

AMERICAN BOARD OF VOCATIONAL EXPERTS COMPLAINT SUBMISSION AND ADJUDICATION PROCEDURES

The procedures defined herein are intended to guide the submission and adjudication of ethics complaints lodged against ABVE members, including certified Fellows, Diplomates, and International Psychometric Evaluators; Associates; Students; and Emeritus/Active and Emeritus members (all hereafter referred to “*Members*”). The process begins with a Complainant submitting a formal complaint to the American Board of Vocational Experts Ethics Committee Chairperson (“*Chairperson*”). The Chairperson is the official responsible for adherence to the procedures described herein and serves as the officer for any hearing that may be called to adjudicate the complaint.

The Ethics Complaint Submission and Adjudication Procedures (“*Procedures*”) provide guidelines that were developed to accommodate the range of complaints and events foreseen by ABVE. In most cases, these guidelines can be followed explicitly; however, there may be instances in which a variation to the guidelines is warranted. Any decision to deviate from the process described shall be made by the Ethics Committee (“*Committee*”). ABVE may consider any ethics complaint, regardless of whether the accused was an ABVE member at the time of the alleged violation; or continues to be a member during any ongoing ethics adjudication process.

If any party refuses to fully cooperate or participate with ABVE or its representatives, and if it is determined that the lack of cooperation was without good cause, ABVE may terminate the ethics complaint. ABVE may impose sanctions upon an uncooperative Member. Should a member attempt to relinquish ABVE certification or withdraw an application during the course of an ethics inquiry or case, ABVE reserves the right to continue the matter to a final resolution according to established rules and procedures or to discontinue.

In the event ABVE received an ethics inquiry or complaint concerning an individual who does not hold the ABVE Credential or is not a member of ABVE, the Ethics Committee will inform the Complainant and may refer the Complainant to another certifying body.

Submitting an Ethics Complaint

Any individual who has a verifiable reason to believe that a member has violated ABVE Ethics Canons may submit an Ethics Complaint. A complaint must be filed within two years of the date of the alleged infraction. The generous time period is in consideration of lengthy time periods required for the resolution of civil litigation. ABVE may continue or delay ethics complaints if complicated by civil or criminal litigation or other proceedings.

Complaints are to be submitted to the Ethics Chairperson at abve@abve.net. Only signed, written complaints on the ABVE Ethics Complaint Form will be accepted. The ABVE Ethics Complaint Form must be signed by the Complainant. There is no fee to submit an Ethics complaint.

The complaint must document all available pertinent information including, but not limited to: the name of the Member, the specific rule(s) including the number or Canon/Code of Ethics section(s) that may have been violated, when the alleged infraction(s) occurred, a description of the incident(s), the roles of the parties involved, and the relationship of the Complainant to the Member. The complaint must include sufficient documentation and evidence to corroborate the complaint. Complaints cannot be processed without verifying documentation. A Complainant who does not provide a completed ABVE Ethics Complaint Form will be informed in writing of the need to comply with the requirements before the complaint will be considered by the Committee. If the Complainant does not respond within thirty calendar days, the Complaint will be dismissed and closed. The Complainant will be notified in writing that their complaint has been closed.

A single individual must file an Ethics Complaint Form. Where multiple individuals wish to participate in filing a complaint, one individual must sign the form as the Complainant. Other parties to the complaint may be listed as witnesses. If numerous charges are filed independently by multiple parties regarding the same infraction, the parties will be asked to consolidate their complaints into a single complaint.

The original signed ABVE Ethics Complaint Form and all supporting documentation must be submitted as a single packet and marked CONFIDENTIAL. Documentation or references to individuals not party to the complaint must be redacted or accompanied by a written release of information. This process is necessary to protect the confidentiality of the Complainant, the Member, and other parties.

Complaint Processing Procedures

The ABVE Ethics Committee will review the Ethics Complaint Form along with each charge statement and supporting documents submitted by the Complainant.

