

PROVISIONS FOR IMPLEMENTATION OF THE PRINCIPLES OF ETHICS AND STANDARDS FOR PSYCHOANALYSTS

I. Committee on Ethics: There shall be a joint standing Committee on Ethics of the Board on Professional Standards and the Executive Council.

A. Composition and Appointment. The Committee on Ethics ("Committee") shall consist of seven members appointed jointly by the President of the Association ("President") and the Chair of the Board on Professional Standards ("Board Chair"). At least one of the seven members shall be a child analyst. Each member shall serve a staggered five year term; members will be appointed each year to replace members whose term has expired.

The President and Board Chair will jointly designate one member to act as chair of the Committee for a term of two years and, in the event of a vacancy on the Committee, will jointly appoint members to complete the unexpired term of the incumbent member. The President and the Board Chair will jointly appoint a substitute to replace any Committee member who recuses him/herself from a case or who is unable to serve for any other reason. In the event that the case involves a patient who is a minor the President and the Board Chair will assure that a child analyst will serve on the Committee. On completion of the disposition of such a case, the recused, or otherwise unavailable member shall resume his/her seat on the Committee.

B. Duties. The Committee on Ethics shall:

(1) Respond to communications regarding the "Principles and Standards of Ethics for Psychoanalysts" ("Principles") and the "Provisions for Implementation of the Principles of Ethics for Psychoanalysts" ("Provisions") and issue advisory opinions regarding the application of the "Principles" to particular conduct.

(2) Recommend to the Board on Professional Standards and the Executive Council appropriate additions or modifications to the "Principles" and "Provisions."

(3) Pursuant to procedures hereinafter described, review decisions of Affiliated Societies, Study Groups, Accredited and Provisionally Accredited Training Institutes (hereinafter, collectively, "local groups") with regard to complaints alleging that a member of the Association has breached the "Principles." Such review shall enable the Committee to (a) make a decision on the basis of the local group's investigation and decision, regarding the psychoanalyst's membership status in the Association; and (b) where appropriate, make recommendations to local groups regarding their handling and disposition of such matters.

(4) Complaints against colleagues who have no local membership will be heard by an ad hoc committee appointed by the Association President and the Chairman of the Board. Upon completion of this adjudication, the decision can be reviewed by the Ethics Committee of the American and/or appealed according to the usual procedures.

II. Association Procedures in Regard to Questions of Unethical Conduct

A. Advisory Opinions.

(1) Requests for advisory opinions will be referred to the Chair, Committee on Ethics for response. Copies of responses will be sent to the President and the Board Chair.

(2) The Committee will prepare summaries of any such advisory opinions rendered. Summaries will be distributed to the membership after approval by the Executive Committee or by the Board on Professional Standards and the Executive Council on referral from the Executive Committee.

B. Adjudication.

(1) A complaint alleging breach of the "Principles" by a member of the Association must be made directly to a local group.

(2) If a complaint alleging breach of the "Principles" is addressed to the Association, it shall be referred to the charged member's local group for investigation.

(3) The Association may also refer to a member's local group publicly available information about the member, including information about malpractice findings, adverse membership actions by professional societies, and loss or restriction of license, and request that the local group initiate an ethics investigation on the basis of such information.

III. Adjudication at the Local Level

A. Committee on Ethics of Local Group. Each local group shall have a Committee on Ethics for dealing with complaints of unethical conduct.

B. Informal Proceedings and Resolution.

(1) Each local group shall consider establishing mechanisms to enable it to determine whether to proceed pursuant to formal procedures outlined in Section III below, or to address the issues through more informal, nonadversarial proceedings which can facilitate the efficient resolution of the complaint in a manner that is educational and corrective to the member.

(2) The local group's procedures should include a description of any such informal mechanisms for resolution of which the complainant may take advantage and of any early, informal procedures by which the local group may decide to resolve the complaint through alternative, informal means, rather than through formal procedures.

C. Initial Response to Potential Complaint. The local group should furnish any potential complainant copies of the group's procedures for dealing with complaints of unethical conduct, and of the Association's "Principles" and "Provisions."

The complainant should also be informed that such complaint must identify the charged member; must be in writing and be signed by the complainant; must clearly describe the facts and circumstances surrounding the charge of unethical conduct, citing, if possible, the applicable principle(s) of ethics alleged to have been breached; and must be accompanied by a signed statement agreeing to the use of the local group's and the Association's procedures, asking that

action be taken and authorizing the distribution of the complaint and other materials submitted by the complainant in connection with the investigation.

