

American Board of Vocational Experts Procedures for Processing Complaints

The procedures defined herein are intended to guide the adjudication of ethics complaints lodged against ABVE professionals. The process begins with the submission of a formal complaint submitted to the American Board of Vocational Experts (here after referred to as ABVE) Ethics Committee chairperson. The ABVE ethics chairperson is the official responsible for adherence to the procedure and serves as the hearing officer for any hearing that may be called to adjudicate the complaint.

The ethics complaint adjudication procedure presents guidelines that were developed to accommodate the range of complaints and events that were 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 normal process described shall be made by the Ethics Committee.

A. Submitting an Ethics Charge

Ethics complaints may be received from ABVE members, attorneys, judges, insurance carriers, or any members of the general public who have reason to believe that a certificant has violated ABVE canons.

The ABVE Ethics Committee will accept only signed, written complaints on the ABVE ethics complaint form attached to these procedures. Note all telephone inquires/complaints will be forwarded or directed to the complaint form. The complaint form must be signed by the complainant. There is no fee to submit an ethics complaint.

The complaint must document all available and pertinent information including, but not limited to: the name of the certificant ABVE member, the specific rules 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 and the roles of the parties involved, and the relationship of the complainant to the certificant. The complaint must include sufficient documentation and evidence to corroborate the complaint.

A single individual must file an ethics charge submission form. Where multiple individuals wish to participate in the filing of a complaint, one individual must sign the form as the complainant. All other parties to the complaint may be listed as witnesses. If numerous charges are filed independently by multiple parties regarding the same infraction, all parties will be asked to consolidate their complaint into a single proceeding. Separate hearings will be conducted if the certificant refuses to act in concert with the other complainants.

The original signed ethics form and all supporting documentation must be submitted to ABVE Headquarters c/o Ethics Committee. An acknowledgement of the receipt of the packet will be forwarded to the complainant. All correspondence related to the complaint must be in writing and addressed to designated ABVE chairperson. It must be marked confidential. This process is necessary to protect the confidentiality of the complainant and the certificant. The Ethics Committee shall determine the sufficiency of a complaint.

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Ethics Committee
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A complaint must be filed within two years of the date of when the alleged infraction occurred. The generous time period is in consideration of lengthy time periods required for the resolution of civil litigation. ABVE may also continue or delay ethics complaints if complicated by civil or criminal litigation or other proceedings.

In the event ABVE received an ethics inquiry or complaint concerning an individual who does not hold the ABVE credential or is not an ABVE applicant, the Ethics Committee will inform the complainant and may refer the complainant to another certifying body.

Any failure to disclose pertinent information or misleading disclosure by an ABVE applicant or member with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter may constitute a violation.

ABVE may consider any ethics complaint, regardless of whether the accused held the ABVE credential at the time of the alleged violation; or whether the accused continues to hold or seek an ABVE credential during the course of any ethics cases.

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 of an uncooperative complainant or impose sanctions upon an uncooperative respondent. Should a certificant 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.

The ABVE Ethics Committee will review each charge presented and an ethics charge statement submitted by the complainant and then determine if it will become the subject of a formal ethics complaint. A determination is made where the alleged behavior, if true, violates the ABVE canons or code of ethics and whether the committee should accept the complaint under these procedures. Assuming that the committee determines that the complaint constitutes a violation, notice will be delivered to the certificant/respondent at the last known address by regular and certified mail and marked confidential.

The certificant will have an opportunity to respond to the complaint submitted and to forward any fact affidavits, documents or written arguments that he or she wishes to be considered by the Ethics Committee in reviewing the complaint. A response in writing will be required within 30 days from the date of notification. If the certificant fails to respond in writing to a request from the committee, the Ethics Committee may impose sanctions on the basis of the complaint alone. Upon receipt of sufficient information, the Ethics Committee may choose to issue a summary judgment dismissing the charges. In this event the Ethics Committee will notify the complainant of the decision and the complaint shall be closed. The notice to the certificant/respondent will set forth the complaint and the specific canons suspected to have been violated. The ethics complaint response must include a full response to each complaint and the identification and a copy of each document that the respondent believes to be relevant to the resolution of the ethics

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complaint and any other information that the respondent believes will assist ABVE in considering the ethics complaint fairly.

The ABVE committee may require the respondent to supplement or provide additional information.

The Ethics Committee will forward a copy of the ethics complaint response to the complainant within 60 days following receipt of the response by ABVE. The complainant may submit a reply to the respondent's ethics complaint's response by written communication within 30 days of the mailing date of the response to the complainant.

I. Disposition of the Complainant

Committee members will review copies of all documents pertaining to this matter. The committee will discuss the complaint, response and any supporting documentation. On the basis of the complaint and the certificant's response the committee may render any one of the following determinations: the case can be closed if no violation is documented or found. Written notification will be provided to complainant and certificant.