If any member of the Ethics Committee or the Ethics Chairperson is the subject of the complaint or identifies a conflict of interest, they will be recused from their duties to process the complaint.

The Ethics Committee shall determine the *merit* and *sufficiency* of a complaint.

Disposition of the Complaint

The Committee will discuss the Complaint, any response(s), and supporting documentation and make one of the following determinations:

1. If the Complaint is found to lack merit or sufficient supportive evidence, written notification will be provided to the Complainant advising that the complaint has been dismissed and closed.
2. The Complaint will be accepted when:
 - i. The alleged behavior, *if true*, violates the ABVE Canons or Code of Ethics.
 - ii. The Complaint is supported by sufficient corroborating evidence.

If the Committee determines that the complaint constitutes a violation, notice will be delivered to the Member at the last known address by e-mail and certified mail and marked CONFIDENTIAL. The notice to the Member will set forth the Complaint and the specific Canon(s) suspected to have been violated.

The Member will have an opportunity to respond to the Complaint by providing any fact affidavits, documents, or written arguments that they wish to be considered by the Committee in their review of the complaint. The information provided by the Member is considered confidential in these instances and will not be shared with the Complainant. A response in writing will be required within 30 days of the date of notification. If the Member fails to respond in writing, sanctions may be imposed based on the complaint alone.

The Committee may require the Member to supplement or provide additional information. Upon receipt of sufficient information deeming the alleged behavior *not true*, the Committee may choose to issue a summary judgment dismissing the Complaint. In this event, the Committee will notify the Complainant and Member of the decision, and the complaint shall be closed.

If a reasonable basis for a violation exists, the Committee will advise the Member and provide written notification of the action or level of sanction and any remedial requirements that apply.

The Member may request a formal hearing in writing. Hearings are held annually during the ABVE Spring Conference. If the Member opts to waive his or her right to a formal hearing or does not respond within thirty calendar days, any sanctions and remedial requirements will apply.

Sanctions and Remedial Requirements could be:

1. Temporary suspension of Certification and/or Membership for a period of not less than six months and not more than two years.
2. Permanent removal of Certification and/or Membership.
3. A private reprimand may be issued, making the person ineligible for Certification and/or Re-Certification.
4. A public reprimand may be published in the ABVE Newsletter and Journal.
5. Imposition of a term of Certification Probation for any period up to and including five years which may include conditions on the Member's conduct during that period.
6. The Member may be compelled to return all original or copied credential materials and immediately cease any and all professional identification with ABVE.
7. ABVE may notify appropriate government or professional bodies of any final disciplinary action taken against the Member by sending a copy of the Ethics case decision.

Ethics Hearing

If an Ethics Hearing is requested by the Member or initiated by the ABVE Ethics Committee ("*Committee*"), the Hearing will be held before the Committee, the ABVE President, and the ABVE's attorney. The Member may also choose to be represented by an attorney.

The purpose of the Hearing is to allow the Member further consideration of the Disposition of the Complaint and/or the sanctions applied. The Ethics Committee Chairperson ("*Chairperson*") may record the Hearing; no other recordings will be permitted.

The Chairperson will advise the Member and his or her legal representative, and the Complainant of the time, place, and date of the hearing by e-mail and certified mail. The Committee will provide a private room to conduct the hearing. The Chairperson will preside over the hearing and deliberations. The Member is required to attend the hearing in person and must confirm his or her attendance thirty days prior to the hearing. A list of witnesses and any supplemental or additional information must be provided to the Committee a minimum of twenty-one working days prior to the scheduled hearing. Hearing postponements will only be granted under extenuating circumstances.

The Chairperson is responsible for maintaining order during the hearing. It is the role of the Chairperson to intervene if proper procedures are not followed or decorum is not maintained. The Chairperson may end the hearing at any time and admonish or remove a party for cause.

All hearings are confidential and private. A taped, written, or summary record of the hearing will be made by the Committee. Parties are responsible for their expenses. Parties requesting a

written transcript or recorded copy of the hearing will be charged a reasonable fee for the preparation and provision of the same. The hearing record will be closed following the conclusion of the hearing.

