



Ethics Committee Policies and Procedures

1. **Composition.** The Committee on Ethics and Professional Standards (“Ethics Committee”) of the Boston Psychoanalytic Society and Institute (the “Society”) shall be constituted in accordance with the Society’s Bylaws. The Ethics Committee shall be empowered to act notwithstanding that there is a vacancy in one or more of its positions so long as there are at least six members of the Ethics Committee in office. Except as otherwise provided in these policies and procedures, a majority of the members of the Ethics Committee in office shall constitute a quorum for the transaction of any business of the Ethics Committee.
2. **Tenure.** The tenure of Ethics Committee members shall be as provided in the Society’s bylaws. Should the term of a member expire during the period when the member is actively dealing with a complaint, either as an investigator, as a member of a Probable Cause Panel, or as a member of the Ethics Committee hearing panel after probable cause has been found, the Chairperson shall specially extend that member's tenure for the limited purpose of allowing the member to complete his or her duties and responsibilities regarding the pending complaint(s), but this shall not delay the appointment (or the commencement of ex officio service, as the case may be) of such expiring member’s successor, who shall participate in place of the expiring member in the handling of any business of the Ethics Committee other than such pending complaints in which the expiring member is actively involved.
3. **Jurisdiction, Duties and Responsibilities.**
 - a. **Duties and Responsibilities of Ethics Committee.** The duties and responsibilities of the Ethics Committee shall be as stated in the Society’s bylaws and shall include, to the best of its ability enforcing, and seeking to ensure that the Society and its members, including candidates and students, understand and adhere to the Principles and Standards of Ethics for Psychoanalysts of the American Psychoanalytic Association, as from time to time revised (the “PSE”). The principles set forth in the PSE shall not be limited to the practice of psychoanalysis and shall be applied equally to all forms of psychoanalysis, psychotherapy, and counseling. The Ethics Committee shall provide a process through which patients, research subjects, students, members of allied professions, members of the public, and members of the Society can present concerns that they have been harmed by conduct in violation of the PSE committed by members of BPSI.



- ii. is the subject of a finding by another professional society, or by a court or a state or federal regulatory or licensing body, that the individual engaged in conduct that violates clinical licensing laws or regulations; or
 - iii. has been convicted of committing a felony.
- c. When asked for an advisory opinion. When asked to do so in writing, the Ethics Committee may, in its discretion, issue an advisory opinion regarding a specific question about ethical conduct.
- d. Upon Receipt of a Referral from Member's Assistance Committee (MAC). The Ethics Committee shall have jurisdiction over a complaint signed by the chairperson of MAC indicating that an individual has failed to cooperate with MAC or has failed to institute or to abide by restrictions or remedial action that MAC determined to be necessary to prevent the individual from practicing in violation of applicable licensing laws or the PSE. As appropriate, the Ethics Committee shall cooperate with MAC, in connection with matters that are, or potentially are, within the jurisdiction of both the Ethics Committee and MAC. The Chair of the Ethics Committee may consult with the Chair of MAC when there is a question of jurisdiction regarding a complaint or concern that is brought to the Ethics Committee.
- e. Encouraging and supporting compliance with the PSE. In cooperation with the Board of Trustees and the other Committees of the Society, the Ethics Committee shall engage and participate in activities to promote the understanding of and adherence to the PSE.
- f. Consultation with Counsel. The Ethics Committee, its Chairperson and those carrying out the ethics procedure may consult with the Society's counsel for guidance or advice in carrying out any of their responsibilities, subject to any limitations or guidelines on the use of counsel that may be imposed by the President or Board of Trustees.

5. Confidentiality.

- a. Except as otherwise set forth in these regulations, or as may be reasonably necessary for the proper discharge of the Ethics Committee's duties or to comply with applicable law, including, without limitation, reporting obligations to licensing boards or other authorities, the handling of a complaint by the Ethics



Committee, prior to its final determination, shall be kept confidential by the Ethics Committee.

- b. Except as otherwise set forth in these regulations, or as may be reasonably necessary for the proper discharge of the Ethics Committee's duties or to comply with applicable law, upon a final determination that no ethical violation or professional misconduct occurred, the filing of the complaint, the proceedings and decision shall be kept confidential by the Ethics Committee.
- c. Upon a final determination following the appeal provided for below, or the expiration of the time for such an appeal should no such appeal be filed, if the Ethics Committee concludes that there has been an ethical violation or other misconduct which results in a reprimand, censure, probation, suspension or expulsion, a summary of the decision, including the name of the respondent but not the name of the complainant, shall be communicated to the members of the Society in writing. Such summary of the decision shall be public information and, as such, available to the public if requested. Except as otherwise set forth in these regulations, or as may be reasonably necessary for the proper discharge of the Ethics Committee's duties or to comply with applicable law, the other materials of the Ethics Committee shall remain confidential.
- d. Nothing in these policies and procedures shall be construed as preventing a member of the Ethics Committee from communicating where appropriate with other committees, officers or agents of the Society, with respect to matters referred to or before the Ethics Committee, where such communication is reasonably necessary to carry out the duties of the Ethics Committee or the duties of such other committee, officer or agent, in which event the recipient of the information shall, except as may be reasonably required for the proper discharge of the recipient's responsibilities or to comply with applicable law, maintain the confidentiality of the information.

