

# **Code of Ethics And Committee Process**

**Revised February 2018**

## **6.03 ETHICS CODE AND COMMITTEE PROCESS**

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### **SECTION A: THE COUNSELING RELATIONSHIP**

#### **A.1 Client Welfare**

##### **a. Primary Responsibility.**

The primary responsibility of counselors is to respect the dignity and to promote the welfare of clients.

##### **b. Positive Growth and Development.**

Counselors encourage client growth and development in ways that foster the client's interest and welfare; counselors avoid fostering dependent counseling relationships.

##### **c. Treatment Plans**

Counselors and their clients work jointly in developing integrated, individual treatment plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients regularly review treatment plans to ensure their continued viability and effectiveness, respecting client's freedom of choice. (See A.3.b.)

##### **d. Family Involvement**

Counselors recognize that families are usually important in the client's lives and strive to enlist family understanding and involvement as a positive resource, when appropriate.

#### **A.2. Respecting Diversity**

##### **a. Nondiscrimination**

Counselors do not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic status. (See C.5.a., C.5.b., and D.1.i)

##### **b. Respecting Differences.**

Counselors will actively attempt to understand the diverse cultural backgrounds of the clients with whom they work. This includes, but is not limited to, learning how the counselor's own cultural/ethnic/racial identity impacts his/her values and beliefs about the counseling process. (See E.8. and F.2.i.)

#### **A.3. Client Rights**

##### **a. Disclosure to Clients.**

When counseling is initiated, and throughout the counseling process as necessary, counselors inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of service to be performed, and other pertinent information. Counselors take steps to ensure that clients understand the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients have the right to expect confidentiality and to be provided with an explanation of its limitations, including supervision and/or treatment team professionals; to obtain clear information about their case records; to participate in the ongoing treatment plans; and to refuse any recommended services and be advised of the consequences of such refusal. (See E.5.a.and G.2.)

##### **b. Freedom of Choice.**

Counselors offer clients the freedom to choose whether to enter into a counseling relationship and to determine which professional(s) will provide counseling. Restrictions that limit choices of clients are fully explained.

##### **c. Inability to Give Consent**

When counseling minors or persons unable to give voluntary informed consent, counselors act in these clients' best interest. (See B.3.)

#### **A.4. Clients Served by Others**

If a client is receiving services from another mental health professional, counselors with client consent, inform the professional persons already involved and develop clear agreements to avoid confusion and conflict for the client. (See C.6.c)

#### **A.5. Personal Needs and Values**

##### **a. Personal Needs.**

In the counseling relationship, counselors are aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and avoid actions that seek to meet their personal needs at the expense of clients.

**b. *Personal Values.***

Counselors are aware of their own values, attitudes, beliefs, and behaviors and how these apply in a diverse society, and avoid imposing their values on clients. (See C.5.a.)

**A.6. Dual Relationships**

**a. *Avoid When Possible.***

Counselors are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of clients. Counselors make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, or close personal relationships with clients.) When a dual relationship cannot be avoided, counselors take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs. (See F.1.b)

**b. *Superior/Subordinate Relationships.***

Counselors do not accept as clients their superiors or subordinates with whom they have administrative, supervisory or evaluative relationships.

**A.7. Sexual Intimacies with Clients**

**a. *Current Clients***

Counselors do not have any type of sexual intimacies with clients and do not counsel persons with whom they have had a sexual relationship.

**b. *Former Clients.***

Counselors do not engage in sexual intimacies with former clients.

**A.8. Multiple Clients**

When counselors agree to provide counseling services to two or more persons who have a relationship (such as husband and wife, or parents and children), counselors clarify at the outset which person or persons are the primary client(s) and the nature of the relationships they will have with each person. If it becomes apparent that counselors may be called upon to perform potentially conflicting roles, they clarify, adjust, or withdraw from the roles appropriately. (See B.2 and B.4.d)

**A.9. Group Work**

**a. *Screening***

Counselors screen prospective group counseling/therapy participants. To the extent possible, counselors select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

**b. *Protecting Clients.***

In a group setting, counselors take reasonable precautions to protect clients from physical or psychological trauma.

**A.10. Fees and Bartering (See D.3.a. and D.3.b.)**

**a. *Advanced Understanding***

Counselors clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the use of collection agencies or legal measures for nonpayment. (A.11.c.)

**b. *Establishing Fees***

In establishing fees for professional counseling services, counselors consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance is provided in attempting to find comparable services of acceptable cost. (See A.10.d., D.3.a., and D.3.b.)

**c. *Bartering Discouraged.***

Counselors ordinarily refrain from accepting goods or services from clients in return for counseling services because such arrangements create inherent potential for conflicts, exploitation, and distortion of the professional relationship. Counselors may participate in bartering only if the relationship is not exploitative, if the client requests it, if a clear written contract is established, and if such arrangements are an accepted practice among professionals in the community. (See A.6.a.)

**d. *Pro Bono Service***

Counselors may contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono).

**A.11 Termination and Referral.**

**a. *Abandonment Prohibited.***

Counselors do not abandon or neglect clients in counseling. Counselors assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations and following termination.

**b. *Inability to Assist Clients.***

If counselors determine an inability to be of professional assistance to clients, they avoid entering or immediately terminate the counseling relationship. Counselors are knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors should discontinue the relationship.

**c. *Appropriate Termination.***

Counselors terminate a counseling relationship, securing client agreement when possible, when it is reasonably clear that the client is no longer benefiting, when services are no longer required, when counseling no longer serves the client's needs or interests, when clients do not pay fees charged, or when agency or institution limits do not allow provision of further counseling services. (See A.10.b, C.2.g.)

**A.12. Computer Technology**

**a. *Use of Computers.***

When computer applications are used in counseling services, counselors ensure that: (1) the client is intellectually, emotionally, and physically capable of using the computer application; (2) the computer application is appropriate for the needs of the client; (3) the client understands the purpose and operation of the computer applications; and (4) a follow-up of client use of a computer application is provided to correct possible misconceptions, discover inappropriate use, and assess subsequent needs.

**b. *Explanation of Limitations.***

Counselors ensure that clients are provided information as a part of the counseling relationship that adequately explains the limitations of computer technology.

**c. *Access to Computer Applications.***

Counselors provide for equal access to computer applications in counseling services. (See A.2.a)

**SECTION B: CONFIDENTIALITY**

Note: For all issues pertaining to confidentiality, counselors should reference Confidentiality: A Guide to the New Federal Regulations placing emphasis on CFR 42 –Part 2.

**B.1. Right to Privacy**

**a. *Respect for Privacy.***

Counselors respect their clients' right to privacy and avoid illegal and unwarranted disclosures of confidential information. (See A.3.a. and B.6.a.)

**b. *Client Waiver.***

The right to privacy may be waived by the client and their legally recognized representative.

**c. *Exceptions.***

The general requirement that counselors keep information confidential does not apply when disclosure is required to prevent clear and imminent danger to the client or others or when legal requirements demand that confidential information be revealed. Counselors consult with other professionals when in doubt as to the validity of an exception.

**d. *Contagious, Fatal Diseases.***

(See B.1.c. and B.1.f.)

**e. *Court Ordered Disclosure.***

When court ordered to release confidential information without a client's permission, counselors request to the court that disclosure not be required due to potential harm to the client or counseling relationship. (See B.1.c.)

**f. Minimal Disclosure.**

When circumstances require the disclosure of confidential information, only essential information is revealed. To the extent possible, clients are informed before confidential information is disclosed.

**g. Explanation of Limitations.**

When counseling is initiated and throughout the counseling process as necessary, counselors inform clients of the limitations of confidentiality and identify foreseeable situations in which confidentiality be breached. (See G.2.a.) For all issues pertaining to confidentiality, counselors should reference Confidentiality: A Guide to the New Federal Regulations placing emphasis on CFR 42 – Part 2.

**h. Subordinates.**

Counselors make every effort to ensure the privacy and confidentiality of clients is maintained by subordinates including employees, supervisees, clerical assistants, and volunteers. (See B.1.a.)

