



## I. INTRODUCTION

### A. Purpose

Persons certified by the American Board of Examiners (“Board”) and applicants for certification are expected to maintain ethical conduct at the highest professional level. The Board has jurisdiction over certified members and applicants.

These Procedures for the Adjudication of Ethics Complaints provide a forum to review allegations of ethical violations committed by a person certified by the Board or by an applicant for certification.

The Board reaffirms its prior adoption of the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association as the substantive ethical standards applicable in all proceedings.

### B. Effective Date

These Procedures for the Adjudication of Ethics Complaints replace all prior procedures and apply to all ethics complaints received after May 28, 2021.

### C. Definitions

A Complaint is a written allegation of an ethical violation committed by a person certified by the Board or by an applicant for certification. For a Complaint to be considered by the Ethics Committee, it must be filed as outlined in Section III.

A Complainant is the person who files the Complaint.

A Respondent is the person against whom the Complaint is made.

The Ethics Panel is a group of three Board members who are appointed to review a Complaint. Members of the Ethics Panel will not have a conflict of interest or a dual relationship with the Complainant or Respondent. Unless disqualified by a conflict of interest or a dual relationship with the Complainant or Respondent, the Chair of the Ethics Committee (“Ethics Chair”) is a member of the Ethics Panel.

The Board Review Committee (“BRC”) is the appellate body that reviews the decision of the Ethics Panel. It is comprised of the remaining Board members who did not serve on the Ethics Panel and who do not have a conflict of interest or dual relationship with the Complainant or Respondent.

Certified mail refers to the delivery of written correspondence between the Board/reviewing bodies and the Complainant and Respondent. All communication between the Board/reviewing bodies and the Complainant or Respondent must be

by certified U.S. mail, return receipt requested or by a delivery service that requires signature at delivery, such as FedEx or UPS. If written correspondence is not sent to the Board/reviewing bodies by this type of delivery service, it will not be accepted. The only exception to certified mail is the use of email or regular postal mail between the Board/reviewing bodies and the Complainant or Respondent during the investigation phase of the Complaint process.

#### D. Remedies

Persons contemplating filing a Complaint should first consider whether a licensing or certification body or a larger professional organization, such as the APA, state licensure boards, or state bars, would provide the remedy sought and initiate an action with those organizations. A civil action or a criminal complaint may also provide the sought after remedy.

The Board is limited to the remedies that can be provided to a Complaint that has been adjudged proven. Specifically, the most severe punishment that the Board can impose is to suspend, expel or obtain a stipulated resignation of a certified psychodramatist from its membership or deny membership to an applicant for certification.

Possible actions the Board can take are listed in Section VII. Persons wishing to file a Complaint should consult this list to decide if the appropriate remedy is provided and to seek a different course of action if it is not.

## II. WHO MAY FILE A COMPLAINT

A Complaint may be filed by any person directly affected by an alleged ethical violation committed by a person certified by the Board, specifically a T.E.P., a P.A.T.<sup>1</sup> or a C.P. or by an applicant for certification.

Whether or not a Complainant is “directly affected” by the alleged ethical violation is committed to the sole discretion of the Ethics Panel.

For good cause,<sup>2</sup> the Board may initiate its own Complaint.

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<sup>1</sup> Technically, P.A.T.’s are not certified by the Board. This is a temporary registration state and a P.A.T. is already a C.P. It is listed here to avoid potential misunderstandings as to which persons are covered.

<sup>2</sup> The term “good cause” is a relative one and is dependent upon the circumstances of each particular case.

### III. HOW A COMPLAINT IS FILED

#### A. Initiating a Complaint

In order to initiate the Complaint process, a Complainant must first contact the Executive Director or President of the Board for an administrative screening and provide the following information: (1) the identity of the Complainant and the Respondent; (2) the date of the alleged violation; (3) if known, whether the Respondent is a certified member of ABE or an applicant for admission; and (4) if there is a pending complaint with a licensing or certification body/larger professional organization/state licensure board or a civil lawsuit or criminal charges.<sup>3</sup>

The information from the administrative screening is forwarded to the Ethics Chair, who will provide the Complainant with a Complaint form, a copy of these Procedures and a website link to the current Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association.

A Complaint is filed by mailing by certified mail a completed Ethics Complaint form to the Ethics Chair. The Ethics Complaint form should be both detailed and specific, with any and all documentation, affixed to the form.