6. Complaint Procedure.

- a. All complaints brought under section 4a must be in writing and signed by the complainant. All complaints referred to the Ethics Committee by MAC shall be signed by the chairperson of MAC, in which case a member of MAC, designated by MAC's chairperson, shall function as the complainant for purposes of these procedures.



- b. Any person who inquires of the Society's President, administrative staff or the Ethics Committee as to the making of a complaint, or states an intent to make such a complaint, or who files such a complaint, shall be provided with a copy of the Ethics Committee's current policies and procedures and the PSE.
- c. The written complaint must identify the charged individual and describe facts and circumstances that, if proven, would potentially constitute a violation of the PSE.
- d. Except where MAC is the complainant, the complainant shall be required to sign a consent form, in a form satisfactory to the Ethics Committee, consenting to the use of the Society's procedures and if potentially applicable, those of the American Psychoanalytic Association; authorizing the Ethics Committee to distribute the Complaint and other materials and information submitted at any time by the complainant in connection with the investigation of the complaint to persons carrying out the Complaint Procedure, to other officers or members of the Society to whom disclosure reasonably must be made for the proper conduct of their responsibilities, and to any bodies to whom disclosure must be made under applicable law; and authorizing the subject of the complaint to provide full information in response to the Complaint to the Ethics Committee and any appeal panel or body of the Society or, if applicable, of the American Psychoanalytic Association.
- e. The Chairperson shall cause a copy of the complaint to be delivered to the respondent within five working days after receipt of the complaint, together with a copy of the Ethics Committee's current policies and procedures, the PSE, and the American Psychoanalytic Association's Provisions for Implementation of the Principles of Ethics and Standards for Psychoanalysts.
- f. The chairperson shall screen all complaints to determine whether, taking into account the nature and seriousness of the allegations, the complaint may be an appropriate one for handling in a manner other than by the formal procedures of the Ethics Committee:
 - i. In some instances it may be advisable to consider proceeding under the Ethics Committee's informal resolution procedures set forth in section 9 below, in which case both the complainant and the respondent will be notified of the option to proceed under those informal procedures. At any stage in the proceedings of the Ethics Committee, the complainant and respondent may jointly request that the chairperson utilize the Ethics



Committee' informal resolution procedures to resolve the complaint. In their joint request they must indicate whether they wish to have the formal proceedings terminated or suspended pending the outcome of the informal proceeding. If the request to proceed under informal procedures is made before a finding of probable cause has been made by the Probable Cause Panel (as described in 6(h)), the Chairperson may at his or her discretion accept the request and terminate or suspend the formal proceedings pending outcome of the informal proceedings. If the request to proceed under informal procedures is made after a finding of probable cause has been made by the Probable Cause Panel, the decision as to whether to accept the request and to terminate or suspend the formal proceedings pending outcome of the informal proceedings shall be made by majority vote of those members of the Ethics Committee who would constitute the members of the full hearing panel if the formal hearing were to go forward. The request for informal resolution procedures will normally be considered inappropriate in any case where the conduct at issue, if proven, would require mandatory notification of the state licensing board or other legal authorities under applicable law.

- ii. In some instances the Chairperson may determine, either at the outset of the process, or at a subsequent time during the proceedings that there is a legal obligation to report the complaint to a licensing board or other legal authorities. In other instances, a complaint brought to the Ethics Committee may be or may have become the subject of an action before the courts, a licensing board, or another legal authority. In any of the foregoing circumstances, the Chairperson shall have the discretion to determine at any stage in the proceedings prior to the conduct of a formal hearing that the complaint is of a nature that would be most appropriately handled, in the first instance, by such other legal authorities or a licensing board, and may suspend or defer the processing of the complaint by the Ethics Committee pending the investigation and/or action of such other authority or board. In such event, the complainant and respondent shall both be informed of such determination.
- g. Prior to commencing a formal complaint process, the Chairperson shall screen the complaint to determine whether it alleges with sufficient specificity to provide fair notice to the respondent the conduct that may constitute a violation of the Principles and Standards of Ethics. In the event the Chairperson determines that the complaint clearly fails to allege conduct that, if proven, would constitute a



violation within the Ethics Committee's jurisdiction, the complaint shall be dismissed, and notice of such dismissal shall be provided to both the complainant and the respondent. If the Chairperson determines that the complaint lacks sufficient particularity, or is otherwise defective in a manner capable of being cured, the complainant will be informed in writing of the inadequacy, with a copy to the respondent, and given at least one opportunity to amplify or clarify the complaint within a thirty day period. If no adequate complaint is timely submitted in response to one or more opportunities to cure, the chairperson shall dismiss the complaint, with notice to the complainant and the respondent.