**i. Treatment Teams.**

If client treatment will involve a continued review by a treatment team, the client will be informed of the teams and of the team's existence and composition.

## **B.2. Groups and Families**

**a. Group Work.**

In group work, counselors clearly define confidentiality and the parameters for the specific group being entered, explain its importance, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed is clearly communicated to group members.

**b. Family Counseling.**

In family counseling, information about one family member cannot be disclosed to another family member without permission. Counselors protect the privacy rights of each family member. (See A.8., B.3., and B.4.d.)

## **B.3 Minor or Incompetent Clients**

When counseling clients who are minors or individuals who are unable to give voluntary, informed consent, parents or guardians may be included in the counseling process as appropriate. Counselors act in the best interests of clients and take measures to safeguard confidentiality. (See A.3.c.)

## **B.4. Records**

**a. Requirement of Records.**

Counselors maintain records necessary for rendering professional services to their clients and as required by laws, regulations, or agency or institutional procedures.

**b. Confidentiality of Records.**

Counselors are responsible for securing the safety and confidentiality of any counseling records they create, maintain, transfer, or destroy whether the records are written, taped, computerized, or stored in any other medium. (See B.1.a.)

**c. Permission to Record or Observe.**

Counselors obtain permission from clients prior to electronically recording or observing sessions. (See A.3.a.)

**d. Client Access.**

Counselors recognize that counseling records are kept for the benefit of clients, and therefore provide access to records and copies of records when requested by competent clients, unless the records contain information that may be misleading and detrimental to the client. In situations involving multiple clients, access to records is limited to those parts of records that do not include confidential information related to another client. (See A.8., B.1.a., B.2.b.)

**e. Disclosure or Transfer.**

Counselors obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in Section B.1. Steps are taken to ensure that receivers of counseling records are sensitive to their confidential nature.

## **B.5. Research and Training.**

**a. Data Disguise Required.**

Use of data derived from counseling relationships for purposes of training, research, or publication is confined to content that is disguised to ensure the anonymity of the individuals involved. (See B.1.g. and G.3.d.)

***b. Agreement for Identification.***

Identification of a client in a presentation or publication is permissible only when the client has reviewed the material and has agreed to its presentation or publication. (See G.3.d.)

**B.6. Consultation**

***a. Respect for Privacy.***

Information obtained in a consulting relationship is discussed for professional purposes only with persons clearly concerned with the case. Written and oral reports present data germane to the purposes of the consultation, and every effort is made to protect client identity and avoid undue invasion of privacy.

***b. Cooperating Agencies .***Before sharing information, counselors make efforts to ensure that there are defined policies in other agencies serving the counselor's clients that effectively protect the confidentiality of information.

## **SECTION C: PROFESSIONAL RESPONSIBILITY**

### **C.1. Standards Knowledge**

Counselors have a responsibility to read, understand, and follow the Code of Ethics and the Standards of Practice.

### **C.2. Professional Competence**

***a. Boundaries of Competence.***

Counselors practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors will demonstrate a commitment to gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population.

***b. New Specialty Areas of Practice.***

Counselors practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors take steps to ensure the competence of their work and to protect others from possible harm.

***c. Qualified for Employment.***

Counselors accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors hire for professional counseling positions only individuals who are qualified and competent.

***d. Monitor Effectiveness.***

Counselors continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice take reasonable steps to seek out peer supervision to evaluate their efficacy as counselors.

***e. Ethical Issues Consultation.***

Counselors take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice. (See H.1)

***f. Continuing Education.***

Counselors recognize the need for continuing education to maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They take steps to maintain competence in the skills they use, are open to new procedures, and keep current with the diverse and/or special populations with whom they work.

***g. Impairment.***

Counselors refrain from offering or accepting professional services when their physical, mental or emotional problems are likely to harm a client or others. They are alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities. (See A.11.c.)

### **C.3. ADVERTISING AND SOLICITING CLIENTS**

***a. Accurate Advertising.***

Counselors must follow appropriate state and local laws concerning advertising for services. Counselors advertise or represent their services to the public by identifying their credentials in an accurate manner that

is not false, misleading, deceptive, or fraudulent. Counselors may only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited when the degree was awarded by one of the regional accrediting bodies recognized by the Council on Post-secondary Accreditation.

***b. Testimonials.***

Counselors who use testimonials do not solicit them from clients or other persons who, because of their particular circumstances, may be vulnerable to undue influence.

***c. Statements by Others.***

Counselors make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

***d. Recruiting Through Employment.***

Counselors do not use their places of employment or institution affiliates to recruit or gain clients, supervisees, or consultees for their private practices. (See C.5.c.)

***e. Products and Training Advertisements.***

Counselors who develop products related to their profession or conduct workshops or training events ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

***f. Promoting to Those Served.***

Counselors do not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. Counselors may adopt textbooks they have authored for instructional purposes.

***g. Professional Association Involvement.***

Counselors actively participate in local, state, and national associations that foster the development and improvement of counseling.

## **C.4. CREDENTIALS**

***a. Credentials Claimed.***

Counselors claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others.

***b. Credential Guidelines.***

Counselors follow guidelines for use of credentials that have been established by the entities that issue the credentials.

***c. Misrepresentation of Credentials.***

Counselors do not attribute more to their credentials than the credentials represent and do not imply that other counselors are not qualified because they do not possess certain credentials.

***d. Doctoral Degrees From Other Fields.***

Counselors who hold a master's degree in counseling or a closely related mental health field but hold a doctoral degree from other than counseling or a closely related field do not use the title, "Dr.," in their practices and do not announce to the public in relation to their practice or status as a counselor that they hold a doctorate.

## **C.5. PUBLIC RESPONSIBILITY**

***a. Nondiscrimination.***

Counselors do not discriminate against clients, students, or supervisees in a manner that has a negative impact based on their age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status, or for any other reason. (See A.2.a.)

***b. Sexual Harassment.***

Counselors do not engage in sexual harassment. Sexual harassment is defined as sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either (1) is unwelcome, is offensive, or creates a hostile workplace environment, and counselors know or are told this; or (2) is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

***c. Reports to Third Parties.***

Counselors are accurate, honest, and unbiased in reporting their professional activities and judgments to appropriate third parties including courts, health insurance companies, those who are the recipients of evaluation reports, and others. (See B.1.g)

***d. Media Presentations.***

When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they take reasonable precautions to ensure that (1) the statements are based on appropriate professional counseling literature and practice; (2) the statements are otherwise consistent with the Code of Ethics and Standards of Practice; and (3) the recipients of the information are not encouraged to infer that a professional counseling relationship has been established. (See C.6.b)

***e. Unjustified Gains.***

Counselors do not use their professional positions to seek or receive unjustified personal gains, sexual favors, unfair advantage, or unearned goods or services. (See C.3.d.)

## **C.6. RESPONSIBILITY TO OTHER PROFESSIONALS**

***a. Different Approaches.***

Counselors are respectful of approaches to professional counseling that differ from their own. Counselors know and take into account the traditions and practices of other professional groups with which they work.

***b. Personal Public Statements.***

When making personal statements in a public context, counselors clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession. (See C.5.d.)

***c. Clients Served by Others.***

When counselors learn that their clients are in a professional relationship with another mental health professional, they request a release from the clients to inform the other professionals and strive to establish positive and collaborative professional relationships. (See A.4.)

## **SECTION D: RELATIONSHIPS WITH OTHER PROFESSIONALS**

### **D.1. Relationships with Employers and Employees**

***a. Role Definition.***

Counselors define and describe for their employers and employees the parameters and levels of their professional roles.

***b. Agreements.***

Counselors establish working agreements with supervisors, colleagues, and subordinates regarding counseling or clinical relationships, confidentiality, adherence to professional standards, distinction between public and private material, maintenance and dissemination of recorded information, workload and accountability. Working agreements in each instance are specified and made known to those concerned.

***c. Negative Conditions.***

Counselors alert their employers to conditions that may be potentially disruptive or damaging to the counselor's professional responsibilities or that may limit their effectiveness.