The Chair of the Ethics Committee will determine if the Complaint meets the threshold requirement for review by an Ethics Panel. If the Complainant (or another party) has first filed a complaint with a licensing/certification body or a larger professional organization, such as the APA, state licensure boards, or state bars, or filed a civil lawsuit or criminal charges, no action on the Complaint will be taken until the Ethics Chair has received the findings of the licensure body or the court. (See Section IV). If there is no review by another board, organization or court, and the Complaint meets the threshold requirement, the President of the Board will appoint two additional members to the Ethics Panel.

#### B. Time Limitations

The Board will not address a Complaint received more than five years after the alleged ethics violation.

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<sup>3</sup> The matter will not proceed if the identity of the Complainant or Respondent is not provided; if the Respondent is not a certified member of ABE or an applicant for certification, or if the alleged violation is outside the five-year statute of limitation.

### C. Communications Regarding an Ethics Complaint

From the filing of the Complaint to the conclusion of the process, all communications to or from the Complainant or Respondent must be made in writing by certified mail with the exception listed in Section I-C. This paragraph does not apply to communications between Board members or between members of the Ethics Panel, the Board Review Committee, or the Executive Director.

## IV. DEFERRING PROCESSING OF A COMPLAINT

When a complaint has been filed with a licensing/certification body or larger professional organization,<sup>4</sup> the Board will not process the Complaint until the licensing/certification body or larger professional organization has concluded its proceedings. This deferment tolls the five-year limit imposed by the Board and referenced in Section III-B. If the licensing/certification body or larger professional organization makes factual findings, the Board, unless good cause exists to do otherwise, will adopt those findings, and will enter such decision as it deems appropriate.

When civil or criminal litigation is pending or has been filed, the Board will not process the Complaint until the litigation is concluded. This deferment tolls the five-year limit imposed by the Board and referenced in Section III-B. If the litigation results in factual findings, the Board, unless good cause exists to do otherwise, will adopt those findings, and will enter such decision as it deems appropriate.

## V. HOW THE BOARD PROCESSES A COMPLAINT

### A. Receipt of a Complaint

The Board will strive to handle all ethics complaints fairly and promptly, subject to a concurrent complaint being filed with another organization or pending litigation. (See Section IV).

Once the Chair of the Ethics Committee receives a Complaint, the Ethics Chair will determine if the Complaint meets threshold requirement for review by an Ethics Panel.

If the Chair of the Ethics Committee determines that the Complaint meets the threshold requirement for review, the President of the Board will appoint two additional members to the Ethics Panel. The Ethics Panel has the discretion to

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<sup>4</sup> This may include, but is not limited to, state bars for lawyers, licensing or certification bodies for educators, or APA and state licensure boards for mental health professionals. A Complainant may also consider civil litigation or filing a criminal complaint.

request additional information from the Complainant before it forwards the copy of the Complaint to the Respondent.

The Respondent will then be forwarded a copy of the Complaint, with a request to answer the allegations within thirty (30) days.

#### B. Confidentiality

The Board, the Executive Director, the Ethics Panel and the BRC, shall protect the confidentiality of the parties and the allegations filed under these Procedures to the extent possible. However, information about allegations filed under these Procedures and as part of the review shall be shared on a need-to-know basis. Records relating to Complaints under these Procedures shall be kept confidential on the same basis.

An exception to confidentiality is if the Board is subpoenaed by a court of law to disclose information obtained for the review.

#### C. Conflicts of Interest

If a Board member believes that s/he has a conflict of interest with respect to a particular Complaint, the Board member will disqualify him/herself from any involvement with that Complaint. The Board may overrule a member's decision not to disqualify him/herself, but may not overrule a member's decision to disqualify him/herself.

The Complainant and the Respondent can also request that an Ethics Panel member be disqualified because of a conflict of interest. This request must be made in writing, specifying the conflict of interest.

If a Board member or the Executive Director is a Complainant or Respondent, s/he shall have no involvement in the matter except in his/her role as Complainant or Respondent. If the President of the Board is disqualified, the Vice-President of the Board acts in the place of the President. If the Executive Director is disqualified, the President of the Board appoints a Board member to fill the Executive Director's role with respect to the particular Complaint. If the Vice-President of the Board is disqualified, the President of the Board appoints a Board member to fill the Vice-President's role with respect to the particular Complaint.

If there are not sufficient members to fill the roles, the President of the Board (or Vice-President if the President is disqualified) will select one or more certified psychodramatists as necessary to fill the roles. The appointed certified psychodramatists will be subject to the same responsibilities set forth in these Procedures.

#### D. Ethics Committee Chair and Ethics Panel

The Board will select an Ethics Committee Chair, who serves for one year and may be reappointed. The Ethics Committee Chair will serve on the Ethics Panel during year of service unless disqualified.

