.
- B. Files will be retained indefinitely or until notice of the respondent's death.
- C. When complaints are filed against a member, the Executive Director may inform the EPC if there is a former complain(s). No further information will be give to the EPC.

D. The Investigators, if any, may consult with the Executive Director about the contents of a former complaint. If, in the professional judgment of the ED and the Investigator(s), there are people or events named in the files that would shed relevance as to possible pattern and practice contrary to ACPE Standards implicated in the current investigation, the investigator(s) may see that portion of the file.

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

## APPENDIX 1

### ACPE INTER COMMISSION/ENTITY REFERRAL

Referring Commission/Entity (RFCE):

RFCE Chair:

Receiving Commission/Entity (RCCE):

RCCE Chair:

Referral Date:

1. List Standard(s) about which RFCE is making referral. \_\_\_\_\_
2. Date RFCE discovered above Standard(s) concern(s). \_\_\_\_\_
3. Date(s) of event(s) giving rise to above Standard(s) concern(s). \_\_\_\_\_
4. List Standards RFCE is/has processed. \_\_\_\_\_
5. Does the ACPE member or entity named in this referral know that it is being made? \_\_\_\_\_
6. State what phase the RFCE process is in with this matter.
  
7. State what the RFCE believes the RCCE can do through its process that the RFCE has not or cannot do.
  
8. List documents or other materials the RFCE has that could assist the RCCE.
  
9. Provide contact information for person authorized to send above items to RCCE upon its request.
  
10. Provide any additional information of which RCCE should be aware when reviewing this referral.
  
- 11. RCCE REMINDER:** Retain this form and use the reverse to report back to the RFCE the steps taken regarding this referral.

**APPENDIX 1 Cont'd**

**RCCE REPORT TO RFCE**

1. The RCCE met according to its procedures and considered this referral on \_\_\_\_\_ date.

2. The decision was made to \_\_\_\_\_

\_\_\_\_\_

3. RCCE follow-up is complete \_\_\_\_\_ date \_\_\_\_\_

4. Information from the follow-up available to the RFCE upon their request is as follows:

5. For further information, please contact:

6. Other observations: