

APPENDIX 11

POLICY FOR COMPLAINTS ALLEGING VIOLATIONS OF ACPE EDUCATION STANDARDS in EDUCATIONAL PROGRAMS

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 1 in each Commission's 2010 Interim Revisions February 2015 Manual.*

As required by the U.S. Department of Education, ACPE has policies for addressing complaints against an ACPE accredited center. When allegations arise that a program is in violation of one or more of the ACPE Education Standards (300), the process below applies. ACPE encourages people to communicate directly whenever possible with the person administering the program with which concerns have arisen.

The U.S. Department of Education mandates that in addition to the preferred signed complaint, anonymous complaints be processed in cases that implicate the Education Standards (300) and their related policies and procedures. ACPE encourages people to provide as much specificity as possible to accommodate a fair process. ACPE works diligently to respect all parties to a complaint, their reasonable privacy and professional standing.

Complaint Review Process for Allegations of Violations of Education Standards in ACPE Accredited Programs

I. General Information

- A. A complaint is a grievance presented in writing and preferably signed, involving an alleged violation of the education criteria established by the *ACPE Accreditation Standards 2010* (300's). The complaint must identify the specific standard(s) alleged violated and state specifically how it was violated. Complaints may be registered by those who consider themselves harmed by an alleged violation or by any person(s) having substantive knowledge of a violation of the *Education Standards* (300's).
- B. The complaint must name an individual(s) and/or program over which the Accreditation Commission ("Commission") has jurisdiction. The person filing the complaint (signed or anonymous) consents to this complaint process and gives permission for the disclosure of all information to the Commission, its representatives, representatives of ACPE, and the respondent.

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- C. 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.

II. Inquiries and Filing Complaints

- A. Complaints, or inquiries about filing them, are directed to the ACPE Executive Director (ED) or Program Manager at:

ACPE, Inc
One West Court Square, Suite 325
Decatur, GA 30030
confidential@acpe.edu

If a complaint is not on an [ACPE Complaint Form](#), the Program Manager will contact the complainant and request this be done if reasonably possible. For those without web access, a copy of the *Education Complaint Form*, the ACPE Accreditation Standards (300) and *the Policy for Complaints Alleging Violations of ACPE Education Standards in Educational Programs* will be mailed within a week of the receipt of inquiry. These materials are available at www.acpe.edu.

- B. When the ED or Program Manager receives the above material, it is sent to an Initial Review Panel (IRP) to confirm jurisdiction. If only 300s Standards are named, the IRP consists of the ACPE Executive Director, the Accreditation Commission Chair and appropriate consultant as the Executive Director and Chair determine. If 300 and 100 Standards are named, the IRP consists of the ACPE Executive Director, the Accreditation Commission Chair, the Chair of Professional Ethics and appropriate consultant as the Executive Director and Chairs determine.

III. Initial Review Panel (IRP)

- A. As soon as reasonably possible, the IRP convenes by videoconference or telephonic means to determine whether or not ACPE has jurisdiction over the person/entity named and allegations. Jurisdiction requires:
1. the respondent program is accredited by the Commission.
 2. the complaint alleges a violation which if it occurred would violate the Commission's education standards (300's) and/or ethics standards (100s); if only the 100's are alleged, the complaint is referred to the Ethics process for their IRP and any subsequent action.
 3. the alleged violations occurred in a context and during a time the program was subject to the ACPE Education Standards, and

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4. the alleged violation falls within twelve months of the date of filing the complaint with ACPE. In unusual circumstances, at the discretion of the IRP these limits may be extended.

If any of these criteria are not met, the complaint is dismissed for lack of jurisdiction. The complainant is notified by the Executive Director or Program Manager.

If jurisdiction is established, the Executive Director or Program Manager sends the complaint, the education complaint response form and copy of these policies (and the same ethics materials, if applicable) to the respondent and requests a reply within 30 days of the notification by certified mail and email.

- B. After the response is received, the IRP reconvenes to determine the status of the process. More than one option may be chosen:
 1. Dismiss the complaint without prejudice if it appears the situation is one that could be reasonably addressed by the parties and insufficient attempt has been made to seek resolution. Their materials may be resubmitted if resolution fails. The IRP may suggest approaches to resolution and/or make recommendations to either or both parties regarding practice, perspective or other matters associated with the concerns raised.
 2. If #1. (above) has been engaged and not successful, or is inappropriate to engage, or issues remain over which the IRP has concern, the IRP may do one or more of the following:
 - a. suggest mediation to the parties if the IRP feels it is appropriate.
 - b. name additional standards to be considered.
 - c. conclude there is cause for an investigation to commence.
 - d. conclude there is not cause for an investigation and dismiss the complaint (may suggest other avenues for addressing the situation alleged).
 - e. conclude there is no cause for an investigation; based on the data at hand, refer for final Case Review and/or sanctions and/or other resolution.
 - f. implement the determined options.
 3. If an investigation will commence an investigator is appointed by the Executive Director in consultation with the IRP (s) (Section V).
- C. Notification: The Executive Director/Program Manager will send notification within seven days by certified mail and email to the complainant and respondent of the action(s) (See B above).
 1. If there will be mediation, the Executive Director makes the arrangements and it proceeds per Section IV.
 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

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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(s) until the investigation is complete.*

3. Section VI. governs cases proceeding directly to a Case Review Remediation Panel; Section VI. E. those cases proceeding directly to a sanction/remediation.

IV. 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 Executive Director and IRP shall appoint a mediator and the process for mediation outlined in this section shall commence.
- 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 by national ACPE office with copy in file of each party.
- H. Mediation fees will be paid, in most situations, by ACPE.

V. The Investigative Phase:

When an investigation is warranted, the IRP and Executive Director will appoint an investigator(s). The investigators must have training in processing complaints. The person

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appointed on behalf of the Education Standards must be a former Accreditation Commission member not connected to the complaint. If Ethics Standards violations alleged, one investigator will be a present or former member of the Ethics Commission. The investigative phase will proceed as follows:

- A. The investigator(s) will contact the complainant and designated program administrative personnel as soon as reasonably possible after receiving appointment.
 1. 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.
 2. Interviews will be held with each party before any witnesses are interviewed. Interviews can occur in person, by videoconference or telephonic means.
 3. If one party is interviewed in person, the other will be also.
 4. 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.
 5. The investigator(s) and/or her or his designees will function as information gatherers. Information is assembled to allow the Case Review Panel to determine the facts on which a decision will be made as to whether a violation of the education standards and/or ethics standards occurred as alleged. The investigator(s) may allege standards violations additional to those named in the complaint.
 6. Neither party has a burden of proof. Rather, the investigator's task is to assemble information so that the Case Review 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(s) with accurate and timely evidence throughout the investigation and to state clearly how the evidence relates to the allegations.
 7. The investigator(s) will spend as much time as they determine reasonably necessary to gather enough information for the Case Review Panel to make an informed decision. The investigator(s) may contact as many people as they deem necessary -- these may be people suggested by the parties, by other sources or originate with the investigator(s). Some people may be interviewed more than once.
 8. The investigator(s) are not required to inform either party of people with whom they have spoken or materials collected except as used in the Investigator's report.
 9. At the close of the investigation, the investigator(s) will provide the IRP Chair their report. It will include a copy of the original complaint form, any written response, a chronological summary of the investigation that includes a summary of each

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10. interview, relevant information, correspondence and any exhibits submitted. The investigator(s) may elaborate the above items and include the investigator(s)' observations of affect and conditions not obvious in the collected data.
11. The above report will usually be sent by the IRP Chair to the parties within three days of his/her receipt. At the Chair's 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.

VI. The Case Review Remediation Panel

- A. A four person sub-committee of the Accreditation Commission is the designated fact-finding Case Review Remediation Panel if only 300 standards are alleged. If Ethics (100s's) Standards have been named, two of the four Case Review Panel members will be present or former members of the ACPE Professional Ethics Commission. All Panel members will be trained in processing complaints. The IRP Chair will chair the Panel but have no vote unless to break a tie.
- B. The investigator(s) and association ethics or legal consultant may be present during the Case Review but will not participate in the vote on final actions.
- C. The Case Review Panel receives the investigative report and recommends corrective/remedial action as necessary.
 1. The Case Review Remediation will proceed as follows:
 - a. Each party may submit to the Case Review Remediation Panel a written response to the materials it receives from the investigator(s). The response must be sent to the Panel Chair within fourteen calendar days from when the material is certified mailed and emailed to the party. The 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 fourteen-day period unless the Chair determines exceptional circumstances.
 - b. New information obtained from a party (a. above) will be shared with the other party at least ten days prior to the Case Review if time permits. The party receiving the information will have the opportunity to respond orally to it during the Case Review.
 - c. The Panel 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 ten days prior to the Final Case Review.

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- d. The Final Case Review may occur in person, or via videoconference telephonic means.
- e. Parties will receive at least four weeks' written notification of the meeting date, time and place if the Final Case Review occurs in person.
- f. Parties will be invited to meet for up to an hour with the Panel. Attendance will be at the party's own expense. A party may appear even if the other elects not to appear. Telephonic or videoconference means for either party may be arranged at the discretion of the Panel.
- g. Parties will receive at least two week's written notification of a telephonic or videoconference Case Review.
- h. If the Case Review is g. (above), the Committee will invite the parties to participate for up to one half hour each. If one party declines, the other may still be heard. ACPE bears the cost of the telephonic or videoconference Case Review.
- i. The Panel meets or speaks first with the complainant if he or she elects to participate.
- j. At its discretion, the Panel may invite written information, telephonic or video testimony, or appearance at the Final Case Review by non-party witnesses. These witnesses are not required to comply, may be responsible for their own expenses, and should receive at least two week's written notice of the review.
- k. The parties will not be present or heard at the same time before the Panel and will not be present for any portion of the Case Review other than their own testimony.
- l. Each party may be accompanied by a support person who will not be permitted to speak to the Panel but is free to consult with the party. The party will bear any costs associated with the support person.
- m. The Case Review Remediation Panel Chair will explain its process to each party and give each an opportunity to make a brief opening and closing statement. 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. The party may not offer new evidence at this time.
- n. The Panel may question the party about discrepancies in the information and invite the party's explanation.

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- o. The Panel may ask the party what he or she feels would be a reasonable outcome.
 - p. The 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.”
 - q. When reviewing 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.
 - r. The Panel will issue its findings in writing within 14 calendar days of the Case Review. No new evidence may be submitted or solicited at the parties’ initiative after this review. The Panel at its discretion may seek clarification from any source.
- D. After reviewing the evidence and deliberating, the Case Review Remediation Panel shall reach one of two decisions:
- 1. No violation of standards occurred.
 - 2. No violation of standards occurred, but the Panel has concerns about the respondent program’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 program to address the concerns. This letter is not considered a notation or reportable disciplinary action for any forum.
 - 3. A violation of the standards did occur.
- E. When the Review Panel finds a violation(s) of 300 standards did occur, it may recommend notation(s), suspension or withdrawal of accreditation. If the Panel finds violation(s) of 100 standards it may impose an appropriate sanction as listed in the [ACPE PEC Manual](#).

VII. Notification of Findings and Action for Case Review

- A. The Case Review Remediation Panel Chair will notify the respondent and complainant of the action taken. The notification to both parties of the complaint will be sent by certified mail and email, and shall include notification that either may appeal the decision. The limited grounds for appeal will be stated. Both shall be instructed not to make the notification public until the appeals process is over.

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- B. No public notification shall be made until after the appeal process is completed or time for an appeal has expired
- C. When no appeal is filed, an appeal is denied, or after the appeal process is completed, notification shall occur according to the Accreditation Notification process in the 2010 ACPE Accreditation Manual, Part Two, I. H.

VIII. Appeals Process

- A. Appeals of Panel decisions and actions are sent to the Chair of the Accreditation Commission who will appoint three members of the Commission not otherwise involved in the case to serve as the Appeal Panel. If 100's Ethics Standards are being appealed, two members of the Ethics Commission not otherwise involved in the case will be appointed by the Ethics Commission Chair to serve with the three Accreditation appointees.
- B. Findings and/or sanctions can be appealed by the respondent on the grounds stated below at "E".
- C. The complainant may appeal the finding but not the sanctions.
- D. Each party has thirty days from the sending of the Panel actions by certified mail and email to register an appeal with the Executive Director. The written appeal must include a statement of the grounds (E.) for the appeal and the evidence supporting them.
- E. An appeal is limited to one or more of the following grounds: (a) the party was refused reasonable opportunity to obtain and present evidence within these guidelines that could have substantially altered the outcome; (b) gross irregularity in the proceedings as established by these guidelines that could have substantially altered the outcome.
- F. The Case Review Remediation Panel Chair will provide the Appeal Panel the report received from the investigator as well as the minutes and summary of the Panel deliberations and any additional materials the Panel determines relevant to the Appeal Panel's decision to accept or deny the appeal.
- G. Whether the criteria for appeal have been met will be decided by the Appeal Panel on the basis of the written material submitted by the appellant and Case Review Remediation Panel. If grounds are not substantiated in the opinion of the Appeal Panel, the appeal is dismissed.
- H. If grounds are substantiated the Appeal Panel may take one of the following actions:
 - 1. Dismiss the original complaint and findings and set aside the action taken.
 - 2. Reinstate the complaint, reverse or modify the findings and impose sanctions.

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3. Re-open the investigation (with the original investigators) and request additional information.
4. Uphold the original findings but modify the action, e.g. reduce or increase level of sanction or modify the requirements of the program.
5. Uphold the original findings and sanction.

Substantial deference will be given to the recommendations of the Review Panel. Parties or Review Panel members may be contacted by phone, email, or mail for additional information to assist the Appeal Panel in reaching its decision.

Decisions by the Appeal Panel are final and binding on the Association, its members, programs and affiliates.