Each Ethics Complaint which is not deferred under section IV will be assigned by the Board President to an Ethics Panel, which shall consist of the Ethics Committee Chair, and two other Board members chosen by the Board President. The President of the Board, in consultation with the Vice- President, has the sole discretion to choose who serves on the Ethics Panel.

Each member of the Ethics Panel shall serve on that Panel until the conclusion of the Ethics review, even if s/he ceases to be a member of the Board prior to the conclusion of the ethics review.

#### VI. HOW THE ETHICS PANEL REVIEWS A COMPLAINT

The duty of the Ethics Panel is to review the Complaint and to recommend any action it deems appropriate. The Ethics Panel will make such factual findings and enter a decision. The Ethics Panel will apply a clear and convincing evidence standard of proof.<sup>5</sup> The Ethics Panel's findings and decision, and any recommended action, if any, will be in writing and will be promptly communicated to the Complainant and Respondent.

Because the Board lacks resources for the Ethics Panel to hold in-person hearings or take testimony from the parties or witnesses, in many instances it may be impossible for the Ethics Panel to resolve factual disputes. This will be particularly true when resolving a factual dispute requiring an assessment of credibility.

The review will ordinarily consist of written correspondence with the Complainant and Respondent to ascertain relevant facts. The Ethics Panel may communicate with third parties to the extent the Panel deems appropriate. The Ethics Panel will also consider any findings made by a licensing/certification board, larger professional organization, and court/jury, if applicable. The Ethics Panel will allow the Respondent the opportunity to respond to all allegations; responses must be in writing. The Ethics Panel will impose time limits for responses as the Ethics Panel deems appropriate.

#### **Respondent's non-cooperation with the Ethics Panel, including failure to communicate with the Ethics Panel in a timely manner or failure to**

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<sup>5</sup> This standard requires that the evidence show that it is highly probable or probably certain that the thing alleged has occurred.

**address the substance of the Complaint, is an independent ground for discipline.**

Failure to respond to the allegations may also result in the Ethics Panel making a finding of the facts as alleged by the Complainant.

If the Respondent chooses to resign from ABE, i.e. become de-certified (“Stipulated Resignation”), the Respondent can do so at any time before the Ethics Panel makes its findings, decision and recommendation. The Respondent must notify the Ethics Panel by certified mail. No findings will be made other than the notice of Stipulated Resignation and the matter will be deemed closed.

The Complainant and Respondent are expected to communicate with the Board only through the Ethics Panel. Direct communications from the Complainant or Respondent to Board members, other than those on the Ethics Panel, are not appropriate. If the Complainant or Respondent has any issues regarding the Ethics Panel, the issues must be communicated by letter to the Board President.

The Ethics Panel will report orally on the status of the case, at each Board Meeting, to all non-disqualified Board members, omitting the names of the Complainant and Respondent. At the conclusion of the review, the Ethics Panel will make a final report in writing to all non-disqualified Board members. The final report of the Ethics Panel will not contain the names of the Complainant or Respondent, but contain the allegations, the findings, and the action recommended, if any.

The Ethics Panel may meet by teleconference or videoconference at any time.

The Ethics Panel acts by majority vote at any meeting at which a quorum is present. A majority of the Panel constitutes a quorum.

## VII. ACTIONS TAKEN BY ETHICS PANEL

The Ethics Panel, unlike licensing bodies or court, has limited remedies available to it. If a Complainant believes the remedies listed below are not adequate, s/he should make the complaint to the appropriate body or pursue legal process.

The Ethics Panel may take any of the recommended actions:

- Dismissal of the Complaint
- Requiring further information for the review
- Educational advisory
- Private reprimand
- Private censure



- Suspension for a minimum of one year. When suspension is imposed, the person suspended must document to the Board that s/he has given notice to all current patients, trainees and clients of the suspension within thirty days (30) of final notice.<sup>6</sup> Failure to provide such document is grounds for expulsion.
- Expulsion
- Stipulated Resignation, which must be offered to the Respondent when a recommendation of expulsion is made. The Respondent may also choose Stipulated Resignation before the Ethics Panel makes its findings, decision and recommended action. (See Section VI.)
- Directives, as explained below

The purpose of Directives is to further evaluation or rehabilitation deemed appropriate by the Ethics Panel. Directives may include supervision, treatment, education, evaluation, or any other process deemed appropriate by the Ethics Panel. Compliance with Directives shall be monitored by the Board. Failure to comply with Directives is grounds for any action deemed appropriate by the Ethics Panel, including expulsion, after reasonable notice to Respondent and an opportunity for Respondent to be heard in writing. Compliance with Directives does not occur until (a) each Directive provider states that the psychodramatist has successfully completed the directives, (b) each provider states that the psychodramatist is fully capable and ready to be restored to full certification in psychodrama, sociometry, and group psychotherapy, and (c) each provider states that it is highly unlikely that unethical behaviors such as in the specific case will occur in the future.

