
Rules and Procedures

March 1, 2016

Ethics Committee of the American Psychological Association

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Overview

This brief overview is intended only to help the reader understand the structure of these Rules and Procedures (Rules). The overview is not binding on the Ethics Committee or participants in the ethics process and is not an independent source of authority.

These Rules are divided into five parts, which are further subdivided by sections and subsections. The table of contents lists the major section headings.

Parts I and II: General Provisions

Part I describes the objectives and authority of the Ethics Committee. Part II states the Committee's general operating rules. These address such areas as confidentiality and disclosures of information concerning ethics cases; maintenance and disposition of Ethics Committee records; the Committee's jurisdiction, including the time limits within which ethics complaints must be filed; bars to resignation; requests to reopen a closed case; and descriptions of the various sanctions and directives that may be imposed.

Parts III-V: Processing and Review of Complaints and Other Matters by the Ethics Committee

Membership Matters

The Ethics Committee may review applications or reapplications for membership in APA and may review allegations that membership was obtained based upon false or fraudulent information. These procedures are described in Part III.

Investigations of Unethical Conduct

These Rules describe two types of investigations: show cause proceedings and reviews of alleged unethical conduct. The Committee may choose to deal with a matter according to either procedure and may convert an investigation from one type to another as appropriate. A show cause review is commenced based on an adverse action by another body; a review of alleged unethical conduct is initiated by a complainant or the Committee and charges violation of the Ethics Code.

Show Cause Proceedings

The show cause procedure, addressed in Part IV, can be used when another body—including criminal courts, licensing boards, and state psychological associations—has already taken specified serious adverse action against a member. For example, if a member has been convicted of a felony or equivalent criminal offense; has been expelled or suspended by

a state psychological association; or has been decertified, unlicensed, or deregistered or had a certificate, license, or registration revoked or suspended by a state or local board, the Committee may open a show cause case. If the respondent does not respond, he or she will be automatically expelled. The respondent may ask that the pending expulsion be reviewed, in which case the respondent will have 60 days to explain why APA should not expel the respondent from membership on the basis of that prior action. The respondent may show that procedures used were not fair and may argue the merits of the previous action. If the respondent asks for a review, the Committee recommends to the Board of Directors whether the respondent should be expelled or allowed to resign under stipulated conditions, reprimanded or censured, or cleared of the charges.

At the outset of the case, instead of contesting the charges, the respondent may offer a resignation, which is deemed a resignation while under ethics investigation.

Time limits for initiating show cause cases are stated in Part II, Section 5.3.4.

Complaints Alleging Violation of the Ethics Code

Investigations detailed in Part V include those brought by members and nonmembers of the Association and those initiated by the Ethics Committee (*sua sponte* complaints). Complaints must be submitted within specified time periods or allege serious misconduct for which a waiver of the time limit may be granted. (See Part II, Section 5.) Even with a waiver of the time limit, the Committee may not find violations for behavior that occurred 10 years or more before the complaint was filed.

Complaints are evaluated initially by the Ethics Office Director, or Investigators acting as the Director's designees, regarding jurisdictional issues such as whether the subject of the complaint, the respondent, is a member, whether the complaint form is correctly completed, and whether the time limits for filing have been met. Then the Chair of the Ethics Committee and Director of the Ethics Office or their designees determine whether there are grounds for action to be taken by the Committee (defined in Part V, Subsection 5.1). If necessary, the Chair and Director conduct a preliminary investigation (described in Part V, Section 5.3) to assist in making these threshold determinations. If the Committee has no jurisdiction or if cause for action does not exist, the complaint is dismissed. If the Committee has jurisdiction and cause for action exists, the Director will open a case, issue a specific charge letter, and conduct an investigation. The respondent is afforded an opportunity to comment on all evidence that will be considered by the Committee and upon which the Committee may rely in its review of the complaint. At the conclusion of the investigation, the case is referred to the Committee for review and resolution.

In resolving a case, the Committee may dismiss it; recommend that it be resolved with a reprimand or censure, with or without supplemental directives; recommend to the Board of Directors that the respondent be expelled from membership; or offer the member the option of resigning subject to stipulated conditions and subject to approval by the Board of Directors.

If the Committee recommends any action other than dismissal or stipulated resignation, the respondent has a right to an independent case review and evaluation or, in the case of a recommendation of expulsion, a formal hearing or an independent adjudication. In an independent adjudication following a recommendation of censure or reprimand, the respondent provides a rationale for nonacceptance of the Committee's recommendation, and a three member panel, selected by the respondent from six members of the Board of Directors' standing Hearing Panel, provides the final adjudication based on the written record. The Director implements the final adjudication, whether based on the panel's decision or the respondent's acceptance of the Committee's recommendation.

A formal hearing is an in-person proceeding before a formal hearing committee, which makes an independent recommendation to the Board of Directors. The respondent may elect to have an independent adjudication instead of a formal hearing. The Board reviews the recommendation of the hearing committee, independent adjudication panel, or, if no hearing was requested, the Ethics Committee, and must adopt that recommendation unless specified defects require the matter to be remanded for further actions.

At the outset of the case, instead of contesting the charges, the respondent may offer a resignation, which is deemed a resignation while under ethics investigation.

Adoption and Application

The revised Rules and Procedures of the Ethics Committee of the American Psychological Association, which are set forth below, were approved by the APA Board of Directors on December 9, 1995, with an effective date of June 1, 1996. Further revisions that allow respondents to resign while under ethics investigation and that call for the automatic expulsion with a right of review for show cause respondents were approved by the APA Board of Directors on August 25, 2001. Those revisions applied to all respondents against whom complaints or notices of show cause predicates were received by the APA Ethics Office on or after October 1, 2001. The newest revisions were approved by the APA Board of Directors on December 11, 2015 and apply to all respondents against whom complaints or notices of show cause predicates are received by the APA Ethics Office on or after March 1, 2016 as well as all matters pending on the effective date of March 1, 2016, except, as provided in Part II, Subsection 1.3 of these

Rules. In the event application of the revised Rules and Procedures would adversely affect the rights of a member, the pertinent provisions of the Rules and Procedures in effect at the time the member came under the scrutiny of the Ethics Committee will be applied. Failure by the Committee or APA to follow these Rules and Procedures shall be cause to set aside action taken under these Rules only in the event such failure has resulted in genuine prejudice to the respondent.

Part I. Objectives and Authority of the Committee

1. Objectives

The fundamental objectives of the Ethics Committee (hereinafter the Committee) shall be to maintain ethical conduct by psychologists at the highest professional level, to educate psychologists concerning ethical standards, to endeavor to protect the public against harmful conduct by psychologists, and to aid the Association in achieving its objectives as reflected in its Bylaws.¹

2. Authority

The Committee is authorized to

2.1 Formulate rules or principles of ethics for adoption by the Association;

2.2 Investigate allegations of unethical conduct of members (to include fellows) and associates (hereinafter members) and, in certain instances, student affiliates and applicants for membership;

2.3 Resolve allegations of unethical conduct and/or recommend such action as is necessary to achieve the objectives of the Association;

2.4 Report on types of complaints investigated with special description of difficult cases;

2.5 Adopt rules and procedures governing the conduct of all the matters within its jurisdiction;

2.6 Take such other actions as are consistent with the Bylaws of the Association, the Association Rules, the Association's Ethics Code, and these Rules and Procedures, and as are necessary and appropriate to achieving the objectives of the Committee;

2.7 Delegate appropriate tasks to subcommittees, ad hoc committees, and task forces of the Ethics Committee; to Committee Associates; or to employees or agents of the Association, as necessary or appropriate. All of these individuals and groups shall in any such event be fully bound by these Rules and Procedures.

¹In December 1995, August 2001, and December 2015, the APA Board of Directors adopted these Rules and Procedures to replace the earlier set (which was published in the December 1992 issue of the *American Psychologist*, pp. 1612-1628). The Rules are available on the APA website and from the APA Ethics Office, 750 First Street, NE, Washington, DC 20002-4242.

Part II. General Operating Rules

1. General Provisions

1.1 APA Documents.² The Committee shall base its actions on applicable governmental laws and regulations, the Bylaws of the Association, the Association Rules, the Association's Ethics Code, and these Rules and Procedures.

1.2 Applicable Ethics Code. Conduct is subject to the Ethics Code in effect at the time the conduct occurred. If a course of conduct continued over a period of time during which more than one Ethics Code was in effect, each Ethics Code will be applicable to conduct that occurred during the time period it was in effect.

1.3 Rules and Procedures. The Committee may adopt rules and procedures governing the conduct of all matters within its jurisdiction, and may amend such rules from time to time upon a two-thirds vote of the Committee members, provided that no amendment shall adversely affect the rights of a member of the Association whose conduct is being investigated by the Ethics Committee or against whom the Ethics Committee has recommended expulsion, stipulated resignation, voiding membership, censure, or reprimand at the time of amendment. Changes to the Rules and Procedures must be ratified by the Board of Directors acting for the Council of Representatives.

1.4 Compliance With Time Requirements. The APA and the respondent shall use their best efforts to adhere strictly to the time requirements specified in these Rules and Procedures. Failure to do so will not prohibit final resolution unless such failure was unduly prejudicial. Upon request, the Director may extend time limits stated in these Rules for submitting statements or responses if there is good cause to do so. In all cases in which a time limit for submitting a response is stated in these Rules and Procedures, the period specified is the number of days allowed for receipt of the response by the Ethics Office.

1.5 Computation of Time. In computing any period of time stated by these Rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next business day.

2. Meetings and Officers

2.1 Frequency and Quorum. The Committee shall meet at reasonable intervals as needed. A quorum at such meetings shall consist of the majority of the elected members of the Committee.

2.2 Selection of Officers. The Chair and Vice Chair shall be elected annually at a duly constituted meeting.

2.3 Authority. The Vice Chair shall have the authority to perform all the duties of the Chair when the latter

is unavailable or unable to perform them and shall perform such other tasks as are delegated by the Chair or by these Rules.

2.4 Majority Rule. Except as otherwise noted in these Rules and Procedures, all decisions shall be by majority vote of those elected members present or, in the case of a vote by mail, a majority of those elected members qualified to vote.

2.5 Designation of Responsibilities. The Chief Executive Officer of the Association shall designate a staff member to serve as Director of the Ethics Office. Whenever they appear in these Rules, "Chair," "Vice Chair," "Director," and "President" shall mean these individuals or their designees.

2.6 Attendance. Attendance at the Ethics Committee's deliberation of cases is restricted to elected members of the Committee, Committee Associates, the Director of the Ethics Office, the Ethics Office staff, members of the Board of Directors, Legal Counsel of the Association, and other duly appointed persons authorized by the Committee to assist it in carrying out its functions, except when the Committee, by two-thirds vote, authorizes the presence of other persons.

3. Confidentiality and Notifications

3.1 Requirement of Confidentiality. All information concerning complaints against members shall be confidential, except that the Director may disclose such information when compelled by a valid subpoena, in response to a request from a state or local board or similar entity,³ when otherwise required by law, or as otherwise provided in these Rules and Procedures. Such information may also be released when the Chair and the Director agree that release of that information is necessary to protect the interests of (a) the complainant or respondent; (b) other investigative or adjudicative bodies; (c) the Association; or (d) members of the public, and release will not unduly interfere with the Association's interest in respecting the legitimate confidentiality interests of participants in the ethics process and its interest in safeguarding the confidentiality of internal peer review deliberation.

3.2 Access by Staff, Legal Counsel, and Other Duly Appointed Persons. Information may be shared with Legal Counsel of the Association, with the Chief Executive Officer of the Association, with staff of the Association's Central Office designated by the Chief Executive Officer to assist the Committee with its work, and with other duly appointed persons authorized by the Committee to assist it in carrying out its functions. Subject to the confidentiality provisions in these Rules, these persons are authorized to use this information for the purposes set out in these Rules regardless of whether the person providing the information has executed a release.

3.3 Notification in Connection with Investigation or Final Disposition of Investigation.

Where these Rules provide for notification of final disposition of a matter, this notification shall include the ethical standard(s)⁴ that were judged to have been violated and, if violation is found, the standards not violated, and the sanction (including a statement that directives were given), if any. In show cause proceedings under Part IV, this notification shall describe the type of underlying action (e.g., loss of license) without reference to the underlying behavior. In matters in which membership is voided under Part III, Subsection 3.3, the notification shall indicate that membership was voided because it was obtained on the basis of false or fraudulent information. In any of these matters, the rationale may also be included (a) if the notification is required by these Rules, at the discretion of the Board or Committee, (b) if the notification is not required, at the discretion of the entity or person (i.e., the Board, the Committee, or the Director) authorizing the notification, or (c) as set forth in a stipulation.

3.3.1 Respondent. The Director shall inform the respondent of the final disposition in a matter. This notification shall include the rationale for the Association's actions. As used in these Rules and Procedures, the term *respondent* includes any member, student affiliate, or membership applicant who is under the scrutiny of the Ethics Committee.

3.3.2 Complainant. The Director shall inform the complainant of the final disposition in a matter and of the respondent's resignation while under ethics investigation. The Director may also at any time, as a matter of discretion, provide such information as is necessary to notify the complainant of the status of a case.

3.3.3 Membership. The Director shall report annually to the membership the names of members who have lost membership due to unethical behavior and the names of members who have resigned their membership while under ethics investigation. For those members who lost their membership, the Director will also report the ethical standard(s) violated or the type of underlying action for a show cause case or that membership was voided because it was obtained on the basis of false or fraudulent information. No report to membership shall be made for other stipulated resignations in which such a report was not stipulated.

3.3.4 Council of Representatives. The Director shall report annually and in confidence to the Council the names of members who have been allowed to resign under stipulated conditions and who have resigned while under ethics investigation.

3.3.5 Other Entities. When the Board of Directors or the Committee determines that further notification is necessary for the protection of the Association or the public or to maintain the standards of the Association, the Director shall communicate the final disposition to those groups and/or individuals so identified. Such notification may be made to (a) affiliated state and regional associations,⁵ (b) the American Board of Professional Psychology, (c) state or local boards or

similar entities, (d) the Association of State and Provincial Psychology Boards, (e) the Council for the National Register of Health Service Providers in Psychology, and/or (f) other appropriate parties.

3.3.6 Other Parties Informed of the Complaint. The Director may inform such other parties as have been informed of any matter reviewed under these Rules of the final disposition of that matter. Parties with knowledge of a matter may have been informed by the Committee, the Director, the respondent, or the complainant.

3.3.7 Notification in Cases That Have Been Converted. In any cases that have been converted under Part II, Subsections 7.3 or 7.4, the complainant and other persons informed of the complaint shall be notified of final disposition, including the fact that there has been a stipulated resignation, as set forth in Part IV, Subsections 12.1.2 and 12.2.1 and Part V, Subsection 7.6.5.

3.3.8 Disclosure of Fact of Investigation. The Director may disclose to any of the entities enumerated in Subsection 3.3.5 (a)-(f) of this part the fact that an individual is under ethical investigation in cases deemed to be serious threats to the public welfare (as determined by a two-thirds vote of the Committee), but only when to do so before final adjudication appears necessary to protect the public.

3.3.9 Notification of Additional Parties at the Request of Respondent. The Director may notify such additional parties of the final disposition as are requested by the respondent.

3.3.10 Notification of Loss of Membership Upon Written Request. The Association shall inform any person who submits a written inquiry concerning a psychologist that a former member has lost membership due to unethical behavior, that a former member has resigned while under ethics investigation, or that an individual's membership was voided because it was obtained on the basis of false or fraudulent information. The notification will not include actions that were already decided or were under the scrutiny of the Committee prior to June 1, 1996, or stipulated resignations unless so stipulated.

3.4 Initiation of Legal Action Constitutes Waiver. Initiation of a legal action against the Association or any of its agents, officers, directors, employees, or volunteers concerning any matters considered or actions taken by the Ethics Committee or Director shall constitute a waiver by the person initiating such action of any interest in confidentiality recognized in these Rules or other organic documents of the Association with respect to the subject matter of the legal action.

3.5 Communication for Investigation or Other Functions. Nothing in this section shall prevent the Director from communicating any information (including information from the respondent, complainant, or a witness) to the respondent, complainant, witnesses, or other sources of information to the extent necessary to facilitate the performance of any functions set forth in these Rules and Procedures.

4. Records

4.1 Confidentiality of Ethics Files. Files of the Committee related to investigation and adjudication of cases shall be confidential, within the limitations of Section 3 of this part, and shall be maintained, consistent with these Rules and Procedures.

4.2 Investigation Files. Investigation records containing personally identifiable information shall be maintained for at least five years after a matter is closed.

4.3 Files Involving Loss of Membership. In cases in which members have lost membership, records shall be maintained indefinitely, except as provided in Subsection 4.4 of this part.

4.4 Readmission or Death of a Member. Records concerning members whom the Association has readmitted to membership or determined to be deceased shall be maintained for at least five years after that determination was made.

4.5 Records for Educative Purposes. Nothing in these Rules and Procedures shall preclude the Committee from maintaining records in a secure place for archival or record keeping purposes, or from using or publishing information concerning ethics matters for educative purposes without identifying individuals involved.

5. Jurisdiction

5.1 Persons. The Committee has jurisdiction over individual members (to include fellows), associate members, and applicants for membership in the American Psychological Association. The Committee shall also have jurisdiction over student affiliates, but only to the extent that the conduct at issue is not under the direct supervision of the student's educational program or of a training site that is officially approved by the program as part of the student's supervised training.⁶

5.2 Subject Matter. The Committee has jurisdiction to achieve its objectives and perform those functions for which it is authorized in these Rules and Procedures and other organic documents of the Association.

5.3 Time Limits for Complaints and Show Cause Notices

5.3.1 Complaints by Members. Except as provided in Subsections 5.3.5 and 5.3.6 of this part, the Committee may consider complaints brought by members of the Association against other members only if the complaint is received less than three years after the alleged conduct either occurred or was discovered by the complainant.

5.3.2 Complaints by Nonmembers and Student Affiliates. Except as provided in Subsections 5.3.5 and 5.3.6 of this part, the Committee may consider complaints brought by nonmembers and student affiliates only if the complaint is received less than five years after the alleged conduct either occurred or was discovered by the complainant.

5.3.3 Sua Sponte Complaints. Except as provided in Subsection 7.4 of this part, the Committee may initiate a *sua sponte* complaint under Part V of these Rules and Procedures only if it does so, or has provided the notice specified in Subsection 5.6.2 of this part, less than one year after it discovered the alleged unethical conduct and less than 10 years after the alleged conduct occurred, except that whether or not such periods have expired, the Committee may initiate a *sua sponte* complaint less than one year after it discovered that any of the following actions had become final, and less than 10 years after the alleged conduct occurred: (a) a felony conviction, (b) a finding of malpractice by a duly authorized tribunal, (c) expulsion or suspension from a state association for unethical conduct, or (d) revocation, suspension, or surrender of a license or certificate, or deregistration for ethical violations by a state or local board or similar entity, or while ethical proceedings before such board were pending.

5.3.4 Show Cause Notices. The Committee may issue a show cause notice under Part IV of these Rules and Procedures only if it does so, or has provided the notice specified in Subsection 5.6.2 of this part, less than one year after the date it discovered that the applicable predicate for use of show cause procedures (i.e., an event described in Part IV, Section 1) had become final and less than 10 years after the alleged conduct occurred, except this latter time limit shall be 20 years in any matter involving an offense against a minor.

5.3.5 Exceptions to Time Limits for Complaints by Members and Nonmembers

5.3.5.1 Threshold Criteria. Any complaint not received within the time limits set forth in this section shall not be considered unless, with respect to complaints subject to Subsections 5.3.1 and 5.3.2 of this part, the Chair and Director (with the vote of the Vice Chair if agreement is not reached by the Chair and Director) determine that each of the following criteria is met:

5.3.5.1.1 The behavior alleged involved one of the following: sexual misconduct; felony conviction; insurance fraud; plagiarism; noncooperation; blatant, intentional misrepresentation; or other behavior likely to cause substantial harm;

5.3.5.1.2 The complaint was received less than 10 years after the alleged conduct occurred.

5.3.5.2 Determination to Supersede Applicable Time Limit. Where the Chair and Director have determined (with the vote of the Vice Chair if agreement is not reached by the Chair and Director) that the threshold criteria in Subsection 5.3.5.1 are met, the applicable limit shall be superseded.

5.3.6 Conduct Outside the Time Limits. The Committee may consider evidence of conduct outside these time limits in connection with the commencement, investigation, review, or disposition of a matter involving conduct that is within the applicable time limits. However, the Committee may impose sanctions only for conduct that occurred within the time limits. In order for a sanction to be imposed for conduct occurring outside the time limits, the Chair and Director must decide to supersede the time limits

applicable to that conduct as stated in Subsection 5.3.5 of this part.

5.3.7 Reopened Investigations. In a matter reopened under Part II, Section 6, the investigation shall be considered within the time limits as long as the complaint in the original matter was received, or the original investigation was initiated, in a timely manner or a decision was made to supersede the time limit under Part II, Subsection 5.3.5. The Committee may not proceed with such an investigation, however, if the new evidence is received more than 10 years after the date the alleged unethical behavior occurred (except that this time limit shall be 20 years in any case that was initiated as or converted to a show cause case and involves an offense against a minor).

5.4 Resignation Barred.

5.4.1 Except as provided in Subsection 5.4.2 and 11.4 of this part of these Rules, no one under the scrutiny of the Committee will be allowed to resign from the Association either by letter of resignation, by nonpayment of dues, or otherwise.

5.4.2 Resignation Under Ethics Investigation. A respondent may accept an opportunity to resign from membership “under ethics investigation,” which shall be effective upon the Committee’s timely receipt of the signed affidavit indicating such resignation. Failure to return the affidavit within 60 days after the first notification that an ethics case under Part IV has been opened or 30 days after such notification for Part V will constitute a waiver of the right to resign under ethics investigation. The Association may inform a complainant, the membership through the dues notice, and anyone who requests the information from APA that the respondent has resigned under ethics investigation. (See also Part IV, Subsection 2 and Part V, Subsections 4.3.2, 5.3 and 6.1 of these Rules and Procedures.)

5.5 Concurrent Litigation. Civil or criminal litigation involving members shall not bar action by the Committee; the Committee may proceed or may stay the ethics process during the course of litigation. Delay in conducting the investigation by the Committee during the pendency of civil or criminal proceedings shall not constitute waiver of jurisdiction.

5.6 Other Concurrent Disciplinary Proceedings

5.6.1 Concurrent Jurisdiction. Disciplinary proceedings or action by another body or tribunal shall not bar action by the Committee; the Committee may proceed or may stay the ethics process during the course of such proceedings. Delay in conducting the investigation by the Committee during the pendency of such proceedings shall not constitute a waiver of jurisdiction. Where the Committee learns that disciplinary action by another authorized tribunal has been stayed, such stay shall neither require nor preclude action by the Committee. When another body or tribunal has investigated the same allegations and found no merit to the allegations, the Ethics Committee may, in its discretion, decide not to open a matter

or, if a matter has already been opened, the Ethics Committee may close the matter.

5.6.2 Nonfinal Disciplinary Action by Another Body. The Chair, Vice Chair, and Director may decide not to open a *sua sponte* or show cause case when a state or local board or similar entity has taken disciplinary action against an Association member if the action is either not final or the member has not completed all directives, probation, or other requirements and if the behavior at issue is not likely to result in expulsion from the Association. If this decision is made, the member will be notified that the matter is under the scrutiny of the Committee, that the member will be monitored until completion of actions required by the state or local board or similar entity, that failure to complete the action may result in further action by the Committee, and that completion of such requirements may result in the Committee taking no further action.

5.7 Referral and Retention of Jurisdiction. The Committee may at any time refer a matter to another recognized tribunal for appropriate action. If a case is referred to another tribunal, the Committee may retain jurisdiction and consider the matter independently under these Rules and Procedures.

6. Reopening a Closed Investigation

If significant new evidence of unethical conduct comes to the attention of the Committee after a matter has been closed, the investigation may be reopened and acted upon under regular procedures. If, in the judgment of the Director, such information is furnished, the new evidence shall be submitted to the Committee, which may reopen the investigation if it agrees that the criteria listed below are satisfied. To be considered under this rule, new evidence must meet each of the following criteria:

6.1 The evidence was brought to the attention of the Committee after the investigation was closed;

6.2 The evidence could not with reasonable diligence have been brought to the attention of the Committee before the investigation was closed;

6.3 The evidence was provided to the Committee in a timely manner following its discovery;

6.4 The evidence would probably produce a different result.

7. Choice and Conversion of Procedures

7.1 Choice of Procedures. Where a case might be adjudicated according to the show cause procedures in Part IV of these Rules and Procedures, the Chair and the Director shall determine whether to proceed under Part IV or Part V of these Rules and Procedures.

7.2 Conversion of Show Cause Action to *Sua Sponte* Action. The Chair and the Director may convert a proceeding begun by show cause procedures under Part IV to a *sua sponte* action under Part V. In the event of such conversion, the complaint shall be deemed filed in a timely manner if the show cause proceeding was initiated in a timely fashion.

7.3 Conversion to Show Cause Action. Where the predicates for use of show cause procedures stated in Part IV, Section 1 are present, the Chair and the Director may convert a proceeding begun as a *sua sponte*, member, or nonmember complaint under Part V to a show cause proceeding under Part IV if the predicates are based on some or all of the same underlying conduct as was the basis for the original proceeding. In such event, the show cause proceeding shall be deemed initiated in a timely manner as long as the original proceeding was commenced within the time limits applicable to that proceeding or a decision was made to supersede the time limit under Part II, Subsection 5.3.5.

7.4 Conversion of Action Initiated by a Complainant to a *Sua Sponte* Action. The Chair and the Director may convert a proceeding commenced following a complaint submitted by a member or nonmember (including a proceeding in which the complaint is withdrawn) into a *sua sponte* action under Part V, Subsection 2.2. The action will be deemed filed in a timely manner as long as the member or nonmember complaint was received within the time limits applicable to the initial complaint or a decision was made to supersede the time limit in Part II, Subsection 5.3.5.

8. Correspondence and Documentation

8.1 Use of Correspondence. The Committee shall conduct as much of its business as is practical through correspondence, including telecopied information.

8.2 Personal Response. Although the respondent has the right to consult with an attorney concerning all phases of the ethics process, the respondent must respond to charges and recommendations of the Ethics Committee personally and not through legal counsel or another third party. If the respondent shows good cause as to why he or she cannot respond personally, the Director may waive this requirement.

8.3 Transcription of Audiotapes, Videotapes, and Similar Data Compilations. It shall be the responsibility of the individual or entity submitting to the Committee an audiotape, videotape, or similar data compilation to provide an accurate transcription of the information it contains. The Director may reject any audiotape, videotape, or similar data compilation provided unaccompanied by a transcription as required in this subsection unless and until such transcription is provided.

8.4 Service of Documents. For purposes of notice, service shall be made by delivery by mail or common carrier to the respondent's address on file with the Association. The Ethics Committee assumes that a member has updated his or her address as needed to ensure that the current address is on

file with the Association and relies on such address. Service shall also be considered made if delivered to the address of the attorney or other agent of the respondent. Service by mail is complete upon mailing.

8.5 Material from the Public Domain. The Committee may consult authoritative resources from the public domain (e.g., the Directory of the American Psychological Association and the National Register of Health Service Providers in Psychology) without providing this material to the respondent.

9. Failure to Cooperate With Ethics Process

Members are required to cooperate fully and in a timely fashion with the ethics process. Failure to cooperate shall not prevent continuation of any proceedings and itself constitutes a violation of the Ethics Code that may warrant being expelled from the Association.

10. Board of Directors' Standing Hearing Panel

The President of the Association shall appoint members of the Standing Hearing Panel. Standing Hearing Panel members shall serve a three-year renewable term. The Standing Hearing Panel shall consist of at least 30 members at least 5 of whom shall be public members, and the remainder shall be members of the Association in good standing, and shall not include any present members of the Ethics Committee.

11. Available Sanctions

On the basis of circumstances that aggravate or mitigate the culpability of the member, including prior sanctions, directives, or educative letters from the Association or state or local boards or similar entities, a sanction more or less severe, respectively, than would be warranted on the basis of the factors set forth below, may be appropriate.

11.1 Reprimand. Reprimand is the appropriate sanction if there has been an ethics violation but the violation was not of a kind likely to cause harm to another person or to cause substantial harm to the profession and was not otherwise of sufficient gravity as to warrant a more severe sanction.

11.2 Censure. Censure is the appropriate sanction if there has been an ethics violation and the violation was of a kind likely to cause harm to another person, but the violation was not of a kind likely to cause substantial harm to another person or to the profession and was not otherwise of sufficient gravity as to warrant a more severe sanction.

11.3 Expulsion. Expulsion from membership is the appropriate sanction if there has been an ethics violation and the violation was of a kind likely to cause substantial harm to another person or the profession or was otherwise of sufficient gravity as to warrant such action.

11.4 Stipulated Resignation. A stipulated resignation may be offered by the Committee following a Committee finding that the respondent has committed a violation of the Ethics Code or failed to show good cause why he or she should not be expelled, contingent on execution of an acceptable affidavit and approval by the Board of Directors, under Part IV, Subsection 12 or Part V, Subsection 7.6.

12. Available Directives

12.1 Cease and Desist Order. Such a directive requires the respondent to cease and desist specified unethical behavior(s).

12.2 Other Corrective Actions. The Committee may require such other corrective actions as may be necessary to remedy a violation, protect the interests of the Association, or protect the public. Such a directive may not include a requirement that the respondent make a monetary payment to the Association or persons injured by the conduct.

12.3 Supervision Requirement. Such a directive requires that the respondent engage in supervision.

12.4 Education, Training, or Tutorial Requirement. Such a directive requires that the respondent engage in education, training, or a tutorial.

12.5 Evaluation and/or Treatment Requirement. Such a directive requires that the respondent be evaluated to determine the possible need for treatment and/or, if dysfunction has been established, obtain treatment appropriate to that dysfunction.

12.6 Probation. Such a directive requires monitoring of the respondent by the Committee to ensure compliance with the Ethics Committee's mandated directives during the period of those directives.

13. Matters Requiring the Concurrence of the Chair of the Committee and Director of the Ethics Office

Whenever matters entrusted by these Rules and Procedures to the Chair and Director require the concurrence of those officers before certain action may be taken, either officer in the event of disagreement may refer the matter to the Vice Chair, who together with the Chair and Director, shall make a final determination by majority vote.

Part III. Membership

1. Applications

1.1 Specific Jurisdiction. The Committee has the authority to investigate the preadmission scientific and

professional ethics and conduct of all applicants for membership or student affiliation in the Association and to make recommendations as to whether an individual shall become a member or student affiliate. In addition, the Committee has the authority to consider all applications submitted by individuals who were previously denied admission as a result of unethical behavior and to make recommendations as to whether such an individual shall become a member or student affiliate. The Membership Committee shall transmit all applications on which there is an indication of possible preadmission unethical conduct and all applications from individuals who were previously denied admission as a result of unethical behavior or as a result of a recommendation by the Ethics Committee to the Director of the Ethics Office.

1.2 Procedures for Review. The Director shall transmit to the Committee a copy of the application and any other materials pertinent to the case. The Director shall take such steps, including contacting the applicant or other sources of information, as are necessary and appropriate to making a fair determination. Upon review, the Committee may recommend to the Membership Committee that the application be granted or to the Board of Directors that the application be denied. If a recommendation is made to deny the application, the applicant shall be informed of the basis for that recommendation and shall have 30 days to submit a written response for consideration by the Board of Directors.

2. Applications for Readmission

2.1 Specific Jurisdiction. The Ethics Committee has the authority to review and make recommendations concerning all applications for readmission by persons who have lost membership as a result of unethical behavior, who have resigned while under ethics investigation, or whose membership was voided because it was obtained on the basis of false or fraudulent information. The Membership Committee shall transmit all such applications for readmission to the Director of the Ethics Office.

2.2 Elapsed Time for Review. Applications for readmission by members who have lost membership due to unethical behavior (including submission of false or fraudulent information in a membership application) shall be considered by the Committee only after five years have elapsed from the date of that action. Applications for readmission by members who have been permitted to resign shall be considered only after the stipulated period or, where no period has been stipulated, three years have elapsed.

2.3 Procedures for Review. The Director shall transmit to the Committee a summary of the application for readmission and the record of the previous case against the former member. In all cases, the ex-member must show that he or she is technically and ethically qualified and has satisfied any conditions upon readmission established by the Board. The Committee shall make one of the following

recommendations to the Membership Committee and, as it deems appropriate, shall provide the rationale therefor.

2.3.1 Readmit. Recommend that the former member be readmitted;

2.3.2 Deny Readmission. Recommend that readmission be denied;

2.3.3 Defer Readmission. Recommend that the application for readmission be deferred until certain conditions have been met;

2.3.4 Investigate Further. Charge the Director to investigate issues specified by the Committee and to place the matter before the Committee at a future date.

3. Allegations That Membership Was Obtained Under False or Fraudulent Pretenses

3.1 Specific Jurisdiction. The Committee has the authority to investigate allegations that membership was obtained on the basis of false or fraudulent information and to take appropriate action. The Membership Committee shall transmit all such allegations to the Director of the Ethics Office.

3.2 Procedures for Review. The respondent will be given notice of the allegations that membership was obtained on the basis of false or fraudulent information, a copy of any evidence relating to these allegations that is submitted to the Committee, and an opportunity to respond in writing. The Director may take any other steps, such as contacting other sources of information, that are considered necessary and appropriate to making a fair determination in the circumstances of the case. The Director shall transmit to the Committee a copy of the membership application and any other materials pertinent to the case.

3.3 Committee's Recommendation. Upon completion of this review, the Committee may recommend to the Board of Directors that it void the election to membership in the Association of any person who obtained membership on the basis of false or fraudulent information.

3.4 Procedures Subsequent to Committee's Recommendation to Void Membership. If the respondent does not accept the Committee's recommendation, the respondent shall, within 30 days of receipt of the recommendation, either submit a written response to the Board of Directors, request a formal hearing in writing, or request an independent adjudication in writing and provide a written rationale for nonacceptance. The respondent's failure to respond within 30 days after notification shall be deemed acceptance of the Committee's recommendation and a waiver of the right to a formal hearing or an independent adjudication. If a written response is submitted, the Ethics Committee shall have 30 days to reply in a written statement to the Board. If a formal hearing is requested, it shall be conducted according to the procedures explained in Part V, Subsections 10.2 through 10.3.4 of these Rules and Procedures. If an independent adjudication is requested, it shall be conducted according to the

procedures explained in Part V, Subsections 9.2.2 through 9.2.7 and Subsections 10.3 through 10.3.4.

3.5 Action by the Board of Directors. Within 180 days after receiving the record, the Committee's recommendation, any written response and statement described in Subsection 3.4, above, or any recommendation from a Hearing Committee or Independent Adjudication Panel, the Board of Directors shall vote whether to void the respondent's membership or not.

Part IV. Show Cause Procedures Based Upon Actions by Other Recognized Tribunals

1. Predicates for Use of Show Cause Procedures

1.1 Felony or Equivalent Offense. If a member has been convicted of a felony (including any felony as defined by state/provincial law and any other criminal offense with a possible term of incarceration exceeding one year) and such conviction is not under appeal, the show cause process may be used, if determined by the Chair and the Director to be appropriate. A conviction within the meaning of this section includes a conviction following a *nolo contendere*, *Alford*, or other similar plea.

1.2. Expulsion, Suspension, Unlicensure, Decertification, or Other Actions. If one of the following actions has been taken and is not under appeal, the show cause process may be used, if determined by the Chair and the Director to be appropriate: (a) a member has been expelled or suspended from an affiliated state or regional psychological association; (b) a member has been denied a license, certificate, or registration, has been unlicensed, decertified, or deregistered, has had a license, certificate, or registration revoked or suspended by a state or local board or similar entity, or has voluntarily surrendered a license or certificate of registration as a result of pending allegations. The show cause procedures may also be used if a state or local board or similar entity has taken any of the actions specified in (a) or (b) above and has then in any way stayed or postponed that action.

2. Notice of Automatic Expulsion and Response by Respondent.

2.1. The respondent shall be notified by the Director that he or she has been barred from resigning membership in the Association and will be expelled 60 days after receipt of the notice of expulsion unless the respondent exercises the right to request a review of the pending expulsion by submitting in writing within the 60 day period a request for review and a statement showing good cause why he or she should not be expelled from membership in the Association. If no response is received within the 60 days, the right to a review shall be considered waived and the Director shall inform the Membership Office that the respondent has been expelled, effective immediately.

2.2. The respondent may in the alternative accept the opportunity to resign from membership as provided in Part II, Subsection 5.4.2 (“Resignation Under Ethics Investigation.”).

3. *Showing by Respondent That Prior Proceeding Lacked Due Process*

In addition to a response to the substance of the charges under Section 2 of this part, the respondent may seek within the 60-day period to show that the other recognized tribunal did not follow fair procedure. If the Committee finds merit to this contention, it may exercise its discretion under Part II, Subsection 7.2 of these Rules and convert the matter to a *sua sponte* action under Part V, or it may dismiss the complaint.

4. *Investigation*

The Committee may conduct a further investigation, including seeking additional information from the respondent or others or requesting that the respondent appear in person. Any evidence not obtained directly from the respondent and relied upon by the Committee in connection with its review and recommendation shall first have been provided to the respondent, who shall have been afforded not less than 15 days to respond thereto in writing.

5. *Failure to Return Affidavit*

If the respondent elects to resign while under ethics investigation and fails to return the affidavit, the respondent will be considered to have waived the right to resign while under ethics investigation.

6. *Review and Recommendation by the Committee Following a Request for Review.*

Upon receipt of the respondent's request for review and supporting statement and upon conclusion of any necessary further investigation, the case shall be reviewed by the Ethics Committee. Members of the Ethics Committee and Ethics Committee Associates may be assigned to review and summarize the case. Members and Associates may also be assigned to participate on a panel to review the case and make a preliminary recommendation prior to review by the full Ethics Committee. Ethics Committee Associates may also attend and participate in the full Committee meetings, but shall not vote on the full Committee's disposition of a case. When review of a case has been completed, the Committee shall vote to take one of the following actions:

6.1 *Remand*

6.2 *Dismiss the Matter*

6.3 *Recommend One of the Following Actions to the Board of Directors:*

6.3.1 *Reprimand or Censure, With or Without Directives.* The Committee may recommend that the

respondent be reprimanded or censured, with or without one or more directives.

6.3.2 *Expulsion.* The Committee may recommend that the respondent be expelled from the Association; or, the Committee may recommend the sanction of stipulated resignation, under the procedure in Subsection 12.2 of this part.

7. *Notification of Respondent*

The Director shall notify the respondent of the Committee's recommendation and shall provide the respondent the opportunity to file a written response with the Board of Directors.

8. *Respondent's Response to Recommendation*

Within 15 days of receipt of notification of the Committee's recommendation, the respondent may file a written response with the Board of Directors. The response should be mailed to the Ethics Office.

9. *Committee's Statement*

The Ethics Committee shall have 15 days from the time it receives the respondent's written response, or from the time such response was due, to file a written statement, if any. A copy will be provided to the respondent.

10. *Respondent's Final Response*

Within 15 days of receipt of the Ethics Committee's statement, if any, the respondent may submit to the Director a written response to that statement.

11. *Review by the Board of Directors*

Within 180 days after receiving the record, the Committee's recommendation, any written response by the respondent, any written statement by the Committee, and any final response from the respondent, the Board of Directors shall vote whether to accept the Committee's recommended sanction, to issue a different sanction, or to dismiss the case. The Board may select a sanction more or less severe than that recommended by the Committee, or it may remand the matter to the Ethics Committee for further consideration.