***d. Evaluation.***

Counselors submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

***e. In-Service.***

Counselors are responsible for in-service development of self and staff.

***f. Goals.***

Counselors inform their staff of goals and programs.

***g. Practices.***

Counselors provide personnel and agency practices that respect and enhance the rights and welfare of each employee and recipient of agency services. Counselors strive to maintain the highest levels of professional services.

***h. Personnel Selection and Assignment.***

Counselors select competent staff and assign responsibilities compatible with their skills and experiences.

***i. Discrimination.***

Counselors, as either employers or employees, do not engage in or condone practices that are inhumane, illegal, or unjustifiable (such as considerations based on age, color, culture, disability, ethnic group, gender,

race, religion, sexual orientation, or socioeconomic status) in hiring, promotion, or training. (See A.2.a. and C.5.a.)

***j. Professional Conduct.***

Counselors have a responsibility both to clients and the agency or institution within which services are performed to maintain high standards of professional conduct.

***k. Exploitative Relationships.***

Counselors do not engage in exploitative relationships with individuals over whom they have supervisory, evaluative, or instructional control or authority.

***l. Employer Policies.***

The acceptance of employment in an agency or institution implies that counselors are in agreement with its general policies and principles. Counselors strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

**D.2. Consultation (See B.6., B.4.b)**

***a. Consultation as an Option.***

Counselors may choose to consult with any other professionally competent person about their clients. In choosing consultants, counselors avoid placing the consultant in a conflict of interest situation that would preclude the consultant being a proper party to the counselor's efforts to help the client. Should counselors be engaged in a work setting that compromises this consultation standard, they should consult with other professionals whenever possible to consider justifiable alternatives.

***b. Consultant Competency.***

Counselors are reasonably certain that they have or the organization represented has the necessary competencies and resources for giving the kind of consulting services needed and that appropriate referral resources are available.

***c. Understanding with Clients.***

When providing consultation, counselors attempt to develop with their clients a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

***d. Consultant Goals.***

The consulting relationship is one in which client adaptability and growth toward self-direction are consistently encouraged and cultivated. (See A.1.b.)

**D.3. Fees for Referral**

***a. Accepting Fees from Agency Clients.***

Counselors refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services. (See A.10.a., A.11.b., and C.3.d.)

***b. Referral Fees.***

Counselors do not accept a referral fee from other professionals, agencies or institutions.

**D.4. Subcontractor Arrangements**

When counselors work as subcontractors for counseling services for a third party, they have a duty to inform clients of the limitations of confidentiality that the organization may place on counselors providing counseling services to clients. The limits of such confidentiality ordinarily are discussed as part of the intake session. (See B.1.e., and B.1.f.)

**SECTION E: EVALUATION, ASSESSMENT, AND INTERPRETATION (See C.2.a)**

**E.1. General**

***a. Appraisal Techniques.***

The primary purpose of assessment is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors recognize the need to interpret the statements in this section as applying to the whole range of appraisal techniques including test and non-test data.

***b. Client Welfare.***

Counselors promote the welfare and best interests of the client in the development, publication, and utilization of assessment techniques. They do not misuse assessment results and interpretations and take reasonable steps to prevent others from misusing the information these techniques provided. They respect the client's right to know the results, the interpretations made, and the basis for their conclusions and recommendations.

## **E.2. Competence to Use and Interpret Tests (See C.2.a)**

### ***a. Limits of Competence.***

Counselors recognize the limits of their competence and perform only those testing and assessment services for which they have been trained. They are familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer based test interpretations are trained in the construct being measured and the specific instrument being used prior to using this type of computer application. Counselors take reasonable measures to ensure the proper use of assessment techniques by persons under their supervision.

### ***b. Appropriate Use.***

Counselors are responsible for the appropriate application, scoring, interpretation, and use of assessment instruments whether they score and interpret such tests themselves or use computerized or other services.

### ***c. Decisions Based on Results.***

Counselors responsible for decisions involving individuals or policies that are based on assessment results have a thorough understanding of test measurement including validation criteria, test research, and guidelines for test development and use.

### ***d. Accurate Information.***

Counselors provide accurate information and avoid false claims or misconceptions when making statements about assessment instruments or techniques. Special efforts are made to avoid unwarranted connotations of such terms as IQ and grade equivalent scores.

(See C.5.c.)

## **E.3. Informed Consent**

### ***a. Explanation to Clients.***

Prior to assessment, counselors explain the nature and purposes of assessment and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand unless an explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, by assistants, or by computer or other outside services, counselors take reasonable steps to ensure that appropriate explanations are given to the client.

### ***b. Recipients of Results.***

The examinee's welfare, explicit understanding, and prior agreement determine the recipients of test results. Counselors include accurate and appropriate interpretations with any release of individual or group test results. (See B.1.a. and C.5.c.)

## **E.4. Release of Information to Competent Professionals**

### ***a. Misuse of Results.***

Counselors do not misuse assessment results, including test results, and interpretations and take reasonable steps to prevent the misuse of such by others. (See C.5.c)

### ***b. Release of Raw Data. (See B.4.b)***

Counselors ordinarily release data (e.g. protocols, counseling or interview notes, or questionnaires) in which the client is identified only with consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data. (See B.1.a.)

## **E.5. Proper Diagnosis (See C.2.a.)**

### ***a. Proper Diagnosis***

Counselors take special care to provide proper diagnosis. Assessment techniques (including personal interview) used to determine client care (e.g. focus of treatment, type of treatment, or recommended follow-up) are carefully selected and appropriately used. (See A.3.a. and C.5.c.)

### ***b. Cultural Sensitivity***

Counselors recognize that culture affects the manner in which clients' problems are defined. Clients' socioeconomic and cultural experience is considered when diagnosing substance-related disorders.

## **E.6. Test Selection (See C.2.a.)**

***a. Appropriateness of Instruments.***

Counselors carefully consider the validity, reliability, limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

***b. Culturally Diverse Populations.***

Counselors are cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

**E.7. Conditions of Test Administration (See C.2.a)**

***a. Administration Conditions.***

Counselors administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session, those conditions are noted in interpretation, and the results may be designated as invalid or of questionable validity.

***b. Computer Administration.***

Counselors are responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration. (See A.12.b.)

***c. Unsupervised Test-Taking.***

Counselors do not permit unsupervised or inadequately supervised use of tests or assessments unless the test or assessments are designed, intended, and validated for self-administration and/or scoring.

***d. Disclosure of Favorable Conditions.***

Prior to test administration, conditions that produce most favorable test results are made known to the examinee.

**E.8. Diversity in Testing**

Counselors are cautious in using assessment techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors. (See A.2.a.)

**E.9. Test Scoring and Interpretation (See C.2.a)**

***a. Reporting Reservations.***

In reporting assessment results, counselors indicate any reservations that exist regarding validity or reliability because of the circumstances of the assessment or the inappropriateness of the norms for the person tested.

***b. Research Instruments.***

Counselors use caution when interpreting the results of research instruments possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments are stated explicitly to the examinee.

***c. Testing Services.***

Counselors who provide test scoring and test interpretation services to support the assessment process confirm the validity of such interpretations. They accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretation service is considered a professional-to-professional consultation. The formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

**E.10. Test Security**

Counselors maintain the integrity and security of tests and other assessment techniques consistent with legal and contractual obligations. Counselors do not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

**E.11. Obsolete Tests and Outdated Test Results**

Counselors do not use data or test results that are obsolete or outdated for the current purpose. Counselors make every effort to prevent the misuse of obsolete measures and test data by others.

**E.12. Test Construction (See C.2.a)**

Counselors use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of assessment techniques.

## **SECTION F: TEACHING, TRAINING, AND SUPERVISION**

### **F.1. Counselor Educators and Trainers**

#### ***a. Educator as Teachers and Practitioners.***

Counselors who are responsible for developing, implementing, and supervising educational programs are skilled as teachers and practitioners. They are knowledgeable regarding the ethical, legal and regulatory aspects of the profession, are skilled in applying that knowledge, and make trainees, interns and supervisees aware of their responsibilities. Counselors conduct counselor education and training programs in an ethical manner and serve as role models for professional behavior. Counselor educators should make an effort to infuse material related to human diversity into all courses and/or workshops that are designed to promote the development of professional counselors.