- h. If the Chairperson determines that the complaint or a revised or amended complaint sufficiently alleges conduct warranting a formal investigation by the Ethics Committee, and has not been designated for management in another manner as set forth in subsection f, then he or she shall appoint one or two members of the Ethics Committee or other persons that the Chairperson deems suitable to serve as investigator(s). The Chairperson shall also select three Ethics Committee members to serve as a Probable Cause Panel for the preliminary investigation. The complainant and respondent shall be notified of the appointments and that they have the right to have counsel present during any interview. The investigator(s) shall interview the complainant and the respondent and gather such further information as may be appropriate (which may in their discretion include conferring with other individuals), and shall report in writing thereon to the Probable Cause Panel. An investigator who is a member of the Ethics Committee shall be disqualified from further service on the Ethics Committee in the matter, except as hereinafter provided.

The Probable Cause Panel, after consulting as it may deem necessary or desirable with the investigator(s), the complainant and/or respondent, and considering other evidence or statements, if any, shall determine whether or not there is probable cause to credit the allegations of the complaint that a violation of the PSE occurred. The determination of the Probable Cause Panel as to whether there is probable cause and the basis for such determination shall be reported in writing to the full Ethics Committee with a copy to the complainant and the respondent.

If the Probable Cause Panel finds that there is no probable cause to credit the allegations of the complaint, the matter shall be closed and no further action shall be taken by the full Ethics Committee. A finding of no probable cause shall be final and not subject to appeal.



- i. Upon receipt of a finding by the Probable Cause Panel that there is probable cause to credit the allegations of a complaint that a violation of the PSE has occurred, the Chairperson shall notify the complainant and the respondent in writing of the charges with sufficient specificity to inform the parties of the nature of the conduct in question and the violation of the PSE alleged. The Chairperson shall set forth in such charges a date, time and place, for the hearing of the charge(s), which shall not be less than thirty days from the date of the notification. The notice of hearing will also identify the then- expected witnesses to be called by the complainant or investigators at the hearing. The notice of hearing shall also advise the complainant and respondent that their rights at the hearing include the following: a) to be represented by counsel; b) to call, examine and cross-examine witnesses called at the hearing; c) to submit a written statement at the end of the hearing; d) to have a written record made of the hearing proceedings and to have a copy of the record upon payment of reasonable charges; e) to receive a written decision from the Ethics Committee, including a statement of the basis therefore; and f) to appeal from the decision as set forth below. The notice shall also advise the complainant and respondent that the Ethics Committee will have discretion to determine the admissibility of any evidence proffered, and that relevant evidence will not be excluded from any hearing solely on the grounds that it would not be admissible in a court of law.

The Chairperson shall have discretion to determine any procedural issue prior to a hearing and may, upon request of the investigator(s), the complainant and/or respondent, produce for examination, or require that any party produce for examination, any documents or other information in the possession of the Ethics Committee, the Probable Cause Panel, the investigator(s), the complainant, or the respondent. The determination of any issues of privilege shall be made by the Chairperson.

The hearing shall be conducted by the Ethics Committee, including the members of the Probable Cause Panel if applicable, but excluding any member of the Ethics Committee who has served as an investigator in the case or who recuses himself or herself due to a conflict of interest or bias. The proceedings of the Ethics Committee shall not be invalidated when one or more members of the Committee is unable to serve, or absent from the hearing, or from the deliberations or decision-making process so long as i) at least five members of the Ethics Committee have attended the entire evidentiary hearing; ii) no member who was absent for any portion of the evidentiary hearing is permitted to participate in the deliberations or decision-making; and iii) the Ethics Committee's decision is



supported by a vote of at least a majority of those members who attended the entire evidentiary hearing. The investigator(s) may be called upon to present the case and/or to testify concerning his/her/their knowledge of the facts supporting the complaint. Should either the complainant or the respondent question the impartiality of a member of the Ethics Committee or any person working in its behalf, the panel may, in its sole discretion, determine whether circumstances exist warranting the recusal of that member as a participant of the panel. The Chairperson of the Ethics Committee may appoint a substitute member of the Society to serve on the panel for the hearing in place of any member of the panel or of the Ethics Committee who has recused himself or herself, been disqualified or is otherwise unavailable to serve; provided that in the Chairperson's discretion, substitute members need not be appointed so long as there are at least five persons in place to conduct the hearing. Should the Chairperson him/herself be disqualified, the President of the Society-Institute shall appoint another member of the Ethics Committee as Chairperson for purposes of the matter at hand, and such Chairperson may then appoint a member of the Society as a substitute to serve on the panel.