12. *Stipulated Resignation after Review and Recommendation.*

In lieu of the recommendations set forth in Section 6 of this part, with the agreement of the respondent, the Committee may recommend that the respondent be permitted to resign from the Association under stipulations stated by the Committee, according to the following procedure:

12.1 *Offer of Stipulated Resignation by Committee.* When the Committee finds that another body has

taken one of the actions specified in Part IV Section 1 against a member, the Committee may offer, contingent upon approval by the Board of Directors, the respondent the opportunity to resign from the Association under mutually agreed upon stipulations. Such stipulations shall include the extent to which the stipulated resignation and its basis shall be disclosed and a minimum period of time, after resignation, during which the resigned member shall be ineligible to reapply for membership. The Committee may, in its discretion, also vote to recommend to the Board and inform the respondent of an alternative sanction chosen from among Subsections 11.1-11.3 of Part II of these Rules in the event the respondent does not accept the offer of stipulated resignation.

12.2 Notification of Respondent. In such cases, the respondent shall be notified, in writing, of the Committee's offer of stipulated resignation and that he or she may accept the Committee's offer within 30 days of receipt. The respondent shall also be notified of any alternative recommended sanction.

12.3 Acceptance by Respondent. Within 30 days, the respondent may accept the offer of stipulated resignation by signing a notarized affidavit of resignation acceptable to both the respondent and the Committee and forwarding the signed notarized affidavit to the Committee. Such resignation shall become effective only with the approval of the Board, as set forth in this section.

12.4 Transmittal to Board of Directors. If the respondent accepts the stipulated resignation, the Committee shall submit a copy of the affidavit of resignation, with the record in the matter and the rationale for recommending stipulated resignation on the terms set forth in the affidavit, to the Board of Directors.

12.5 Action by Board of Directors. Within 180 days, the Board of Directors shall take one of the following actions:

12.5.1 Acceptance of Stipulated Resignation. The Board of Directors shall accept the respondent's resignation on the terms stated in the affidavit of resignation, unless it is persuaded that to do so would not be in the best interest of the Association and/or of the public. If the resignation is accepted by the Board, the Director shall so notify the respondent.

12.5.2 Reprimand or Censure. The Board may reject the stipulated resignation and impose a lesser sanction (reprimand or censure with or without directives). If the Board selects this option, the respondent shall be so notified and shall have 30 days to submit a written request seeking reconsideration of the Board's decision. If no such request is submitted, the Board's decision shall become final. If a request for reconsideration is submitted, the Board shall choose from the options set forth in Subsection 12.5 (including adherence to its prior decision).

12.5.3 Remand to the Committee. The Board may choose to reject the affidavit of resignation and remand the matter to the Committee for further consideration. If the Board selects this alternative, the Director shall so notify the respondent and the Committee shall then reconsider the matter.

12.6 Rejection of Stipulated Resignation by Respondent. If the respondent fails within 30 days to accept the recommended resolution, or formally notifies the Committee of rejection of the offer of stipulated resignation within the 30-day period, the offer of stipulated resignation shall be deemed rejected. The Committee shall reconsider the matter or, if an alternative recommended sanction has previously been identified by the Committee, such alternative recommended sanction shall automatically become the recommended sanction. The Director shall notify the respondent of the recommendation and of his or her opportunity to file written responses with the Board of Directors, as stated in Section 8 of this part. Sections 8 - 11 of this part shall also apply.

Part V. Complaints Alleging Violation of the Ethics Code

1. Initiation of Actions

Ethics proceedings against a member are initiated by the filing of a complaint or, in the case of a *sua sponte* action, by the issuance of a letter notifying the respondent that a *sua sponte* action has been commenced.

2. Complaints

2.1 Complaints Submitted by Members or Nonmembers. Complaints may be submitted by members or nonmembers of the Association.

2.2 Sua Sponte Action. When a member appears to have violated the Association's Ethics Code, the Committee may proceed on its own initiative. The Committee may, at any time, exercise its discretion to discontinue a *sua sponte* action. If the Committee does so, the respondent shall be so notified.

2.3 Sua Sponte Action Based Upon a Member's Filing of a Capricious or Malicious Complaint. To prevent abuse of the ethics process, the Committee is empowered to bring charges itself against a complainant if the initial complaint is judged by two thirds of Committee members voting to be (a) frivolous and (b) intended to harm the respondent rather than to protect the public. The filing of such a complaint constitutes a violation of the Ethics Code.

2.4 Countercomplaints. The Committee will not consider a complaint from a respondent member against a complainant member during the course of its investigation and resolution of the initial complaint. Rather, the Committee shall study all sides of the matter leading to the first complaint and consider countercharges only after the initial complaint is finally resolved. The Committee may waive this procedure by a vote of at least two thirds of the voting Committee members and consider both complaints simultaneously.

2.5 Anonymous Complaints. The Committee shall not act upon anonymous complaints. If material in the

public domain is provided anonymously, the Committee may choose to consider such material in connection with a *sua sponte* matter or other complaint or may initiate a *sua sponte* action but only if the respondent has been provided with a copy of the material and afforded an opportunity to respond to the material.

2.6 Complaints Against Nonmembers. If the complaint does not involve an individual within the jurisdiction of the Committee, the Director shall inform the complainant and may suggest that the complainant contact another agency or association that may have jurisdiction.

2.7 Consecutive Complaints. When a complaint is lodged against a member with respect to whom a case involving similar alleged behavior was previously closed, materials in the prior case may be considered in connection with the new case and may be considered as evidence as long as the Ethics Committee and/or the Board of Directors is informed of the final disposition of the original case.

2.8 Simultaneous Complaints. When more than one complaint is simultaneously pending against the same member, the Committee may choose to combine the cases or to keep them separate. In the event the cases are combined, the Committee shall take reasonable steps to ensure that the legitimate confidentiality interests of any complainant, witness, or respondent are not compromised by combination.

3. *Procedures for Filing Complaints*

A complaint by a member or nonmember shall be comprised of

3.1 A completed APA Ethics Complaint Form;

3.2 Such releases as are required by the Committee;

3.3 A waiver by the complainant of any right to subpoena from APA or its agents for the purposes of private civil litigation any documents or information concerning the case;⁷

3.4 For purposes of determining time limits, a complaint shall be considered filed with APA as soon as a completed complaint form has been received by the Ethics Office. A deficiency or omission in the preparation of the complaint form may, at the discretion of the Director, be disregarded for purposes of determining compliance with time limits.

4. *Preliminary Evaluation of Complaints by the Director*

The Director shall review each complaint to determine if jurisdictional criteria are met and if it can be determined whether cause for action exists.

4.1 Lack of Jurisdiction. If jurisdictional criteria are not satisfied, the matter shall be closed and the complainant so notified.

4.2 Information Insufficient to Determine Jurisdiction.

4.2.1 Request for Supplementation of Complaint. If the information is not sufficient to determine whether jurisdictional criteria are met, the Director shall so inform the complainant, who will be given 30 days from receipt of the request to supplement the complaint.

4.2.2 Consequences of Failure to Supplement Complaint. If no response is received from the complainant within 30 days from receipt of the request, the matter may be closed. If at a later date the complainant shows good cause for delay and demonstrates that jurisdictional criteria can be met, the supplemented complaint shall be considered.

4.3 Process With Respect to Superseding Applicable Time Limit

4.3.1 Consideration by Chair and Director. If a complaint otherwise within the jurisdiction of the Ethics Committee appears to have been filed outside the applicable time limit, the Chair and the Director will determine whether the criteria set forth in Part II, Subsection 5.3.5 appear to be satisfied. If they agree that the criteria do not appear to be satisfied, the matter will be closed, unless there are other allegations that are filed in a timely manner, in which case processing of the timely allegations continues under Section 5, below. If they agree that the criteria appear to be satisfied, the Director will contact the respondent according to the procedure in Subsection 4.3.2, below. If they are not in agreement on whether or not those criteria appear to be satisfied, the Vice Chair shall review the matter and cast the deciding vote.

4.3.2 Response by Respondent Where Criteria Appear To Be Satisfied. If a determination is made according to Subsection 4.3.1 above that the criteria of Part II, Subsection 5.3.5 appear to be satisfied, the Director shall notify the respondent and provide the respondent with a copy of the complaint and any other materials the Director deems appropriate.

4.3.2.1 The respondent shall have 30 days from receipt of these materials to address whether the criteria of Part II, Subsection 5.3.5 are met.

4.3.2.2 The respondent may in the alternative accept the opportunity to resign from membership as provided in Part II, Section 5.4.2 ("Resignation Under Ethics Investigation.").

4.3.3 Determination by Chair and Director. If the respondent does not provide a response under Subsection 4.3.2, above, the decision made under Subsection 4.3.1, above, shall become final. In any case in which the respondent provides a response, the Chair and the Director shall consider whether the criteria set forth in Part II, Subsection 5.3.5 are satisfied, based upon any materials provided by the complainant and respondent, and any other information available to the Chair and the Director. If they agree that the criteria are not satisfied, the matter will be closed, unless there are other allegations that are filed in a timely manner, in which case processing of the timely allegations continues under Section 5, below. If they agree that the criteria are satisfied, processing continues under Section 5, below. If they are not in agreement on whether or

not those criteria are satisfied, the Vice Chair shall review the matter and cast the deciding vote.

5. Evaluation of Complaints by Chair and Director

All complaints not closed by the Director under Section 4 of this part shall be reviewed by the Chair and the Director to determine whether cause for action by the Ethics Committee exists.

5.1 Cause for Action Defined. Cause for action shall exist when the respondent's alleged actions and/or omissions, if proved, would in the judgment of the decision maker constitute a breach of ethics. For purposes of determining whether cause for action exists, incredible, speculative, and/or internally inconsistent allegations may be disregarded.

5.2 Information Insufficient to Determine Cause for Action

5.2.1 Request for Supplementation of Complaint. If the information is not sufficient to determine whether a case should be opened, the Director may so inform the complainant, who will be given 30 days from receipt of the request to supplement the complaint. The Chair and Director may additionally, or in the alternative, commence a preliminary investigation under Subsection 5.3 of this part.

5.2.2 Consequences of Failure to Supplement Complaint. If no response is received from the complainant within 30 days, the matter may be closed. If at a later date the complainant shows good cause for delay and responds to the request for supplementation, the supplemented complaint shall be considered.