#### ***b. Relationship Boundaries with Trainees, Interns and Supervisees***

Counselors clearly define and maintain ethical, professional, and social relationship boundaries with their trainees, interns and supervisees. They are aware of the differential in power that exists between the supervisor and the trainees, interns or supervisees. Counselors explain to the trainees, interns and supervisees the potential for the relationship to become exploitative.

#### ***c. Sexual Relationships.***

Counselors do not engage in sexual relationships with trainees, interns or supervisees and do not subject them to sexual harassment. (See A.6. and C.5.b.)

#### ***d. Contributions to Research.***

Counselors give credit to trainees, interns or supervisees for their contributions to research and scholarly projects. Credit is given through co-authorship, acknowledgement, footnote statement, or other appropriate means in accordance with such contributions. (See G.4.b. and G.4.c.)

#### ***e. Close Relatives.***

Counselors do not accept close relatives as trainees, interns or supervisees.

#### ***f. Supervision Preparation.***

Counselors who offer clinical supervision services are adequately prepared in supervision methods and techniques.

#### ***g. Responsibility for Services to Clients.***

Counselors who supervise the counseling services of others take reasonable measures to ensure that counseling services provided to clients are professional.

#### ***h. Endorsement.***

Counselors do not endorse trainees, interns or supervisees for certification, licensure, employment, or completion of an academic or training program if they believe trainees, interns or supervisees are not qualified for the endorsement. Counselors take reasonable steps to assist students or supervisees who are not qualified for endorsement to become qualified.

### **F.2. Counselor Education and Training Programs**

#### ***a. Orientation.***

Prior to admission, Counselors orient prospective trainees, interns or supervisees to the counselor education or training program's expectations including but not limited to the following: (1) the type and level of skill acquisition required for successful completion of the training, (2) subject matter to be covered, (3) basis for evaluation, (4) training components that encourage self-growth or self-disclosure as part of the training process, (5) the type of supervision setting and requirements of the sites for required clinical field experiences, (6) trainees, interns and supervisee evaluation and dismissal policies and procedures, and (7) up-to-date employment prospects.

#### ***b. Integration of Study and Practice.***

Counselors established counselor education and training programs that integrate academic study and supervised practice.

#### ***c. Evaluation.***

Counselors clearly state to trainees, interns and supervisees, in advance of training, the levels of competency expected, appraisal methods and timing of evaluations for both didactic and experiential

components. Counselors provide trainees, interns and supervisees with periodic performance appraisal and evaluation feedback throughout the training program.

***d. Teaching Ethics.***

Counselors make trainees, interns and supervisees aware of the ethical responsibilities and standards of the profession and the trainees, interns and supervisee's ethical responsibilities to the profession. (See C.1. and F.3.e.)

***e. Peer Relationships.***

When trainees, interns or supervisees are assigned to lead counseling groups or provide clinical supervision for their peers, counselors take steps to ensure that trainees, interns and supervisees placed in these roles do not have personal or adverse relationships with peers and that they understand they have the same ethical obligations as counselor educators, trainers, and supervisors. Counselors make every effort to ensure that the rights of peers are not compromised when trainees, interns or supervisees are assigned to lead counseling groups or provide clinical supervision.

***f. Varied Theoretical Positions. (See C.2.a)***

Counselors present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors provide information concerning the scientific basis of professional practice. (See C.6.a.)

***g. Field Placements.***

Counselors develop clear policies within their training program regarding field placement and other clinical experiences. Counselors provide clearly stated roles and responsibilities for the trainees, interns or supervisees, the site supervisor, and the program supervisor. They confirm that site supervisors are qualified to provide supervision and are informed of their professional and ethical responsibilities in this role.

***h. Dual Relationships as Supervisors.***

Counselors avoid dual relationships, such as performing the role of site supervisor and training program supervisor in the trainee's, intern's or supervisee's training program. Counselors do not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for trainee, intern or supervisee placement.

***i. Diversity in Programs.***

Counselors are responsive to their institution and program's recruitment and retention needs for training program administrators, staff, trainees, interns and supervisees with diverse backgrounds and special needs. (See A.2.a.)

### **F.3. Trainees, Interns and Supervisees**

***a. Limitations.***

Counselors, through ongoing evaluation and appraisal, are aware of the academic and personal limitations of trainees, interns and supervisees that might impede performance. Counselors assist trainees, interns and supervisees in securing remedial assistance when needed and dismiss from the training program trainees, interns and supervisees who are unable to provide competent service due to academic or personal limitations. Counselors seek professional consultation and document their decision to dismiss or refer trainees, interns or supervisees for assistance. Counselors assure that trainees, interns and supervisees have recourse to address decisions made, to require them to seek assistance, or to dismiss them.

***b. Self-Growth Experiences.***

Counselors use professional judgment when designing training experiences conducted by the counselors themselves that require trainees, interns and supervisee self-growth or self-disclosure. Safeguards are provided so that trainees, interns and supervisees are aware of the ramifications their self-disclosure may have on counselors whose primary role as teacher, trainer, or supervisor requires on ethical obligations to the profession. Evaluative components of experiential training experiences explicitly delineate predetermined academic standards that are separate and not dependent on the trainees', interns' or supervisees' level of self-disclosure. (See A.6.)

***c. Counseling for Trainees, Interns and Supervisees.***

If trainees, interns or supervisees request counseling, supervisors or counselor educator provide them with acceptable referrals. Supervisors or counselor educators do not serve as counselors to trainees, interns or supervisees over whom they hold administrative, teaching, or evaluative roles unless this is a brief role associated with a training experience. (See A.6.b.)

***d. Clients of Trainees, Interns and Supervisees.***

Counselors make every effort to ensure that the clients at field placements are aware of the services rendered and the qualifications of the trainees, interns and supervisees rendering those services. Clients receive professional disclosure information and are informed of the limits of confidentiality. Client permission is obtained in order for the trainees, interns and supervisees to use any information concerning the counseling relationship in the training process. (See B.1.e.)

***e. Standards for Trainees, Interns and Supervisees.***

Trainees, interns and supervisees preparing to become counselors adhere to the Code of Ethics and the Standards of Practice. Trainees, interns and supervisees have the same obligations to clients as those required of counselors. (See H.1.)

## **SECTION G: RESEARCH AND PUBLICATION (See C.2a)**

### **G.1. Research Responsibilities (See C.2.a)**

***a. Use of Human Subjects.***

Counselors plan, design, conduct, and report research in a manner consistent with pertinent ethical principles, federal and state laws, host institutional regulations, and scientific standards governing research with human subjects. Counselors design and conduct research that reflects cultural sensitivity appropriateness.

***b. Deviation from Standard Practices.***

Counselors seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard acceptable practices. (See B.6.)

***c. Precautions to avoid Injury.***

Counselors who conduct research with human subjects are responsible for the subject's welfare throughout the experiment and take reasonable precautions to avoid causing injurious psychological, physical, or social effects to their subjects.

***d. Principal Researcher Responsibility.***

The ultimate responsibility for ethical research practice lies with the principal researcher. All others involved in the research activities share ethical obligations and full responsibility for their own actions.

***e. Minimal Interference.***

Counselors take reasonable precautions to avoid causing disruptions in subject's lives due to participation in research.

***f. Diversity.***

Counselors are sensitive to diversity and research issues with special populations. They seek consultation when appropriate. (See A.2.a. and B.6.)

### **G.2. Informed Consent**

***a. Topics Disclosed.***

In obtaining informed consent for research, counselors use language that is understandable to research participants and that (1) accurately explains the purpose and procedures to be followed; (2) identifies any procedures that are experimental or relatively untried; (3) describes the attendant discomforts and risks; (4) describes the benefits or changes in individuals and organizations that might be reasonably expected; (5) discloses appropriate alternative procedures that would be advantageous for subjects; (6) offers to answer any inquiries concerning the procedures; (7) describes any limitations on confidentiality; and (8) instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time. (See B.1.f.)