If a reasonable basis for a violation still exists the Ethics Committee can advise the certificant and indicate that they are entitled to a formal hearing upon receipt of a written request for same. Hearings are held twice annually during the ABVE fall and spring conferences. If a hearing is not requested then the disposition could be:

1. Temporary suspension of ABVE certification for a period of not less than 6 months and not more than 2 years.
2. Certification could be permanently removed and member will not be allowed to reapply for ABVE membership/certification.
3. A private reprimand can be issued making the person ineligible for re-certification and certification.
4. A public reprimand published in the newsletter and journal.
5. The imposition of a term of certification probation for any period up to and including 5 years which may include conditions on the respondents conduct during that period.
6. The revocation of any ABVE certification by the respondent and a return of all original or copied credential materials and to immediately stop any and all professional identification with ABVE.

ABVE may notify appropriate government or professional bodies of any final disciplinary action taken against the respondent by sending a copy of the ethics case decision.

II. Ethics Hearing

If an ethics hearing has been requested by the certificant or initiated by the Ethics Committee, the hearing will be held before all the members of the Ethics Committee to include the president of ABVE.

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The purpose of the hearing is to determine whether a violation of the canons has occurred and if so, to determine appropriate disciplinary actions.

The ethics chairperson will advise the certificant and his or her legal representative, the complainant by certified and regular mail of the time, place and date of the hearing. The Ethics Committee will provide a private room to conduct the hearing and no observers other than appropriate ABVE board members or recording devices other than those used by the committee will be permitted. The Ethics Committee chairperson will preside over the hearing and the deliberations. The certificant is required to attend the hearing in person and must advise regarding his or her attendance 30 days prior to the hearing. Any supplemental or additional information must be provided to the committee a minimum of 21 working days prior to the scheduled hearing. Hearing postponements will only be granted under extenuation circumstances. All witnesses will be excluded from the hearing room. All hearings are confidential and private. A taped, written, or summary record of the hearing will be made by the Ethics Committee. No other recordings are permitted. Parties are responsible for their expenses associated with the case. Parties requesting a written transcript or recorded copy of the hearing will be charged a reasonable fee for the preparation and provision of same. The hearing record will be closed following the conclusion of the hearing.

Any party may request that the record remain open for 30 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 certificant missing the scheduled hearing dates without a viable reason, the ABVE Ethics Committee may issue a summary judgment.

Both parties to the complaint may speak for themselves during the hearing. The complainant will present the case to the ethics board. Both the complainant and certificant may question witnesses. The ethics chairperson is responsible for maintaining order during the hearing. It is the role of the ethics chairperson to intervene if proper procedures are not followed or decorum is not maintained. The ethics chairperson may end the hearing at any time and admonish or remove a party for cause.

The committee will have the right to call witnesses they believe may provide further insight into the matter.

Hearing Procedure, Convening of the Hearing, Opening Statement by Committee, ABVE Ethics Committee Chairperson, 10 minute opening statement by Certificant's attorney or certificant, 15 minutes testimony for complainant, Maximal time 30 minutes, Questioning of Complainant by Committee and ABVE attorney

Testimony that is merely cumulative or repetitive may be excluded at the chair'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

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resides with the complainant. After the hearing is completed, the committee will meet in a closed session to review the evidence.

The members of the Ethics Committee and the president of ABVE must all participate in the deliberations.

The ABVE Ethics Committee 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 ABVE Ethics Committee will vote on whether the ABVE certificant is guilty or innocent of the charges. The vote must be unanimous all members must cast a vote. If a unanimous vote for a guilty verdict cannot be obtained, the ABVE certificant will be acquitted of the charges.

III. Penalty Phase

A motion and a second will be required for the proposed penalty. Following any subsequent discussion, the Ethics Committee will vote on the motion. A majority vote is required for approval of the motion for sanctions. There are no appeals to the boards' decision.

A decision and order will be prepared by the ethics chairperson within 30 days of the closing of the case record. The following information will be included in the case decision:

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 code of ethics violation charged
4. A statement of any disciplinary action or sanction issued
5. Any other relevant material

IV. Appeal Process

Request for appeals must be received within 10 days of the date of the referral and it must be in writing. A separate committee should be established to hear any appeals. The appeal must be based on the fact that the Ethics Committee violated its policies and procedures for processing ethical violations and complaints or that the decision of the committee was arbitrary, capricious, and not supported by the materials, testimony, and other documents. The president of ABVE will appoint a 4-person appeal panel consisting of current active members of ABVE including 2 board members. The 5th member will be the ABVE legal representative. The panel will be given copies of all materials used in the ABVE Ethics Committee decision and they may uphold the committee's decision, reverse it, or reduce stayed sanction. Again, written correspondence goes to the certificant and complainant-describing outcome of decision process.