5.3 Preliminary Investigation Due to Insufficient Information. If the Chair and Director agree that they lack sufficient information to determine whether a case should be opened, in either a case initiated by a complainant or in a *sua sponte* action, a preliminary investigation may be initiated.

5.3.1 Notification to Respondent. If a preliminary investigation is opened, the Director shall so inform the respondent in writing. The Director will include a copy of all evidence in the file; a copy of the APA Ethics Code; the Committee's Rules and Procedures; and a statement that information submitted by the respondent shall become a part of the record and can be used if further proceedings ensue.

5.3.2 Time for Respondent Response. The respondent shall have 30 days after receipt of the notification of a preliminary investigation to file an initial response.

5.3.2.1 The respondent may in the alternative accept the opportunity to resign from membership as provided in Part II, Section 5.4.2 ("Resignation Under Ethics Investigation.").

5.3.3 Information From Other Sources. Additional information may be requested from the complainant, respondent, or any other appropriate source. The Committee will not rely upon information submitted by such sources unless it has been shared with the respondent and the

respondent has been afforded an opportunity to respond thereto.

5.3.4 Action if There Continues to Be Insufficient Information. At the conclusion of the preliminary investigation, if the Director and Chair determine that they still lack evidence sufficient to determine whether cause for action exists, the matter shall be closed.

5.4 Determination of Cause for Action. If the Chair and Director agree that cause for action exists, they shall consider whether to open a formal case under Subsection 5.5, below. If the Chair and Director agree that cause for action does not exist, the matter shall be closed. If the Chair and Director disagree on whether or not there is cause for action by the Committee, the matter shall be reviewed by the Vice Chair, who will cast the deciding vote.

5.5 Decision to Open a Case. In any case in which the determination has been made that cause for action exists, the Chair and Director shall consider whether (a) there is a reasonable basis to believe the alleged violation cannot be proved by a preponderance of the evidence and (b) the allegations would constitute only minor or technical violations that would not warrant further action, have already been adequately addressed in another forum, or are likely to be corrected. If they agree that one or more of the conditions are met, the matter shall be closed. Otherwise, the matter shall be opened as a case.

5.6 Educative Letter. If a matter is closed under Sections 4 or 5 of this part, the Chair and Director may, if appropriate, send an educative letter to the respondent.

5.7 Reconsideration of Decision to Open. A matter not opened under either Subsection 5.4 or 5.5, above, may be reconsidered by the Committee only if it does so in accordance with Part II, Section 6.

5.8 Supplementary or Alternative Action. The Chair and Director may recommend that the complainant refer the complaint to an appropriate state psychological association, state board, regulatory agency, subsidiary body of the Association, or other appropriate entity, or they may make such referral on their own initiative. Such referral does not constitute a waiver of jurisdiction over the complaint provided that the Committee opens a formal case within 24 months from the date of referral.

6. Case Investigation

6.1 Issuance of Charge Letter and Response From Respondent

6.1.1 Charge Letter. If a case is opened, the Director shall so inform the respondent in a charge letter. The charge letter shall contain a concise description of the alleged behaviors at issue and identify the specific section(s) of the Ethics Code that the respondent is alleged to have violated. The Director shall enclose a copy of any completed Ethics Complaint Form and any materials submitted to date by the complainant or on the complainant's behalf that will be included in the record before the Committee; a copy of the

APA Ethics Code and the Committee's Rules and Procedures; and a statement that information submitted by the respondent shall become a part of the record, and can be used if further proceedings ensue.

6.1.2 Significance of Charge Letter. A charge letter does not constitute or represent a finding that any unethical behavior has taken place, or that any allegations of the complaint are or are not likely to be found to be true.

6.1.3 Issuance of New Charge Letter to Conform to Evidence Discovered During Investigation. At any time prior to final resolution by the Committee, in order to make the charges conform to the evidence developed during the investigation, the Director and Chair may determine that a new charge letter should be issued setting forth ethical standard(s) and/or describing alleged behaviors different from or in addition to those contained in the initial charge letter. In a *sua sponte* case, the date of issuance shall, for purposes of applicable time limits, be deemed to relate back to the date of the initial letter notifying the respondent that a *sua sponte* action has been initiated. The new charge letter shall in all other respects be treated exactly as an initial charge letter issued according to Subsection 6.1.1 of this part.

6.1.4 Time for Respondent's Response. The respondent shall have 30 days after receipt of the charge letter to file an initial response. Any request to extend the time for responding to the charge letter must be made in writing, within the 30 days, and must show good cause for an extension.

6.1.4.1 The respondent may in the alternative accept the opportunity to resign from membership as provided in Part II, Section 5.4.2 ("Resignation Under Ethics Investigation.").

6.1.5 Personal Appearance. The Chair and Director may request the respondent to appear personally before the Committee. The respondent has no right to such an appearance.

6.2 Information From Other Sources. Additional information may be requested from the complainant, respondent, or any other appropriate source.

6.3 Referral to Committee. When, in the sole judgment of the Chair and Director, the investigation is complete, the case will be referred to the Committee for review and resolution. The Director shall notify the complainant and respondent that the matter has been referred to the Committee.

6.4 Documentation Subsequent to Investigation and Prior to Resolution by the Committee. Within 30 days after receipt of notification that the case is being referred to the Ethics Committee for review and resolution, the complainant and respondent may submit any additional information or documentation. Any materials submitted in a timely manner by the complainant or on the complainant's or respondent's behalf will be forwarded to the respondent. Within 15 days from receipt of those materials, the respondent may submit any additional information or documentation. All such materials submitted within these time limitations shall be included in the file to be reviewed by the Ethics Committee. Materials submitted outside of the time

limit will not be included in the file materials relative to the ethics case and will not be reviewed by the Ethics Committee.

In the sole discretion of the Director, where good cause for noncompliance with these time limits is shown by the complainant or the respondent, the resolution of the case may be postponed until the next scheduled meeting of the Ethics Committee and the information or documentation provided outside of the time limit may be included in the file materials to be reviewed by the Committee at that later time. In the sole discretion of the Director, in the event the respondent fails to comply with these time limits, the information or documentation provided outside of the time limits may be included in the file materials to be reviewed by the Committee and the matter maintained for resolution by the Committee as originally scheduled.

7. Review and Resolution by the Committee

The Ethics Committee may assign a member of the Committee or an Ethics Committee Associate to serve as a case monitor. The monitor may provide assistance to assure that an adequate record is prepared for Ethics Committee review and in such other respects as necessary to further the objectives of these Rules and Procedures.

Upon conclusion of the investigation, the case shall be reviewed by the Ethics Committee. Members of the Ethics Committee and Ethics Committee Associates may be assigned to review and summarize the case. Members and Associates may also be assigned to participate on a panel to review and make a preliminary recommendation prior to review by the full Ethics Committee. Ethics Committee Associates may also attend and participate in the full Ethics Committee meetings, but shall not vote on the full Committee's disposition of a case. When review of a case has been completed, the Ethics Committee shall vote to take one of the following actions described below: remand, dismiss the charges, recommend reprimand or censure, recommend expulsion, or recommend stipulated resignation. In addition to any of these actions, the Committee may vote to issue an educative letter. The Committee may choose to dismiss some charges but find violation and take disciplinary action on the basis of other charges in the charge letter. The respondent shall then be notified of the Committee's action, the ethical standard(s) involved, if any, the rationale for the Committee's decision, any sanction, and any directives.

7.1 Remand. The Committee may remand the matter to the Director for continued investigation or issuance of a new charge letter according to Subsection 6.1.3 of this part.

7.2 Dismiss the Charges

7.2.1 No Violation. The Committee may dismiss a charge if it finds the respondent has not violated the ethical standard as charged.

7.2.2 Violation Would Not Warrant Further Action. The Committee may dismiss the complaint if it concludes that any violation it might find (a) would constitute only a minor or technical violation that would not warrant

further action, (b) has already been adequately addressed in another forum, or (c) is likely to be corrected.

7.2.3 Insufficient Evidence. The Committee may dismiss a charge if it finds insufficient evidence to support a finding of an ethics violation.

7.3 Educative Letter. Where the Committee deems it appropriate, the Committee may issue an educative letter, to be shared only with the respondent, concerning the behaviors charged or other matters. An educative letter may be issued whether the Committee dismisses the charges or recommends finding violations.

7.4 Recommend Reprimand or Censure. If the Committee finds that the respondent has violated the Ethics Code, but decides that the nature of the respondent's behavior is such that the matter would be most appropriately resolved without recommending loss of membership, the Committee will recommend reprimand or censure of the respondent, with or without one or more available directives. See Part II, Subsections 11.1, 11.2, and Section 12.

7.5 Recommend Expulsion. The Committee may recommend expulsion if it concludes that there has been an ethics violation, that it was of a kind likely to cause substantial harm to another person or the profession, or that it was otherwise of such gravity as to warrant this action.

7.6 Recommend Stipulated Resignation. In lieu of the other resolutions set forth in this section, with the agreement of the respondent, the Committee may recommend to the Board that the respondent be permitted to resign under stipulations set forth by the Committee, according to the following procedure:

7.6.1 Offer of Stipulated Resignation by the Committee. When the Committee finds that the respondent has committed a violation of the Ethics Code, the Committee may offer to enter into an agreement with the respondent, contingent upon approval by the Board of Directors, that the respondent shall resign from the Association under mutually agreed upon stipulations. Such stipulations shall include the extent to which the stipulated resignation and underlying ethics violation shall be disclosed and a minimum period of time after resignation during which the respondent shall be ineligible to reapply for membership. The Committee may also vote to recommend and inform the member of an alternative sanction chosen from among Subsections 11.1-11.3 of Part II of these Rules in the event the member does not accept the offer of stipulated resignation.

7.6.2 Notification of Respondent. In such cases, the respondent shall be notified, in writing, of the Committee's recommended sanction of stipulated resignation and that he or she may accept the Committee's recommended sanction within 30 days of receipt. The respondent shall also be notified of any alternative recommended sanction.