***b. Deception.***

Counselors do not conduct research involving deception.

***c. Voluntary Participation.***

Participation in research is typically voluntary and without penalty for refusal to participate. Involuntary participation is appropriate only when it can be demonstrated that participation will have no harmful effects on subjects and is essential to the investigation.

***d. Confidentiality of Information.***

Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires

that the possibility, together with the plans for protecting confidentiality, be explained to participants as a part of the procedure for obtaining informed consent. (See B.1.e.)

***e. Persons Incapable of Giving Informed Consent.***

When a person is incapable of giving informed consent, counselors provide an appropriate explanation, obtain agreement for participation and obtain appropriate consent from a legally authorized person.

***f. Commitments to Participants.***

Counselors take reasonable measures to honor all commitments to participants.

***g. Explanations After Data Collection.***

After data is collected, counselors provide participants with full clarification of the nature of the study to remove any misconceptions. Where scientific or human values justify delaying or withholding information, counselors take reasonable measures to avoid causing harm.

***h. Agreements to Cooperate.***

Counselors who agree to cooperate with another individual in research or publication incur an obligation to cooperate as promised in terms of punctuality of performance and with regard to the completeness and accuracy of the information required.

***i. Informed Consent for Sponsors.***

In the pursuit of research, counselors give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors are aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgement.

### **G.3. Reporting Results**

***a. Information Affecting Outcome.***

When reporting research results, counselors explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data.

***b. Accurate Results.***

Counselors plan, conduct and report research accurately and in a manner that minimizes the possibility that results will be misleading. They provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors do not engage in fraudulent research, distort data, misrepresent data, or deliberately bias their results.

***c. Obligations to Report Unfavorable Results.***

Counselors communicate to other counselors the results of any research judged to be of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests are not withheld.

***d. Identity of Subjects.***

Counselors who supply data, aid in the research of another person, report research results, or make original data available take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise. (See B.1.g. and B.5.a.)

***e. Replication Studies.***

Counselors are obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

### **G.4. Publication**

***a. Recognition of Others.***

When conducting and reporting research, counselors are familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due. (See F.1.d. and G.4.c.)

***b. Contributors.***

Counselors give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor is listed first and minor technical or professional contributions are acknowledged in notes or introductory statements.

***c. Student's Research.***

For an article that is substantially based on a student's dissertation or thesis, the student is listed as the principal author. (See F.1.d. and G.4.a.)

***d. Duplicate Submission.***

Counselors submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work are not submitted for publication without acknowledgment and permission from the previous publication.

**e. Professional Review.**

Counselors who review material submitted for publication, research, or other scholarly purposes respect the confidentiality and proprietary rights of those who submitted it.

## **SECTION H: RESOLVING ETHICAL ISSUES**

### **H.1. Knowledge of Standards**

Counselors are familiar with the Code of Ethics and the Standards of Practice and other applicable ethics codes from other professional organizations of which they are members or from certification and licensure bodies. Lack of knowledge or misunderstanding of an ethical responsibility is not a defense against a charge of unethical conduct. (See F.3.e)

### **H.2. Suspected Violations**

**a. Ethical Behavior Expected.**

Counselors expect professional associates to adhere to the Code of Ethics. When counselors possess reasonable cause that raises doubts as to whether a counselor is acting in an ethical manner, they take appropriate action. (See H.2.d. and H.2.e.)

**b. Consultation.**

When uncertain as to whether a particular situation or course of action may be in violation of the Code of Ethics, counselors consult with other counselors who are knowledgeable about ethics, with colleagues, or with appropriate authorities.

**c. Organization Conflicts.**

If the demands of an organization with which counselors are affiliated pose a conflict with the Code of Ethics, counselors specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to the Code of Ethics.

When possible, counselors work to change within the organization to allow full adherence to the Code of Ethics.

**d. Informal Resolution.**

When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they attempt to first resolve the issue informally with the other counselor if feasible, providing that such action does not violate confidentiality rights that may be involved.

**e. Reporting Suspected Violations.**

When an informal resolution is not appropriate or feasible, counselors, upon reasonable cause, take action, such as reporting the suspected violation to the ASACB ethics committee, unless this action conflicts with confidentiality rights that cannot be resolved.

**f. Unwarranted Complaints.**

Counselors do not initiate, participate in, or encourage the filing of ethics complaints that are unwarranted or intend to harm a counselor rather than to protect the public.

### **H.3. Cooperation with Ethics Committees**

Counselors assist in the process of enforcing the Code of Ethics. Counselors cooperate with investigations, proceedings, and requirements of the ASACB Ethics Committee or ethics committees of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors are familiar with the ASACB policies and procedures and use it as a reference in assisting the enforcement of the Code of Ethics.

## **6.032 POLICY AND PROCEDURE FOR RESPONDING TO MEMBERS' REQUESTS FOR INTERPRETATIONS OF THE ETHICAL STANDARDS**

### **Section A: Appropriate Requests**

1. Counselors may request that the Ethics Committee issue formal interpretations of the ASACB Code of Ethics for the purpose of guiding the counselor's own professional behavior.
2. Counselors may request that the Ethics Committee determine if the behavior of another counselor is unethical. In the event an ASACB member believes the behavior of another counselor is unethical, the

ASACB member should resolve the issue directly with the professional, if possible, and should file an ethical complaint if appropriate.

#### **Section B: Procedures**

1. Counselors must send written requests for interpretations to the Ethics Committee through the ASACB office.
2. Questions should be submitted on the Ethics Reporting Form in the following format: "Which sections of the ASACB Ethical Standards have been violated?" Questions should avoid unique details, be general in nature to the extent possible, and be brief and be listed
3. The ASACB administrator will revise the question, if necessary, and submit it to the Committee Co-Chair for approval, and if need be, the Board Attorney.
4. The Ethics Committee Co-Chair will develop a consensus interpretation on behalf of the Ethics Committee.
6. The formal interpretation will be sent to the counselor who submitted the inquiry.

### **6.033 POLICY AND PROCEDURE FOR PROCESSING COMPLAINTS OF ETHICAL VIOLATIONS**

#### **Section A: General**

1. The Arkansas Substance Abuse Certification Board, hereafter referred to as the "Board" or "ASACB" is dedicated to enhancing human development and promoting the counseling profession.
2. The Board, in furthering its objectives, administers the Code of Ethics and Standards of Practice developed and approved by the ASACB.
3. The purpose of this document is to facilitate the work of the ASACB Ethics Committee by specifying the procedures for processing cases of alleged violations of the ASACB Code of Ethics, codifying options for sanctioning members, and stating appeals procedures. This document is to be used as a supplement to the ASACB Code of Ethics, not as a substitute. The intent of the Certification Board is to monitor the professional conduct of counselors to promote sound ethical practices. The ASACB does not however, warrant the performance of any individual.

#### **Section B: Ethics Committee Members**

1. The ASACB Ethics Committee, a standing committee of the Certification Board, consists of seven (7) members of the ASACB, the elected officers (President, Vice- President, Treasurer, and Secretary) and two (2) Co-Chairs appointed by the President, and one (1) member-at-large appointed by the President.
2. One (1) of the Committee Co-Chairs is appointed annually by the President-Elect from among the Certification Board members who have two (2) years of service remaining and serves as Co-Chair for two (2) years.

#### **Section C: Role and Function**

1. The Ethics Committee is responsible for
  - a. Educating those registered with the ASACB as to the Code of Ethics;
  - b. Periodically reviewing and recommending changes in the Code of Ethics of the ASACB, as well as Policies and Procedures for processing complaints of ethical violations;
  - c. Processing complaints received by the Administrator of alleged violations of the Code of Ethics of the ASACB;
  - d. Receiving and processing requests for interpretations.
2. The Committee shall meet monthly in person, or in cases of emergency by telephone conference for processing complaints or for interpretations.
3. In processing complaints about alleged ethical misconduct, the Ethics Co-Chair will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The Ethics Committee, in taking any action, shall do so only for cause, shall only take a reasonable degree of disciplinary action, shall utilize these procedures with objectivity and fairness, and in general, shall act only to further the interests and objectives of the ASACB and the public.