D. Notification of Accused Member. The local group shall then notify the charged member of the complaint, providing copies of the complaint and other materials submitted by the complainant, the group's procedures for handling ethics complaints, and the Association's "Provisions."

E. Determination of Whether Complaint Merits Investigation. The local group shall determine whether the complaint merits investigation under the ethical standards established by the "Principles," and whether it might also constitute a violation of the rules of the charged member's professional licensing board. If it does not, the complainant and the charged member shall be so informed in writing. Since the adjudication was not completed, the Committee on Ethics can not accept a request for review nor can the Association consider an appeal. If the complaint is determined to merit further investigation, the charged member shall be informed in writing and notified of the right to a hearing, and that during the investigation and hearing, the rights set out in Section (F) below shall apply. If the complaint also appears to represent violations of the charged member's licensing board rules, the local group may choose to refer the complaint to that agency for investigation and adjudication, at the completion of which the local group will determine appropriate disposition of the case, applying the rights set out in Section (F) below.

F. Procedures of Local Group. The local group's procedures for handling complaints of unethical conduct must assure fair process and provide the charged member with the following:

- (1) the opportunity to be notified of, and to address, the charges;
- (2) the right to be represented by legal counsel;
- (3) the right to a hearing, including the right to call, examine and cross-examine witnesses, or reasonable alternatives thereto;
- (4) notice of not less than 30 days of the date, place, and time of the hearing, the witnesses expected to testify thereat; and the member's procedural rights at the hearing;
- (5) the right to submit a written statement at the end of any hearing;
- (6) the right to have a record made of the hearing proceedings and to have a copy of the record upon payment of reasonable charges; and
- (7) that relevant evidence will not be excluded from any hearings solely on the grounds that it would not be admissible in a court of law;
- (8) the right to receive (a) the written final decision or recommendation of the ethics committee or other hearing body, including a statement of the basis therefore, and (b) if the hearing body makes a recommendation to its local group or other body of the local group, a written final decision of the group, including a statement of the basis for the decision.

G. Decision of Local Group. In any case in which formal procedures have been followed, after full and fair consideration of the complaint and all the evidence introduced at the hearing, the local group shall arrive at a determination as to the appropriate disposition of the case. In addition to any other disposition, the local group's procedures may enable it to (1) conclude that unethical conduct may have occurred but recommend that no formal finding be made and no sanction imposed pending completion of remedial action recommended and agreed to by the charged member; or (2) dismiss the charges with prejudice, accompanying the dismissal with a letter of admonition, expressing the sense that there may be questions about the member's practices or judgment and putting the member on notice that further education, consultation and/or supervision may be indicated as well as possible sanctions.

H. Notification of Charged Member and of American Psychoanalytic Association. After arriving at a decision, the local group shall advise the charged member, and the complainant complainant of the action taken by the local group. If the decision of the local group is to censure, suspend or expel the charged analyst, the local group shall also notify, the President of the Association, the Chair of the Board on Professional Standards and the chair of the Committee on Ethics.

I. Local Appeal Process. Each local group is strongly urged to establish a procedure for a local appeal of procedures used for investigation and/or the final local adjudication.

IV. Review of Decision of Local Group and Action by Association

A. Purpose of Review. The Association shall review a local group's investigation and decision in order (1) to determine whether action by the Association is appropriate, and (2) where appropriate, to make recommendations to local groups regarding their handling and disposition of the case.

B. Circumstances of Review. The Association shall review an investigation and decision by a local group under the following circumstances:

(1.) Automatic Review. If a member of the Association has been censured, suspended, or expelled by a local group, or if his/her faculty status in an accredited Institute has been suspended or terminated as a result of adjudication of complaints of unethical conduct, a review of the case shall be promptly undertaken.

(2.) Requested Review. If the disposition of a case is other than censure, suspension or expulsion by a local group, or suspension or termination of a member's faculty status in an accredited Institute, the Association shall undertake a review of the case if formal request for such review is made to the President of the Association, by the member(s) charged, the complainant, or the local group, within 60 days after notification of the group's decision.

(a) Each such request by a complainant or charged member shall include the reasons for dissatisfaction with the action taken at the local level.

(b) Each such request by the charged member also shall include adequate information regarding the charge, and his/her defense.

(c) Each such request by a local group shall include identification of the charges and the persons involved, a description of all attempts by the group to resolve the matter, and the reason for referral to the Association.