7.6.3 Acceptance by Respondent. Within 30 days, the respondent may accept the recommended sanction of stipulated resignation by executing a notarized affidavit of resignation acceptable both to the respondent and the Committee and forwarding the executed notarized affidavit to

the Committee. Such resignation shall become effective only with the approval of the Board, as set forth in Subsection 7.6.5 of this part.

7.6.4 Transmittal to Board of Directors. If the respondent accepts the recommended sanction of stipulated resignation, the Committee shall submit a copy of the affidavit of resignation, with the record in the matter and the rationale for recommending stipulated resignation on the terms stated in the affidavit, to the Board of Directors.

7.6.5 Action by Board of Directors. Within 180 days, the Board of Directors shall accept the respondent's resignation on the terms stated in the affidavit of resignation, unless it is persuaded that to do so would not be in the best interest of the Association and/or of the public. If the resignation is accepted by the Board, the Director shall notify the complainant and respondent of the final disposition of the case.

7.6.6 Rejection of Stipulated Resignation by Respondent. If the respondent fails to accept the determination within 30 days, or formally notifies the Committee of rejection of the offer of stipulated resignation within the 30-day period, the offer of stipulated resignation shall be deemed rejected. The Committee shall reconsider the matter or, if an alternative recommended sanction has previously been identified by the Committee, such alternative recommended resolution shall automatically become the recommended sanction according to Subsection 7.4 or 7.5 of this part.

7.6.7 Rejection of Stipulated Resignation by Board. If the Board rejects the affidavit of resignation under Subsection 7.6.5 of this part, the Committee shall so notify the respondent and reconsider the matter.

8. Procedures Subsequent to Dismissal by Committee

The Committee may reconsider a case dismissed under Subsection 7.2 of this part only if it does so in accordance with Part II, Section 6.

9. Procedures Subsequent to Committee Recommendation of Reprimand or Censure

If the Committee proceeds under Subsection 7.4 of this part, the following procedures shall govern:

9.1 Acceptance of Reprimand or Censure. If the respondent accepts the Committee's recommended sanction and directives, if any, the right of independent adjudication shall be waived, any directives will be implemented by the Director, and the case will remain open until the directives are met. The respondent's failure to respond within 30 days of notification shall be deemed acceptance of the Committee's recommended sanction and directives.

9.2 Independent Adjudication After Recommended Sanction of Reprimand or Censure. The method of adjudication for a recommended sanction of reprimand or censure is an independent adjudication based on

the written record by a three-person Independent Adjudication Panel.

9.2.1 Request for Independent Adjudication and Rationale for Nonacceptance. The respondent may exercise his or her right to independent adjudication by furnishing the Committee, within 30 days after notification of the Committee's recommendation, a written request for independent adjudication and rationale for nonacceptance of the recommendation.

9.2.2 Statement by Committee. Within 30 days of receipt of the respondent's rationale for nonacceptance, the Committee may prepare a statement and provide a copy to the respondent. No statement by the Committee is required.

9.2.3 Respondent's Final Response. Within 15 days of receipt of the Ethics Committee's statement, if any, the respondent may submit to the Director a written response to that statement.

9.2.4 Selection of Independent Adjudication Panel

9.2.4.1 Provision of Standing Hearing Panel List.

Within 60 days of receipt of the request for an independent adjudication, the Director shall provide the respondent with the names and curricula vitae of six members of the Board of Directors' Standing Hearing Panel, of whom at least one shall be a public member. The proposed panel members need not include any member having a particular specialty or representing a particular geographic location. The Director shall make inquiry and ensure that proposed panel members do not have a conflict of interest as defined by applicable law and appear otherwise able to apply fairly the APA Ethics Code based solely on the record in the particular case.

9.2.4.2 Designation of Panel Members. Within 15 days after receipt of the six-member list, the respondent shall select three of the six to constitute the Independent Adjudication Panel. The Panel shall include not fewer than two members of the Association. Whenever feasible, the respondent's selection will be honored. If at any time prior to conclusion of the adjudication, any panelist cannot serve on the Independent Adjudication Panel for any reason, the respondent shall be notified promptly and afforded the opportunity within 10 days of receipt of notification to replace that individual from among a list of not fewer than four members of the Board of Directors' Standing Hearing Panel. In the event the respondent fails to notify the Director of his or her initial or replacement selections in a timely fashion, the right to do so is waived, and the President of the Association shall select the member(s), whose name(s) shall then be made known to the respondent.

9.2.4.3 Designation of Chair of Independent Adjudication Panel. The President shall designate one of the three Panel members to serve as Chair. The Chair of the Panel shall ensure that the Panel fulfills its obligations according to these Rules and Procedures.

9.2.5 Provision of Case File to Independent Adjudication Panel. Within 15 days of selection of the Independent Adjudication Panel, receipt of the Committee's statement according to Subsection 9.2.2 of this part, if any; receipt of the respondent's final response according to

Subsection 9.2.3 of this part, if any; or if no statement or response is received, the expiration of the time period for such statement or response, whichever occurs latest, the Director will provide the case file to the members of the Independent Adjudication Panel. The case file shall include the complaint and all correspondence and evidence submitted to the Ethics Committee, the respondent's rationale for nonacceptance of the Committee's recommendation, the Committee's statement, if any, and the respondent's final response, if any.

9.2.6 Consideration and Vote by Independent Adjudication Panel. Within 60 days of receipt of the case file, the members of the Panel shall confer with each other and, solely on the basis of the documentation provided and deliberations among themselves, shall vote to take one of the following actions:

9.2.6.1 Adopt the Committee's Recommended Sanction and Directives

9.2.6.2 Adopt a Lesser Sanction and/or Less Burdensome Directives

9.2.6.3 Dismiss the Case

9.2.7 Decision of the Independent Adjudication Panel. Decisions of the Independent Adjudication Panel will be made by majority vote, and at least two reviewers must agree to written findings, a sanction, if any, and a directive or directives, if any. The Committee bears the burden to prove the charges by a preponderance of the evidence. The panelists' votes and the majority's written decision must be submitted to the Ethics Office within the 60-day period set forth in Subsection 9.2.6 of this part. If no two panelists can agree as to the appropriate outcome or a written decision, the case will be referred back to the Committee for further action.

9.2.8 Finality of Decision by Independent Adjudication Panel. The decision of the Independent Adjudication Panel is unappealable. The decision is binding on the Committee and the respondent except that subsequent to the Panel's decision, the Committee may determine that directives are impractical or unduly burdensome and may choose to reduce or dismiss directives required in the Panel's decision. A decision by the Panel either to impose a sanction and/or directive(s) or to dismiss the case will be implemented by the Director as the final adjudication, unless modified by the Committee.

9.2.9 Notification. The Director shall inform the respondent and complainant, if any, of the final disposition. The respondent shall be provided a copy of the majority's written decision.

10. Procedures Subsequent to Committee Recommendation of Expulsion

If the Committee proceeds under Subsection 7.5 of this part, the following procedures shall govern:

10.1 Acceptance of Recommendation of Expulsion. If the respondent accepts the Committee's recommendation to the Board of Directors that he or she be expelled from membership, the right to a formal hearing shall

be waived, and the Committee shall proceed with its recommendation to the Board of Directors according to Subsection 10.3.5 and other subsections of this part. In such event, the recommendation of the Ethics Committee shall be treated as the equivalent of the recommendation of a Formal Hearing Committee that the respondent be expelled from membership. The respondent's failure to respond within 30 days after notification shall be deemed acceptance of the Committee's recommendation.

10.2 Formal Hearing After Recommendation of Expulsion. The method of adjudication for a recommended sanction of expulsion issued under Subsection 7.5 of this part is a formal hearing before a three-member Hearing Committee. Upon request, the respondent will be provided with a copy of the APA Ethics Office "Guidelines for Formal Hearings." These guidelines are for guidance and information purposes only and are not binding on the APA, the Ethics Committee, or hearing participants. The proceedings are governed solely by the Rules and Procedures of the Ethics Committee and the Ethical Principles of Psychologists and Code of Conduct. Alternatively, a respondent may request an independent adjudication to be provided according to the procedures described in Subsections 9.2.2 through 9.2.7 of this part of these Rules in place of the Subsections 10.2.2 through 10.2.6. The Independent Adjudication Panel will make a recommendation that will be subject to review by the Board of Directors as described in Subsection 10.3.

10.2.1 Request for Formal Hearing. The respondent may exercise his or her right to a formal hearing by requesting a hearing in writing within 30 days of notification of the Committee's recommendation. Alternatively, the respondent may request an independent adjudication by furnishing the Committee a written request for independent adjudication, and a written rationale for nonacceptance of the Committee's recommendation, within 30 days after notification of the Committee's recommendation.

10.2.2 Formal Hearing Date and Hearing Committee

10.2.2.1 Establishment of Hearing Date and Provision of Standing Hearing Panel List. Within 60 days after the receipt of the respondent's request for a formal hearing, the Director shall establish the date of the hearing and provide the respondent with the date and the names and curricula vitae of six members of the Board of Directors' Standing Hearing Panel. The six identified members of the Board of Directors' Standing Hearing Panel shall include at least one public member. The proposed panel members need not include any member having a particular specialty or representing a particular geographic location. The Director shall make inquiry and ensure that proposed panel members do not have a conflict of interest as defined by applicable law and appear otherwise able to apply fairly the Ethics Code based solely on the record in the particular case.

10.2.2.2 Designation of Hearing Committee Members. The Hearing Committee shall consist of three individuals, selected from among the six individuals from the

Board of Directors' Standing Hearing Panel identified according to Subsection 10.2.2.1 of this part. The Hearing Committee shall include not fewer than two members of the Association. Within 15 days after the receipt of the names and curricula vitae, the respondent shall notify the Director of his or her selections for the Hearing Committee. Whenever feasible, the respondent's selections will be honored. In the event an individual selected by the respondent cannot serve on the Hearing Committee for any reason, the respondent shall be notified and afforded the opportunity within 10 days of receipt of notification to replace that individual from among a list of not fewer than four members of the Board of Directors' Standing Hearing Panel. If the respondent fails to notify the Director of his or her initial or replacement selections in a timely fashion, the right to do so is waived and the President shall select the Hearing Committee member(s), whose name(s) shall then be made known to the respondent.