Both parties to the Complaint may speak for themselves during the hearing. The Complainant will present the case, and the Member will be given the opportunity to respond. The Complainant, Member, ABVE President, and Committee may question witnesses.

The Committee will have the right to call additional witnesses they believe may provide further insight into the matter. The hearing procedure, convening of the hearing, opening statement by the Committee, Chairperson, 10-minute opening statement by Member's attorney or Member, fifteen minutes testimony for Complainant, maximal time thirty minutes, questioning of Complainant by Committee and ABVE attorney.

Testimony that is merely cumulative or repetitive may be excluded at the Chairperson's discretion. All parties providing testimony will be required to attest to the veracity of their statements. Written documentation submitted by all parties after the deadline may be excluded. The burden of proof resides with the Complainant.

Any party may request that the record remain open for thirty days for the purpose of receiving additional documentary information and proof. The Ethics Committee Chairperson may deny requests to keep records open and such decisions cannot be appealed.

If either the Complainant or Member missed the scheduled hearing dates without a viable reason, the ABVE Ethics Committee may issue a summary judgment.

Deliberations

After the hearing is completed, the Committee and ABVE President will meet in a closed session to review the evidence and deliberate. The Committee and ABVE President will review the evidence presented and weigh the testimony of both parties and any witnesses. A motion and a second are required to recommend a verdict followed by additional discussion, if necessary. The Committee and ABVE President will vote on whether the Member is guilty or innocent of the charges. All Committee members and the ABVE President must cast a vote, and the verdict must be unanimous. If a unanimous vote for a guilty verdict cannot be obtained, the Member will be acquitted of the charges and the Complaint will be dismissed.

Penalty Phase

A motion and a second will be required for the proposed penalty. Following any subsequent discussion, the Committee will vote on the motion. A majority vote is required for approval of the motion for sanctions.

A Decision and Order will be prepared by the Chairperson within thirty days of the verdict and motion for sanctions.

The following information will be included in the Decision and Order:

1. A summary of the case including the positions of the parties.
2. A summary of all relevant factual findings based on the record.
3. A final ruling of each alleged violation of the Code of Ethics or Canon(s).
4. A statement of any enforced Sanctions and/or Remedial Requirements.
5. Any other relevant material.

Appeal Process

The Complainant does not have appeal rights. A Member who **has not** waived their right to a hearing may request an Appeal in writing within 30 days of the date of the Decision and Order. No appeal may be made after 30 days. An appeal may be requested regarding the decision that a violation has occurred and/or decisions related to imposed Sanctions and/or Remedial Requirements. The appeal must be based on the grounds that the Ethics Committee violated its Complaint Adjudication Procedures and/or that the decision of the Committee was arbitrary, capricious, and not supported by the weight of the materials and testimony presented by the Complainant and the Member.

A separate panel will be established to hear any appeals. The ABVE President will appoint a five-person Appeals panel consisting of:

- An attorney with relevant experience advising professional organizations on matters involving ethical concerns or potential violations.
- Four current active ABVE members, including two board members, with appropriate expertise and impartiality to ensure a fair and objective review.

The panel will be given copies of all materials used in the original decision and they may uphold the original decision, reverse it, or reduce stayed sanction.

Conflict of Interest Involving the President

If the subject of the complaint is the ABVE President, the President shall be recused from appointing members of the Appeals panel to avoid any conflict of interest. In such cases, the responsibility for appointing the Appeals panel shall transfer to the President-elect, or if unavailable or conflicted, to the Past-president of the Board or as determined by the Executive Committee.

Role of the Appeals Panel

The Appeals panel shall independently investigate the matter, consider all relevant facts, and provide a written report of its findings and recommendations to the Board for final resolution.

Written correspondence documenting the outcome of the Appeal decision will be sent to the Complainant and Member. There is no further action after an Appeal.