If no appeal is taken within sixty (60) days of the issuance of the findings, decision and recommended action of an Ethics Panel, the findings, decision, and recommended action are final, and the recommended action becomes the final action. The matter will be considered closed and the Ethics Panel assigned to the matter will be disbanded. No further communication between the members of the Panel and either the Complainant or Respondent will be accepted.

## VIII. APPEAL FROM ETHICS PANEL'S DECISION

A Respondent or Complainant may appeal from any final findings, decision and recommended action of the Ethics Panel to the Board Review Committee ("BRC"). An appeal may only be taken within sixty (60) days of the issuance of the findings, decision, and recommended action of an Ethics Panel.

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<sup>6</sup> If Respondent does not request an appeal, s/he must notify his or her patients and trainees (if applicable) within 30 days of receiving notice. Respondent must make a timely request for appeal in order to toll this requirement. If the recommendation of the Ethics Panel is upheld, Respondent must notify his/her patients within 30 days of receiving the Ethics Panel's ruling unless an appeal to the BRC is made.

The BRC shall consist of all non-disqualified Board members, excluding the Ethics Chair and the other members of the Ethics Panel. A member of the BRC serves until the end of her or his membership on the Board. New Board members, unless disqualified, become part of the BRC.

The appeal is taken by mailing, by certified mail, to the Board President or Executive Director, a letter stating that the Respondent or Complainant wishes to appeal, and a statement of all grounds and reasons for the appeal, with all supporting documentation. The other party will receive a copy of the appeal by certified mail. The BRC may receive any additional documentation the parties wish to submit. This includes any findings made by a licensing/certification board, larger professional organization, and court/jury. The standard of review is *de novo*, that is, a new review without any deference to the findings, decision and recommended action of the Ethics Panel. Since this is a *de novo* review, the BRC will not communicate with the Ethics Panel regarding its review of the matter.

The duty of the BRC is to review the Complaint anew, and to recommend any action the BRC deems appropriate. The BRC will make such factual findings as it deems appropriate and enter a decision. The BRC will apply a clear and convincing evidence standard of proof. The BRC's findings and decision, and any recommended action, will be in writing and will promptly be communicated to the Respondent and Complainant.

Because the BRC lacks resources to hold in-person hearings or take testimony, in many cases, it may be impossible for the BRC to resolve factual disputes. This will be particularly true when resolving a factual dispute would require assessment of credibility.

The BRC review will ordinarily consist of written correspondence with the Complainant and the Respondent to ascertain relevant facts not already established by the Ethics Panel. The BRC will communicate with third parties to the extent it deems appropriate. The BRC will allow the non-appealing party the opportunity to respond to the appeal, imposing time limits for responses as it deems appropriate.

Recommended action may include any action that can be taken by the Ethics Panel. The BRC's action may be more severe, less severe or the same as the recommended action of the Ethics Panel.

Non-cooperation of party filing the appeal, which includes failure to communicate with the BRC in a timely manner, is grounds for dismissal of the appeal. Non-cooperation of the party not filing the appeal may result in the reversal of original decision made by the Ethics Panel.

The BRC may meet by telephone or video conference at any time.

The BRC acts by majority vote at any meeting at which a quorum is present. A majority of the BRC constitutes a quorum.

The BRC shall issue a final decision in writing, which shall be sent to the Complainant and the Respondent. The action of the BRC is final.

#### IX. WITHDRAWAL OF A COMPLAINT OR AN APPEAL

The Complainant may withdraw a Complaint at any time, for any reason, but it must be done in writing, by certified mail.

An Appeal may also be withdrawn at any time for any reason, but it must be done in writing, by certified mail. If an appeal is withdrawn, the final decision of the Ethics Panel will stand.

#### X. FILE MAINTENANCE

The Ethics Panel and the Board Review Committee will transmit copies of all file materials to the Executive Director at the conclusion of their respective review. The Executive Director will maintain all files concerning ethics complaints for at least ten (10) years after all proceedings are concluded. The Executive Director will maintain for at least twenty (20) years all files in which discipline was imposed.