10.2.2.3 Voir Dire of Designated Hearing Committee Members. At the time the respondent selects the three designated Hearing Committee members, the respondent may also submit in writing, to the Director, a request to question designated Hearing Committee members with respect to potential conflict of interest. If the President has chosen the three Hearing Committee members, the respondent shall have 15 days after receipt of their names to submit such a request. Upon receipt of such written request, the Director shall convene by telephone conference call, or otherwise, a formal opportunity for such questioning by the respondent or the respondent's attorney. Legal Counsel for the Association shall preside at such *voir dire*, shall be the sole judge of the propriety and pertinency of questions posed, and shall be the sole judge with respect to the fitness of designated Hearing Committee members to serve. Failure by the respondent to submit a timely request shall constitute a waiver of the privilege to conduct *voir dire*.

10.2.2.4 Designation of Chair of Hearing Committee. The President shall designate one of the three Hearing Committee members to serve as Chair. The Chair of the Hearing Committee and Legal Counsel for the Association shall assure proper observance of these Rules and Procedures at the formal hearing.

10.2.3 Documents and Witnesses

10.2.3.1 Committee. At least 30 days prior to the scheduled date of the formal hearing, the Ethics Committee shall provide the respondent and the Hearing Committee with copies of all documents and other evidence, and the names of all witnesses that may be offered by the Committee in its case in chief.

10.2.3.2 Respondent. At least 15 days prior to the scheduled date of the formal hearing, the respondent shall provide the Ethics Committee and the Hearing Committee with copies of all documents and other evidence, and the names of all witnesses that may be offered by the respondent.

10.2.3.3 Rebuttal Documents and Witnesses. At least 5 days prior to the scheduled date of the formal hearing, the Committee shall provide the respondent and the Hearing

Committee with copies of all documents and other evidence, and the names of all witnesses that may be offered in rebuttal.

10.2.3.4 *Audiotapes, Videotapes, and Similar Data Compilations.* Audiotapes, videotapes, and similar data compilations are admissible at the formal hearing, provided usable copies of such items, together with a transcription thereof, are provided in a timely fashion according to the provisions of this section.

10.2.3.5 *Failure to Provide Documents, Other Evidence, and Names of Witnesses in a Timely Fashion in Advance of the Formal Hearing.* Failure to provide copies of a document or other evidence or the name of a witness in a timely fashion and consistent with this section and these Rules and Procedures is grounds for excluding such document, other evidence, or witness from evidence at the formal hearing, unless good cause for the omission and a lack of prejudice to the other side can be shown.

10.2.4 *Formal Hearing Procedures*

10.2.4.1 *Presiding Officers*

10.2.4.1.1 The Chair of the Hearing Committee shall preside at the hearing. The General Counsel of the Association shall designate Legal Counsel to assist the Hearing Committee.

10.2.4.1.2 Legal Counsel for the Hearing Committee shall be present to advise on matters of procedure and admission of evidence and shall represent neither the Ethics Committee nor the respondent at the formal hearing.

10.2.4.2 *Legal Representation of the Respondent and Committee*

10.2.4.2.1 *Respondent.* The respondent may choose, at the respondent's own expense, to be represented by a licensed attorney.

10.2.4.2.2 *Committee.* The General Counsel of the Association may designate Legal Counsel to advise the Ethics Committee. The Chair of the Ethics Committee, the Chair's designee, or Legal Counsel to the Committee presents the Committee's case.

10.2.4.3 *Rules of Evidence.* Formal rules of evidence shall not apply. All evidence that is relevant and reliable, as determined for the Hearing Committee by Legal Counsel for the Hearing Committee, shall be admissible.

10.2.4.4 *Rights of the Respondent and the Committee.* Consistent with these Rules and Procedures, the respondent and the Committee shall have the right to present witnesses, documents, and other evidence, to cross-examine witnesses, and to object to the introduction of evidence.

10.2.4.5 *Burden of Proof.* The Ethics Committee shall bear the burden to prove the charges by a preponderance of the evidence.

10.2.5 *Decision of the Hearing Committee.* The decision shall be by a simple majority vote. Within 30 days of the conclusion of the hearing, the Hearing Committee shall submit in writing to the Board of Directors, through the Director, its decision and the rationale for that decision. The Hearing Committee may decide to

10.2.5.1 *Adopt the Committee's Recommendation to the Board of Directors*

10.2.5.2 *Recommend to the Board of Directors a Lesser Sanction With or Without Directives*

10.2.5.3 *Dismiss the Charges*

10.2.6 *Notice to the Respondent and the Ethics Committee.* Within 15 days of receipt of the Hearing Committee's decision, a copy of the decision and the rationale for the decision shall be provided to the respondent and the Ethics Committee. If the Hearing Committee determines that the charges must be dismissed, the Ethics Committee will implement this as the final adjudication.

10.3 *Proceedings Before the Board of Directors*

10.3.1 *Referral to Board of Directors.* If the Hearing Committee or Independent Adjudication Panel recommends that the respondent be expelled from membership or otherwise disciplined, the matter will be referred to the Board of Directors. The Director shall provide the materials of record to the Board, including a copy of the Hearing Committee's or Independent Adjudication Panel's decision; the respondent's timely response, if any, under Subsection 10.3.2 of this part; the Ethics Committee's timely statement, if any, under Subsection 10.3.3 of this part; the respondent's timely final response, if any, under Subsection 10.3.4 of this part; and the record.

10.3.2 *Respondent's Response.* Within 30 days of receipt of the Hearing Committee's or Independent Adjudication Panel's decision, the respondent may file a written response with the Board of Directors, through the Ethics Office. A copy of the respondent's written response shall be retained by the Chair of the Ethics Committee.

10.3.3 *Ethics Committee's Statement.* Within 15 days of receipt of the respondent's response or the date such response was due, the Ethics Committee may prepare a written statement and provide a copy to the respondent.

10.3.4 *Respondent's Final Response.* Within 15 days of receipt of the Ethics Committee's statement, if any, the respondent may file with the Board of Directors, through the Director, a written response to the Ethics Committee's statement. A copy of this response shall be retained by the Chair of the Ethics Committee.

10.3.5 *Action by the Board of Directors.* Within 180 days of receipt of the recommendation of the Hearing Committee or Independent Adjudication Panel (or of the Ethics Committee if no subsequent adjudication was held), together with any timely responses thereto and the record, the Board of Directors will consider these materials and will take action as follows:

10.3.5.1 *Adopt.* The Board of Directors shall adopt the recommendation, unless by majority vote it finds grounds for nonacceptance, as set forth in Subsection 10.3.5.2.

10.3.5.2 *Not Adopt After Determining Grounds for Nonacceptance.* Only the following shall constitute grounds for nonacceptance of the recommendation by the Board:

10.3.5.2.1 *Incorrect Application of Ethical Standard(s).* The Ethics Code of the Association was incorrectly applied.

10.3.5.2.2 *Erroneous Findings of Fact.* The findings of fact were clearly erroneous.

10.3.5.2.3 *Procedural Errors.* The procedures used were in serious and substantial violation of the Bylaws of the Association and/or these Rules and Procedures.

10.3.5.2.4 *Excessive Sanction or Directives.* The disciplinary sanction or directives recommended are grossly excessive in light of all the circumstances.

10.3.5.3 *Consequences of Nonacceptance.* If the Board of Directors finds grounds for nonacceptance, it shall refer the case back to the Ethics Committee. In its discretion, the Ethics Committee may return the matter for reconsideration before a newly constituted Hearing Committee or Independent Adjudication Panel or may continue investigation and/or readjudicate the matter at the Committee level.

10.4 *Notification.* If the Board of Directors does not adopt the recommendation, it shall notify the Ethics Committee in writing why the decision was not accepted, citing the applicable ground(s) for nonacceptance under Subsection 10.3.5.2 of this part.

10.5 *Reconsideration.* If a reconsideration is instituted, the procedures of relevant subsections of this part shall apply. Unless any of the following is offered by the respondent, none shall be part of the record before the second Hearing Committee or Independent Adjudication Panel: the original Hearing Committee's or Independent Adjudication Panel's report; the respondent's written responses or Ethics Committee's written statements made under Subsections 10.3.2, 10.3.3, and 10.3.4 of this part; and the Board of Directors' rationale for nonacceptance of the original Hearing Committee's or Independent Adjudication Panel's recommendation. If the respondent offers any portion of any of the foregoing documents as evidence in the reconsideration, the Committee may introduce any portion of any or all of them.

4 In this document "ethical standard(s)" refers to the ethical standard(s) in the Ethical Principles of Psychologists and Code of Conduct, the ethical principle(s) in the Ethical Principles of Psychologists, or the enforceable provisions of any subsequent ethics code.

5 For purposes of these Rules and Procedures, a state association shall include territorial, local, or county psychological associations, and in cases of Canadian members of the Association, provincial psychological associations.

6 Whether an individual is a member of the Association is determined according to the Bylaws, Association Rules, and other pertinent organic documents of the Association. Under the current rules, nonpayment of dues results in discontinuation of membership only after two consecutive calendar years during which dues to the Association have remained unpaid. For a copy of the relevant sections of the current Bylaws and Association Rules, contact the APA Ethics Office. For purposes of these Rules and Procedures, high school and foreign affiliates are not members of the Association.

7 This waiver is required to help assure participants in the APA ethics process, including complainants, that the process will not be inappropriately used to gain an advantage in other litigation.

Footnotes

1 The Ethics Committee seeks to protect the public by deterring unethical conduct by psychologists, by taking appropriate action when an ethical violation has been proved according to these Rules and Procedures, and by setting standards to aid psychologists in understanding their ethical obligations. Of course, in no circumstances can or does the Committee or the Association guarantee that unethical behavior will not occur or that members of the public will never be harmed by the actions of individual psychologists.

2 For a copy of the relevant sections of the current Bylaws and Association Rules, contact the APA Ethics Office.

3 For purposes of these Rules and Procedures, a reference to state or local boards or similar entities shall include state, local, or provincial licensing boards (whether located in the United States or Canada); state, local, or provincial boards of examiners or education in those cases where the pertinent licensing or certification is secured from such entities; or in states or provinces with no licensing authority, nonstatutory boards established for similar purposes (such as registering bodies).