4. Of the seven (7) voting members of the committee, a vote of four (4) is necessary to conduct business. In the event a Co-Chair or any other member of the Committee has a personal interest in the case, he or she shall withdraw from reviewing the case. The Co-Chair administering the complaint shall abstain from the vote.

5. In the event an Ethics Committee member recuses himself or herself from a complaint and insufficient voting members are available to conduct business, the President may appoint another ASACB Board member(s) (ad hoc) to maintain the Quorum.

#### **Section D: Responsibilities of the Ethics Committee Members**

1. The Ethics Committee members have an obligation to act in an unbiased manner, to work expeditiously, to safeguard the confidentiality of the committee's activities, and to follow procedures established to protect the rights of all individuals involved.

#### **Section E: Responsibilities of the Co-Chair Administering the Complaint**

1. When the Administrator receives a complaint, it will be forwarded to one of the Co-Chairs, and a copy will be sent to the Board attorney. In the event that the Co-Chair administering the complaint has a conflict of interest in a particular case, the other Co-Chair shall administer the complaint. The Co-Chair administering the complaint shall not have a vote in the decision.

2. In addition to the above guidelines for members of the Ethics Committee, the Co-Chairs, with the assistance of the ASACB Administrator (and legal counsel where necessary) have the responsibilities of:

a. Receiving complaints;

b. Determining whether the alleged behavior(s), if true, would violate the ASACB Code of Ethics. If the investigative Co-Chair finds that the allegations are unsubstantiated by the facts, or if the facts were true, there would be no violation of the Code of Ethics, they will issue a recommendation for dismissal of the complaint and the Administrator will notify the complainant.

c. If the investigative Co-Chair finds that if the allegations are substantiated by a preponderance of the evidence, and would constitute a violation of the Code of Ethics, or if the complainant wishes to pursue the action upon notice that no ethics violations were found, the investigative Co-Chair will then notify the complainant and the charged counselor by certified mail, return receipt requested.

d. The investigative Co-Chair will also notify the Administrator, and the Board attorney of the need for a hearing before the remaining members of the Ethics committee.

e. The investigative Co-Chair will conduct any further investigation into the allegations it deems necessary, including, but not limited to, requesting further information from all parties to the action and from witnesses. The investigative Co-Chair will either dismiss the charges after consulting with the attorney or notify the Administrator of the need for a disciplinary hearing. The investigative Co-Chair will present the written investigative information to the ethics committee panelists, chaired by the non-investigative Co-Chair. Once all the evidence is presented by all involved parties, the Ethics panelists will decide the issues by a simple majority.

f. The investigative Co-Chair will preside over meetings of the Ethics Committee;

g. The investigative Co-Chair will prepare and send, by certified mail, communications to the complainant and charged counselor on the recommendations and decisions of the Ethics Committee; and

h. The investigative Co-Chair will arrange for legal advice.

#### **Section F: Jurisdiction**

1. The Ethics Committee will consider whether individuals have violated the ASACB Code of Ethics if those individuals:

a. Are currently certified by the ASACB;

b. Are currently registered with the ASACB, in the process of becoming certified with an ASACB credential.

c. Were certified or registered when the alleged violations occurred.

#### **Section G: Eligibility to File Complaints**

1. The Ethics Committee will receive complaints that counselors have violated one or more sections of the ASACB Code of Ethics from any individual who has reason to believe that a counselor has violated the ASACB Code of Ethics.

2. If possible, individuals should attempt to resolve complaints directly with charged counselors before filing ethical complaints.
3. Client-identifying information must be accompanied by a signed Release of Information from each client named in the complaint.

#### **Section H: Time Lines**

1. The time lines in these standards are guidelines only and have been established to provide a reasonable time framework for processing complaints.
2. Complainants or charged counselors may request extensions of deadlines when appropriate and when requested prior to the existing deadline. Extensions of deadlines will be granted by the Ethics Co-Chair only when justified by unusual circumstance.

#### **Section I: Nature of Communication**

1. Only written communications regarding ethical complaints against counselors will be accepted. If telephone inquiries are received regarding the filing of complaints, responding to complaints, or providing information regarding complaints, the individuals will be informed of the written communication requirement and asked to comply.
2. All correspondence related to an ethical complaint must be addressed to:

**Arkansas Substance Abuse Certification Board  
UALR-Mid-South  
2801 S. University Ave.  
Little Rock, AR 72204  
Attn: Ethics Committee**

#### **Section J: Filing Complaints**

1. Only written complaints, signed by complainants, will be considered.
2. Individuals eligible to file complaints will complete the *Ethics Reporting Form*, send a letter outlining the nature of the complaint to the Ethics Committee at the ASACB office. The complaint shall include, if possible,
  - a. The name and address of the complainant;
  - b. The name and address of the charged counselor;
  - c. The names and addresses of any other persons who have knowledge of the facts involved; and
  - d. A brief description of the reason why the complaint is being filed.
3. The ASACB administrator or Ethics Co-Chair will communicate in writing with complainants. Receipt of the complaint and confirmation of registration or certification status of the charged counselor as defined in Section F.1 above will be acknowledged to the complainant.
4. If the complaint does not involve a registered or certified counselor as defined in F.1, above, the Administrator or Ethics Co-Chair will notify the complainant.
5. The complaint will be assigned to one of the Committee Co-Chairs to determine whether the complaint, if true, would violate one or more sections of the Code of Ethics. The complainant will be notified of the decision of the Ethics Committee Co-Chair within thirty (30) days from receipt of the complaint.
6. If the Co-Chair administering the complaint determines that there is insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Ethics Committee, the ASACB Administrator or Ethics Co-Chair may request further information from the complainant or others. They shall be given thirty (30) days from receipt of request to respond.
7. When complaints are accepted, complainants will be informed that copies of the formal complaints plus evidence and documents in support of the complaint will be provided to the charged counselor and that the complainant must authorize release of such information to the charged counselor before the complaint process may proceed.
8. The ASACB Administrator, after receiving approval of the Committee Co-Chair administering a complaint, will formulate a formal complaint which will be presented to the complainant for his or her signature.

- a. When the correspondence from complainants is received, **and** the ASACB Administrator and the Committee Co-Chair administering the complaint have identified all ASACB Code of Ethics that might have been violated if the accusations are true.
  - b. The formal complaint will be sent to complainants with instructions on how to access a copy of the Policies and Procedures, a copy of the ASACB Code of Ethics on the website at [www.midsouth.ualr.edu/asacb](http://www.midsouth.ualr.edu/asacb). Complainants will be asked to sign and return the completed complaint. It will be explained to complainants that sections of the codes that might have been violated may be added or deleted by the complainant before signing the formal statement.
  - c. If complainants elect to add or delete sections of the Code of Ethics in the formal complaint, the unsigned formal complaint shall be returned to the ASACB office, and a revised formal complaint will be sent for their signature.
9. When the completed formal complaint is presented to the complainant for signature, he or she will be asked to submit all evidence and documents he or she wishes to be considered by the Committee in reviewing the complaint. The complainant shall submit all evidence and documentation in support of the claim within thirty (30) days of filing the formal complaint. The Committee may accept, at its discretion, evidence or documentation submitted late if good cause is shown.
10. Counselors may cooperate with investigations, proceedings, and requirements of the ASACB Ethics committee or ethics committee of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors are required to see the formal complaint through to its conclusion. Failure to comply may result in an ethical violation in and of itself. [See SP-51.]