(3) The Committee on Ethics of the American Psychoanalytic Association will not review any decision of a local group regarding a member if the Committee has already reviewed a decision regarding the same complaint or a complaint based on substantially the same facts about the member. This would have particular relevance to those societies and institutes that do not have joint ethics committees.

C. Process of Review.

(1) The initial review of the investigation and decision of a local group shall be conducted by the Association's Committee on Ethics, which may confer with the President and legal counsel of the Association.

(2) The Committee on Ethics will request all records of the investigation from the local group and will review the procedures used by the local group, its interpretation and application of the Association's "Principles" and its decision regarding the conduct complained of and any sanction imposed.

(3) In the course of its review, the Committee on Ethics may, but shall not be required to, request written briefs from complainant or counsel for complainant, charged member or counsel for the charged member, and the local group or counsel for the local group. Any brief received from the complainant or the local group shall be provided to the charged member, who shall be given at least 30 days to respond. Personal appearance before the Committee by the complainant, charged member, or local group representatives may be requested.

(4) The Committee on Ethics shall prepare a written summary of the case, including its decision and the basis of its decision.

D. Outcome of Ethics Committee Review.

(1) On the basis of its review of the investigation and decision of the local group, the Committee, by majority vote with no more than **two** members dissenting or abstaining, shall decide what action the Association should take with regard to the complaint filed against the charged member. While based on the information gathered by the local group, the decision of the Committee on Ethics may differ from the decision arrived at by the local group. The Committee on Ethics shall vote for one of the following measures:

(a) Exoneration. The charged member is cleared from blame as the evidence established no unethical conduct by the member.

(b) Dismissal of Complaint Without Prejudice. This disposition permits new proceedings with respect to the same charge at a later date; i.e., when a determination on the merits cannot be made because of insufficient reliable evidence or other procedural defects.

(c) Dismissal of Complaint With Prejudice. The complaint is dismissed without any finding of unethical conduct; proceedings with regard to the same complaint may not be reinstituted.

Where appropriate, such a dismissal may be accompanied by a letter of admonition, expressing the sense of the Association that there may be questions about the appropriateness of the conduct of the charged member and putting the member on notice that further education, consultation and/or supervision may be indicated.

(d) Censure.

(e) Suspension from the Association. Such suspension shall be for a stipulated period, not to exceed three years from date of suspension.

(f) Separation from the Rolls. A new application for membership in the Association shall not be entertained in less than five years from date of separation.

(g) Permanent Expulsion from the Association.

(2) On the basis of its review, the Committee may also decide to consult with the local group regarding its procedures in investigating the complaint of unethical conduct, its interpretation of the Association's "Principles" and its decision regarding the conduct complained of and sanction imposed. However, the Committee and the Association may not otherwise reverse or modify the decision of the local group.

E. Procedure Following Committee on Ethics

(1) The Committee on Ethics shall forward a summary of the case, including a statement of the basis of its decision, to the President of the Association. The President shall notify the charged member, the complainant, and the local group of the decision and shall provide the charged member with a copy of the summary.

(2) If the decision of the Committee on Ethics has been to exonerate the charged member, to dismiss the complaint with or without prejudice, or to censure the charged member, the charged member also shall be advised that such decisions of the Committee are final, and unappealable.

(3) If the decision of the Committee on Ethics has been to suspend, separate from the rolls, or expel the charged member, the decision is not final unless it has been ratified by the Executive Council pursuant to the procedures set out in Section IV(E)(4), below. When the President notifies the charged member of such a decision, the President also shall notify the member that he/she must indicate in writing within 30 days from the date of mailing of the notice, that he/she either accepts the decision or that he/she wishes to appeal it. Unless written notification from the charged member is received within the specified time, the right to appeal shall have been forfeited.

(4) Executive Council Ratification or Appeal. Following notification of all parties as set out above, the Chair of the Committee on Ethics shall present the case and its conclusions to the Executive Council sitting in Executive Session.

(a) When Appeal Not Requested. When the charged member has not requested an appeal, The Executive Council shall decide whether or not to ratify the decision of the Committee on Ethics.

(i) If the Executive Council by majority vote, decides to ratify the decision of the Committee on Ethics, the decision will be final. The Executive Council may prepare its own written decision of the case or adopt the conclusions of the Committee on Ethics as the decision of the Association.

(ii) If the Council fails to ratify the decision of the Committee on Ethics, the Council may refer the matter back to the Committee on Ethics for further deliberation and may specify questions or concerns it has about the matter.

