

APPENDIX 13

POLICY FOR COMPLAINTS AGAINST THE ACPE CERTIFICATION COMMISSION

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 an Appendix in each Commission's current manual.

The Certification Commission ("Commission") is committed to fair and impartial administration of the [Certification Standards \(400's\)](#) ("standards") of the Association for Clinical Pastoral Education (ACPE). The Commission follows these standards in its established certification practices and administrative functions.

Allegations that the Commission or its representatives have failed to follow its processes or misapplied the standards will receive prompt, unbiased attention. "The Commission" refers to the Commission Chair and Commission members at the time the complaint is filed. If former Commission members held roles referenced in the complaint, the present Commission will consult with them as part of its response. "Representatives" refers to those persons appointed by the Commission (at the time of their appointment) and approved by the ACPE Board of Directors to function as regional certification chairs, the persons selected by the regional certification chair serving on certification review committees functioning at the site of the action giving rise to the complaints, and other persons delegated (or appointed) by the Commission to perform specific functions.

No source making a good-faith complaint will be retaliated against, harassed or jeopardized in certification decisions on the basis of having filed a complaint. ACPE works diligently to respect all parties to a complaint, their reasonable privacy and professional standing.

This complaint process does not apply to charges relating to negative certification actions. Those must follow the *Appeal of Negative Certification Decision(s) ACPE Standard 415* process set forth in [Appendix 7](#) of the [ACPE 2016 Certification Manual](#).

Complaint Review Process for Allegations of Commission Violations

I. General Information

- A. A complaint is a grievance presented in writing and signed, involving an alleged violation by the Commission or its representatives of the [ACPE Certification Standards 2016 \(400's\)](#) and/or [ACPE Ethics Standards \(100s\)](#) or Commission processes enumerated in the [ACPE Certification Manual 2016](#). The complaint must identify the specific standard(s) or process 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.

The complaint to the Commission must specify the particular role of the Commission representative(s) alleged to have violated each Standard. It must link the role to the alleged violation. The person filing the complaint 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.

- B. [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.

II. Inquiries and Filing of Complaints

- A. Complaints, or inquiries about filing them, are directed to:

ACPE
55 Ivan Allen Jr. Boulevard, Suite 835
Atlanta, GA 30308
confidential@acpe.edu

If the 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 *ACPE Complaint Form*, the *ACPE Certification Standards (400)* and the *Policy for Complaints Against the ACPE Certification Commission* will be mailed within a week of receipt of the inquiry. These materials are available on the [ACPE website](#).

- B. When the Program Manager receives the above material, it is sent to an Initial Review Panel (IRP) to confirm jurisdiction. The IRP consists of the ACPE Executive Director, ACPE Chairs of the Accreditation and Professional Ethics Commissions and the Standards Committee and appropriate consultant as the IRP determines. They will designate which will function as Chair throughout the process under this section.

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 complaint alleges a violation which if it occurred would violate the [certification standards \(400s\)](#) or Commission process and/or [ethics standards\(100s\)](#).
 2. the alleged violation occurred in a context and during a time the person/entity was subject to the Commission's processes or standards, and
 3. the complaint is filed within three months of the alleged event occasioning it or within three months of the completion of the Certification Commission/Certification process during which the alleged event occurred. 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 ACPE Executive Director sends the complaint and response form to the respondent(s) and requests a reply to him or her within 30 calendar days from the notification by certified mail and email.

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- 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:
 - 2.1. suggest mediation to the parties if the IRP feels it is appropriate.
 - 2.2. name additional standards to be considered.
 - 2.3. conclude there is cause for an investigation to commence.
 - 2.4. conclude there is not cause for an investigation and dismiss the complaint. (may suggest other avenues for addressing the situation alleged).
 - 2.5. conclude there is no cause for an investigation; based on the data at hand, refer for final Case Review and/or remediation and/or other resolution (Section 6).
 - 2.6. implement the determined options.

If an investigation will commence an investigator(s) is appointed by the Executive Director in consultation with the IRP.

C. Notification: The Executive Director will send notification within seven days by certified mail and email to the complainant(s) and respondent(s) of the action(s) (See B. above).

1. If there will be mediation, the ED makes the arrangements as set forth in 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 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 V. governs cases proceeding directly to the Investigative Phase; Section VI., those cases proceeding directly to remediation/resolution.

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 ED 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.

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- 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 re-commence 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 Chair and ACPE Executive Director will appoint an investigator(s). If there are Ethics Standards violations alleged, one investigator will be a present or former member of the Ethics Commission. The investigator(s) must have training in processing complaints. Any investigator(s) appointed on behalf of the Certification Standards must be a former Certification Commission member not connected to the complaint. The investigator(s) must have training in processing complaints. The investigative phase will proceed as follows:

- A. The investigator(s) will contact the complainant and respondent as soon as reasonably possible after receiving appointment.
- B. 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.
- C. Interviews will be held with each party before any witnesses are interviewed. Interviews can occur in person or by telephonic or videoconferencing means.
- D. If one party is interviewed in person, the other will be also.
- E. 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.
- F. The investigator(s) and/or her or his designees will function as information gathers. Information is assembled to allow the Case Review Remediation Panel to determine the facts on which a decision will be made as to whether a violation of the certification standards or ethics standards if implicated or Commission
- G. procedures occurred as alleged. The investigator(s) may allege standards violations additional to those named in the complaint.