#### **Section K: Notice to Charged Counselor**

1. Once signed formal complaints have been received, charged counselors will be sent a copy of the formal complaint by U.S. mail, certified, with return receipt requested, and the web site [www.midsouth.ualr.edu/asacb](http://www.midsouth.ualr.edu/asacb) on which to reference the Policies and Procedures, and the Code of Ethics, as well as notification of their right to request a hearing, (including the time limit within which to request a hearing, and that the failure to request a hearing within the time limit constitutes a waiver of the hearing).
2. Charged counselors will be asked to respond to the complaint against them by addressing each section of the ASACB Code of Ethics they have been accused of having violated. They will be informed that if they wish to respond they must do so in writing within sixty (60) days of receipt of the complaint.
3. Charged counselors will be informed that they must submit all evidence and documents they wish to be considered by the Committee in reviewing the complaint within sixty (60) days of receipt of the complaint.
4. After charged counselors have received notification that a complaint has been brought against them, they will be given sixty (60) days to notify the Committee Co-Chair via the ASACB office in writing, by certified mail, if they wish to request a formal, face-to-face hearing before the Committee. Charged counselors may waive their right to a formal hearing before the Committee and shall sign a waiver of the right to a hearing. (See Section O: Hearings).
5. If the Committee Co-Chair determines that there is insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Ethics Committee, the ASACB Administrator may request further information from the charged counselor or others. They shall be given thirty (30) days from the receipt of the request to respond.
6. The Committee may, at its discretion, delay or postpone its review of the case with good cause, including if the Committee wishes to obtain additional information. The charged member may request in writing that the Committee delay or postpone its review of the case for good cause.

#### **Section L: Disposition of Complaints Without Hearing**

1. After receiving the responses from the charged counselors, the Ethics Co-Chair will be provided copies of (a) the complaint, (b) supporting evidence and documents sent to charged counselors, (c) the response from the charged counselor, and (d) supporting evidence and documents provided by the charged counselor and others.
2. Decisions will be rendered based on the evidence and documents provided by the complainant and the charged counselor or others.
3. The Committee Co-Chair administering a complaint will not participate in the decision regarding that particular complaint.

4. The Ethics Co-Chair will discuss the complaint, response, and supporting documentation, if any, with the Board attorney to determine the outcome of the complaint.
5. The Ethics Co-Chair and the Board attorney will determine whether each Code of Ethics the counselor has been accused of having violated was violated based on the information provided.
6. After deliberations, the Ethics Co-Chair may recommend to the Board to dismiss the complaint or to dismiss charges within the complaint or to continue the complaint, requesting further information or schedule a hearing on the complaint.
7. In the event it is determined that any of the ASACB Code of Ethics has been violated, the Ethics Co-Chair will recommend to the Board, for the entire complaint, one or a combination of the possible sanctions allowed.

#### **Section M: Withdrawal of Complaints**

If the complainant and charged counselor both agree to discontinue the complaint process, the Ethics Committee may, at its discretion, complete the adjudication process if available evidence indicates this is warranted. The Co-Chair of the Ethics Committee, on behalf of the ASACB, shall act as the complainant.

#### **Section N: Possible Sanctions**

Discretion of the Board: The following factors may be considered by the Board in determining the nature and severity of the disciplinary sanctions to be imposed:

1. The relative seriousness of the violation as it relates to assuring citizens of this state a high standard of professional service and care;
2. The facts of the particular violation;
3. Any extenuating circumstances or other countervailing considerations;
4. The number of complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has previously been taken;
7. Or other factors which may reflect upon the competency, ethical standards, and professional conduct of the individual.
8. Remedial requirements, such as training on specific areas or Clinical Supervision, may be stipulated by the Ethics Co-Chair to be imposed by the Board.
9. Probation for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.
10. Suspension of Certification or the Certification process for a specified period of time, subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.
11. Revocation of current certification or current certification process.
12. Permanent revocation of certification or certification process. This requires a unanimous vote of the full Board.
13. The penalty for failing to satisfactorily fulfill a remedial requirement imposed by the Board or a remedial requirement as a result of probation, will be an automatic suspension until the requirement is met. The Board could modify the requirement based on good cause.
14. The penalty for failing to satisfactorily fulfill a remedial requirement imposed as a result of a suspension sanction will be an automatic revocation unless the Board determines that the remedial requirement should be modified based on good cause shown prior to the end of the suspension period.
15. Other corrective action.

#### **Section O: Hearings**

1. At the discretion of the Ethics Co-Chair, a hearing may be conducted when the results of the Co-Chair's preliminary determination indicate that additional information is needed.
2. When charged counselors, within sixty (60) days of notification of the complaint, request a formal face-to-face hearing before the Ethics Committee, a hearing will be conducted. (See section K.4.)
3. The charged counselor shall bear all their expenses associated with attendance at hearings.
4. The Ethics Committee Co-Chair administering the complaint shall schedule a formal hearing on the case at the next scheduled ethics committee meeting and notify both the complainant and the charged counselor of their right to attend the hearing. (See P.2.a.)

5. The hearing will be held before a panel made up of three (3) ethics panelists. If any panelist or Co-Chair excuses themselves because of personal interest in the case, the President of the ASACB may appoint other Board member(s) (ad hoc) to fill the necessary positions.

## **Section P: Hearing Procedures**

### **1. Purpose**

a. IF received in a timely manner, a hearing will be conducted to determine whether a breach of the ASACB Code of Ethics has occurred, and if so, to determine appropriate disciplinary action to be recommended to the Board.

b. The Ethics panelists will be guided in its deliberations by principles of basic fairness and professionalism and will keep its deliberations as confidential as possible except as provided herein.

### **2. Notice**

a. The charged counselor shall be advised in writing by the Administrator, of the time and place of the hearing, the list of any witness expected to testify at the hearing against the charged counselor, and the charges involved at least thirty (30) days prior to the hearing. A copy of the notification will be sent to the complainant. Notices shall be sent by certified mail with return receipt requested. Notice shall include a formal statement of the complaints lodged against the charged counselor and supporting evidence.

b. The charged counselor is under no duty to respond to the notice, but the Ethics Committee will not be obligated to delay or postpone its hearing unless the charged counselor so requests in writing with good cause received at least fifteen (15) days in advance. In the absence of such 15-day advance notice of postponement and the charged counselor fails to appear at the hearing, the Committee shall decide the complaint on record. Failure of a charged counselor to appear at the hearing shall not be viewed by the Committee as sufficient grounds alone for taking disciplinary action.

### **3. Conduct of the Hearing.**

a. Accommodations. The location of the hearing shall be determined at the discretion of the Ethics Committee. The Committee shall provide a private room to conduct the hearing, and no observers or recording devices other than a recording device used by the Committee shall be permitted.

b. Presiding Officer. The Co-Chair not administering the case shall preside over the hearing and deliberations of the Ethics panelists. At the conclusion of the hearing and deliberations, the Co-Chair presiding over the hearing shall instruct the ethics panelists to develop a written recommendation to be presented to the Board. The Administrator will notify the charged counselor and complainant of the Board's decision in writing as provided by Section Q., Paragraphs 1 and 2 below.

c. Record. A record of the hearing shall be made and preserved, together with any documents in evidence, at the ASACB office for a period of five (5) years or until the complaint process is final, whichever is longer, except in the case of revocation. If the credential is revoked, the record will be maintained in the ASACB office. The record shall consist of a summary of testimony received or a verbatim transcript at the discretion of the Committee.

d. Right to Counsel. The charged counselor shall be entitled to have legal counsel present to advise and represent him or her throughout the hearing. Legal counsel shall have the privilege of the floor.

e. Witnesses. Either party shall have the right to call witnesses to substantiate his or her version of the case.

f. The Committee or hearing panelists shall have the right to call witnesses it believes may provide further insight into the matter. The Committee shall, in its sole discretion, determine the number and identity of witnesses to be heard.

g. Witnesses shall not be present during the hearing except when testifying and shall be excused upon completion of their testimony and any cross-examination.

h. The Co-Chair presiding over the hearing shall allow questions of any witness by the opposition or members of the Committee if such questions and testimony are relevant to the issues in the case.

i. The Board Attorney or the Co-Chair presiding over the hearing will determine what questions and testimony are relevant to the case. Should the hearing be disturbed by irrelevant testimony, the Board Attorney or the Co-Chair may call a brief recess to restore order.

j. All expenses associated with counsel on behalf of the parties shall be borne by the respective parties. All expenses associated with witnesses on behalf of the charged counselor shall be borne by the charged counselor.