(iii) If the Executive Council refers the matter back to the Committee on Ethics, the Committee shall reconsider its decision, following procedures set forth in Sections IV(C), (D) and (E). The President shall notify all concerned parties of the Council's decision, provide the charged member with current status of the matter and remind the member of his/her right to appeal as set out in IV(E)(3). If the charged member does not exercise the right to appeal, the matter will again be presented for Executive Council consideration as set out herein.

(iv) On the Executive Council's ratification of the decision of the Committee on Ethics, whether at initial or subsequent presentations, the charged member, complainant and local group shall be notified of its decision. The charged member shall be provided a copy of the final decision.

(b) When Appeal Requested; Executive Council Ratification. If the charged member exercises his/her right to appeal the decision of the Committee on Ethics, the President and Board Chair shall jointly appoint an Executive Council Ethics Appeals Committee consisting of five members, including at least two Councilors-at-Large, and at least one Executive Councilor. The remaining two members shall be former members of the Committee on Ethics. If the case involves a minor patient the Appeals Committee must include a child analyst. The appointment and composition of the Ethics Appeals Committee shall be confirmed by a majority vote of the Executive Council. This Committee is empowered to act on behalf of the Executive Council in adjudicating the charged member's appeal, and its decision shall be final. The Committee shall review the record of the proceedings to ascertain that proper procedures have been followed. If it deems further fact finding is required, it shall refer the matter to the Committee on Ethics for the necessary further investigation and deliberation. On completion of its further review of the matter, the Committee on Ethics shall report its decision on reconsideration of the matter to the Ethics Appeals Committee. A majority vote of this Committee shall be required to reach a final disposition of the matter. This Committee's final disposition shall be reported to Council and its report shall be considered an action by Council without further debate or vote by Council.

V. Confidentiality and Disclosure

All information and records pertaining to a charge of unethical conduct against a member, its investigation and any decision rendered shall be kept confidential except as set forth herein. Disclosure is authorized in the following instances:

A. Information may be disclosed to those members, staff and non-member consultants who need the information to assure the effective administration of these procedures.

B. A decision relating to a charge of unethical conduct, which has been reviewed and ratified by the Executive Council:

(1) shall be reported with identification of the member, to the Meeting of Members in the Secretary's report of the Minutes of the Executive Council and in such written Minutes, circulated by mail to the membership of the Association if the decision has resulted in the suspension, separation from the rolls, or expulsion of the member from the Association;

(2) shall be reported to the membership of the Association as noted in V(B)(1) above if the decision has resulted in the censure of the member, with the identification of the member included only at the discretion of the Executive Council; and

(3) shall be reported, to the membership of the Association as noted above, if the decision has been to dismiss the charges or exonerate the member, with the identification of the member only on his/her written request.

C. The Committee on Ethics may, at its discretion, report decisions or disclose other matters brought before it to other components of the Association, provided the identity of the parties involved is not revealed.

D. The Committee on Ethics shall provide information concerning a charge of unethical conduct, including the name of the charged member, to the Association's Membership Committee and the Board's Certification Committee when either of these committees consider an application from a member who has been sanctioned for unethical conduct. This information should also be supplied to the Appointments Committee chairs of the Board and Council.

E. The Committee on Ethics may disclose a decision concerning a charge of unethical conduct to other appropriate ethical bodies or, when required by law, to appropriate governmental or other entities.

F. The Executive Council may report an ethics complaint or a decision finding that a member has acted unethically to any licensing authority, professional society or other entity or person if it considers such disclosure appropriate to protect the public.

VI. Resignation

The Association shall not be required to accept a resignation from a member against whom a charge of unethical conduct is pending. An offer of resignation, whether or not it is accepted by the Association, shall not require the termination of an investigation of unethical conduct, nor prevent the rendering or disclosure of a decision on such a charge.

VII. Indemnification

As a condition of membership in the Association, each member agrees to cooperate with the work of the Committee on Ethics, on request, and to release, hold harmless and indemnify the Association, its officers, agents and members of the Committee on Ethics from any and all claims:

A. arising out of the institution and processing of investigations of unethical conduct in respect to said member, and the imposition and disclosure of sanctions as a result of such proceedings; and

B. with respect to any third party action or proceeding brought against such member based upon, relying on, arising from or with reference to the Principle of Ethics and Standards of the Association or any ethical proceeding conducted by the Association involving such member.