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- H. Neither party has a burden of proof. Rather, the investigator's task is to assemble information so that the Case Review Remediation 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.
- I. The investigator(s) will spend as much time as they determine reasonably necessary to gather enough information for the Case Review Remediation 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.
- J. 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.
- K. 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 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.
- L. 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. The President of the ACPE Board in consultation with the IRP will appoint a four person Case Review Remediation Panel. If there are [100's Standards](#), two members of the Case Review Remediation Panel will be present or former members of the Professional Ethics Commission. Otherwise all panel members will be four former members of the Certification 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. This is the designated fact-finding body.
- B. The investigator(s) and association ethics or legal consultant may be present during the Review but will not participate in the vote on final actions
- C. The Case Review Remediation Panel receives the investigative report. The case review will proceed as follows:
 - 1. 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 IRP Chair, who chairs the Case Review Remediation Panel, within fourteen calendar days from when the material is certified mailed and emailed to the party. The Case Review Remediation 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.
 - 2. New information obtained from a party (a. above) will be shared with the other party at least ten days prior to the Final Case Review if time permits. The party receiving the information will have the opportunity to respond to it during the Final Case Review.

3. 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.
4. The Final Case Review may occur in person or by videoconference or telephonic means.
5. Parties will receive at least four weeks written notification of the meeting date, time and place if the Final Case Review occurs in person.
6. Parties will be invited to meet for up to an hour with an in-person Review 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 appearance for either party may be arranged at the discretion of the Review Panel.
7. Parties will receive at least two week's written notification of a telephonic or videoconference Final Case Review.
8. If the Final Review is telephonic or videoconference, the Panel 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 interview.
9. The Panel meets or speaks first with the complainant if he or she elects to participate.
10. At its discretion, the Panel may invite written information, telephonic or videoconference 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.
11. 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 Final Case Review other than their own testimony.
12. 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.
13. The 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.
14. The Panel may question the party about discrepancies in the information and invite the party's explanation.
15. The Panel may ask the party what he or she feels would be a reasonable outcome.
16. 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."

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17. 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.
18. The Panel will issue its findings in writing within 14 calendar days of its review. No new evidence may be submitted or solicited at the parties’ initiative after this review. The Review Panel at its discretion may seek clarification from any source.

D. After reviewing the evidence and deliberating, the Panel shall reach one of two decisions:

1. No violation of standards or process occurred.
2. A violation of standards or process did occur and they may recommend what follow up actions ACPE should take to rectify the violation and guard against future violations.
3. The ACPE President, President-Elect, Secretary, Treasurer, and Executive Director receive the Case Review Remediation Panel’s recommendations and accept or modify them. If any of these people are parties to the complaint process, the remaining four will appoint a member of the Board to fill the position. They may designate the present Certification Commission, some of its members or former members, none of whom have been involved in the case, to oversee and implement the Case Review Remediation Panel recommendations as approved or modified by the Board Officers.

E. The recommendations may include:

1. **Admonishment:** The Case Review Remediation Panel finds that the respondent(s) did violate the [400 standards](#) and/or Certification Commission processes, acknowledges the violation, and that education regarding the standards and processes is proportionally sufficient to the violation and will insure future compliance with the [400 standards](#) and processes.
2. **Reprimand:** This is a serious rebuke of the respondent(s). It is based upon an assessment that the respondent(s) 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 [400 standards](#) and certification processes. It may include increased supervision or other stipulations for continued participation in accreditation processes as recommended by the Case Review Remediation Panel.
3. **Suspension:** The Case Review Remediation Panel finds that the respondent(s) does not understand and/or accept responsibility nor appreciate the serious nature and/or consequences of the violation. Removal from participation in certification processes is not disproportionate to the violation. The suspension is in effect until a specifically identified problem or condition is addressed to the satisfaction of the Case Review Remediation Panel. The respondent(s) will meet with the Panel to demonstrate compliance to their satisfaction before the suspension is lifted. During this time the respondent(s) may not serve on regional or national committees, commissions, the Board and/or in other ACPE leadership roles.

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4. Removal permanently of the respondent(s) from participation in certification processes at the regional or national level. In the Case Review Remediation Panel's judgment, the respondent(s) demonstrates an essential lack of professional knowledge or procedures consistent with participation in certification processes.
- F. The complainant, respondent and any other parties will be notified by certified mail and secure email of the decision and outcome within 14 days of "D." (above).
- G. The decision is final and binding on the Certification Commission/PEC if applicable and the Association for Clinical Pastoral Education, Inc. and its members and affiliates.

VII. Appeal Process

- A. Appeals of Panel decisions and actions are sent to the Executive Director who with the Board President will appoint three members of the Board not otherwise involved in the case to serve as the Appeal Panel. If possible, the appointed board members will have served on the Certification Commission. If [100's Ethics Standards](#) are being appealed, at least one of the three appointees will have served on the Ethics Commission if possible. Appointees will be trained in complaint processes.
- B. Findings and/or remediation can be appealed by the respondent on the grounds stated below at "E".
- C. The complainant may appeal the finding but not the remediation.
- 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. below) 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 to the Appeal Panel the report received from the investigator as well as the minutes and summary of the Case Review Remediation Panel deliberations and any additional materials the Case Review Remediation 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.

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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.
3. Re-open the investigation (with the original investigators) and request additional information.
4. Uphold the original findings but modify the requirements of the remediation.
5. Uphold the original findings and remediation.

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

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