### **4. Presentation of Evidence**

- a. The Co-Chair administering the complaint shall be called upon first to present the charge(s) against the charged counselor and to briefly describe the supporting evidence. The person presenting the charges shall also be responsible for examining and cross-examining witnesses on behalf of the complainant and for otherwise presenting the matter during the hearing.
- b. The complainant or the Committee Co-Chair administering the complaint shall then present the case against the charged counselor. Witnesses who can substantiate the case may be called upon to testify and answer questions of the charged counselor and the ethics panelists.
- c. If the charged counselor is present at the hearing, he or she shall be called upon after the case has been presented against them to present any evidence which refutes the charges against him or her. This includes witnesses as in Subsection (3) above. The charged counselor and the complainant may submit a written statement at the close of the hearing.
- d. The charged counselor will not be found to be in violation of the Code of Ethics simply for refusing to testify. Once the charged counselor chooses to testify, however, he or she may be cross-examined by the complainant and by members of the Ethics panelists.
- e. The Ethics Committee will endeavor to conclude the hearing within a period of two (2) hours. The parties will be requested to be considerate of this time frame in planning their testimony. If it appears that additional time will be needed to develop the issues adequately, an extension of time may be granted.
- f. Testimony that is merely cumulative or repetitious may, at the discretion of the Co-Chair presiding over the hearing, be excluded.
- g. At any time during the presentation of evidence, the ethics panelists may ask pertinent questions.

#### **5. Relevancy of Evidence.**

- a. The Ethics Hearing Committee is not a court of law and is not required to observe formal rules of evidence. Evidence inadmissible in a court of law may be admissible in the hearing before the Committee if it is relevant to the case. That is, if the evidence tends to explain, clarify, or refute any of the important facts of the case, it should generally be considered.
- b. The Committee will not consider evidence or testimony for the purpose of supporting any charge that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.

#### **6. Burden of Proof.**

- a. The burden of proving a violation of the Code of Ethics is on the complainant and/or the Committee. It is not up to the charged member to prove his or her innocence of any wrongdoing.
- b. Although the charge (s) need not be proved "beyond a reasonable doubt" the Committee will not find the charged counselor to be in violation of the Code of Ethics in the absence of clear and convincing substantial, objective, and believable evidence to sustain the charge(s).

#### **7. Deliberation of the Committee or Panel**

- a. After the hearing is completed, the Ethics Hearing panel and the Presiding Co-Chair shall meet in a closed session to review the evidence presented and reach a conclusion. The ASACB legal counsel may attend the closed session to advise the Committee if the Committee so desires. The Presiding Co-Chair is present only for the purpose of recording and shall not engage in deliberations.
- b. The Ethics Hearing panel shall be the sole trier of the facts and shall weigh the evidence presented and assess the credibility of the witnesses. The act of a majority of the three (3) members of the Hearing panel present shall be the decision. The Co-Chair presiding over the hearing will vote only in the case of a tie vote of the three (3) other ethics hearing panelists. A unanimous vote of those voting is required for recommendation to the Board of permanent expulsion from ASACB certification or the certification process.
- c. Only members of the Ethics hearing panel who were present throughout the entire hearing shall be eligible to vote.

#### **8. Decision of the Committee or Panel**

- a. The Committee will first resolve the issue of whether the charged counselor violated the code of ethics on each charge.
- b. In the event a majority of the members of the ethics panel do not find the charged counselor guilty, the Co-Chair will recommend to the Board that the charges be dismissed. If the ethics panel finds the charged counselor has violated the Code of Ethics, it must then determine what sanctions, in accordance with Section N: Possible Sanctions, shall be recommended to the ASACB to be imposed.

c. As provided in Section Q below, the Co-Chair presiding over hearing shall develop a written recommendation to be presented to the Board and the Administrator shall notify the charged counselor and complainant of the Board's decision and rights to appeal

#### **Section Q: Notification of Results**

1. Charged counselors shall be notified of the Board's decisions regarding complaints against them within thirty (30) days of the hearing. Included in the notification would be the right to appeal the Board's decision. The decision shall be sent by U.S. mail, certified, with return receipt requested.
2. After the deadline for filing an appeal, or in the event an appeal is filed, after a decision on appeals has been rendered, and if a violation has been found and the charged counselor has been suspended or expelled, the ASACB shall issue a final decision. The final decision of the Board shall be reported to the International Certification and Reciprocity Consortium (IC&RC). The ASACB will report a disciplinary action against certified professionals to the Division of Behavioral Health, Office on Alcohol and Drug Abuse Prevention if that counselor is employed by a licensed program.

#### **Section R: Appeals**

1. Decisions of the ASACB may be appealed by the counselor found to have been in violation based on one or both of the following grounds:
  - a. The Committee violated its policies and procedures for processing complaints of ethical violations; and/or
  - b. The decision of the Committee was arbitrary and capricious and was not supported by the materials provided by the complainant and charged member.
2. After a counselor has received notification that they have been found in violation of one or more ASACB Code of Ethics, they will be given thirty (30) days to notify the ASACB in writing by certified mail that they are appealing the decision. If an appeal is not requested, the ASACB shall issue its decision as the final decision as soon as the time during which an appeal may be filed expires.
3. An appeal may consist only of a letter stating one or both of the grounds of appeal listed in subsection (1) above and the reasons for the appeal. The filing of an appeal automatically stays the execution of a decision by the ASACB until the appeal is completed.
4. The president of the ASACB shall appoint an appeals panel comprised of no less than three (3) Board members; none of the three shall be ethics hearing panelists from the prior hearing. The ASACB attorney shall serve as legal advisor and have the privilege of the floor.
5. The three (3) member appeals panel will be given copies of the materials available to the ethics hearing panelists when it made its decision, a copy of the hearing record if a hearing was held, plus a copy of the letter filed by the appealing member.
6. The appeals panel will not consider evidence that was not presented to the Committee.
7. The appeals panel generally will render its decision regarding an appeal requiring a majority vote within sixty (60) days of their receipt of the above materials.
8. The decision of the appeals panel is limited to
  - a. Upholding the decision of the ethics hearing panel; or
  - b. Upholding the decision of the ethics hearing panel on the finding of an ethical violation but reversing and remanding the Committee's decision on sanctions; or
  - c. Recommending reconsideration by the panelists of the decision and providing guidance to the Committee in detail in writing for considering a new decision on remand.
9. The decision of the appeals panel need not be unanimous.
10. When an ethics decision is reversed and remanded, the complainant and charged counselor will be informed in writing, and additional information may be requested first from the complainant and then from the charged counselor. The Co-Chair will then render another decision to be recommended to the Board without a hearing.
11. Decisions of the appeals panel to uphold the ethics panel's decisions are final and binding and not subject to further hearings or appellate review.

#### **Section S: Substantial New Evidence**

1. In the event substantial new evidence is presented in a case in which an appeal was not filed, or in a case for which the final decision has been rendered, the case may be reopened by the Co-Chair.

2. The Co-Chair will consider substantial new evidence and if found to be substantiated and capable of exonerating a counselor who was expelled, the Co-Chair will reopen the case and go through the entire complaint process again.

**Section T: Records**

1. The records of the ethics panel regarding complaints are confidential except as provided herein.
2. Original copies of complaint records will be maintained in locked files at the ASACB office.
3. Members of the ethics panel will keep copies of complaint records confidential and the Administrator will destroy copies of records after the case has been closed.

**Section U: Legal Actions Related to Complaints**

1. Complainants and charged counselors are required to notify the ASACB office if they learn of any legal action (civil or criminal) being filed related to the complaint.
2. In the event any legal action is filed regarding an accepted complaint, all actions related to the complaint will be stayed until the legal action has been concluded. The Committee will consult legal counsel concerning whether the processing of the complaint will be stayed if legal action does not involve the same complainant and the same facts complained of.
3. If actions on a complaint are stayed, the complainant and charged counselor will be notified.
4. When actions on a complaint are continued after a legal action has been concluded, the complainant and charged counselor will be notified.

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