Hearings shall continue until the complainant and the respondent have each been given a reasonable opportunity to complete their presentations and the Ethics Committee has no further questions concerning the matter. On completion of the hearing, the Ethics Committee shall decide whether or not the respondent violated the PSE. If the Ethics Committee decides that a violation of the PSE has occurred, it will decide what sanctions to impose. All such decisions of the Ethics Committee shall be by a majority vote of the members of the hearing panel who were in attendance throughout the hearing. After the hearing panel has voted, the Chairperson shall assign a member or members of the panel to prepare a written report containing the decision on the alleged violation of the PSE, the reasons supporting the panel's decision and the sanctions imposed. The draft report will not be final until it has been adopted by a majority vote of those members who attended the hearing.

The Ethics Committee may impose one or more of the following sanctions if it finds that the PSE has been violated: admonition, reprimand, the institution of corrective measures such as additional treatment, supervision, case transfer or other appropriate professional measures, censure, suspension from membership or other affiliation with the Society for not more than three years, separation from the Society with reapplication possible after five years, expulsion from the Society, or any combination of these measures.



The findings of the Ethics Committee shall be transmitted to the President of the Society- Institute. The Ethics Chairperson shall notify the complainant and respondent of the decisions of the Ethics Committee and the right to appeal there from as hereinafter provided. Should there be no appeal the President shall take such measures, if any, as may be necessary to carry out the decisions of the Ethics Committee.

- j. The complainant or respondent may appeal a decision of the Ethics Committee in a writing addressed to the President. An appeal must state the grounds of appeal with specificity and must be filed within 45 days after notification of the decision of the Ethics Committee is mailed to the complainant and the respondent.
- k. Upon receipt of an appeal, the President shall appoint an Appeals Committee consisting of three impartial members of the Society who are not members of the Ethics Committee. The Appeals Committee shall review the findings and judgments of the Ethics Committee. It may hold hearings at which parties and/or counsel may be present and may receive arguments orally and in writing on the basis of the record that was before the hearing panel. The Appeals Committee shall defer to factual findings made by the Ethics Committee unless it determines them to be unreasonable or clearly erroneous. On completion of its review, the Appeals Committee shall issue a written decision, a copy of which shall be sent to the complainant, the respondent and the Ethics Committee. The decision may either ratify, dismiss, or modify the determination of the Ethics Committee, or it may refer the matter back to the Ethics Committee for reconsideration of such elements of the matter as shall be directed by the Appeals Committee or for reconsideration of the penalty imposed. The Appeals Committee shall not hear further evidence but upon a showing of extraordinary circumstances, excusable neglect, fraud, or newly discovered evidence which could not by due diligence have been discovered in time for the hearing before the Ethics Committee, the Appeals Committee may refer the matter back to the Ethics Committee to hear further evidence.
- l. If the Appeals Committee affirms or dismisses the determination of the Ethics Committee, the matter shall be closed and no further appeal may be made within the Society. In such case, the President shall take such measures, if any, as may be necessary to implement the final decision. If the Appeals Committee directs reconsideration of any issue(s) by the Ethics Committee, the panel of the Ethics Committee that conducted the hearing shall review the remanded matter, and if a



further evidentiary hearing is required, shall conduct it in accordance with the procedures described above.

7. **Investigations Based on Loss of Licensure or Findings By Other Bodies or Tribunals.** The Ethics Committee shall conduct an investigation and take such action as may be appropriate any time it comes to the Ethics Committee's attention that a student, candidate or member of the Society:

- a. once was but no longer is licensed to conduct clinical practice other than due to normal retirement or reasons of health;
- b. has been found by another professional society, or by a court or by a state or federal regulatory or licensing body, to have committed a serious violation of clinical licensing laws or regulations; or
- c. has been convicted of a felony (regardless of whether any applicable appeals have been completed).

In such instances, the Chairperson shall provide written notice to the affected individual that it is conducting such an investigation and provide the affected individual with a copy of these procedures. The Chairperson shall designate two members of the Ethics Committee, or other appropriate individuals, to meet with the respondent and/or other appropriate sources to verify the information that has been received. If the information is verified, and if no signed complaint against the individual has been filed with the Ethics Committee, the individual may be offered the opportunity to resign from the Society, with notice to members of such resignation. If the matter cannot be resolved in this manner, the Ethics Committee may schedule a formal hearing, in accordance with the formal procedures applicable to other complaints, as described above, but the Chairperson may, if he deems it appropriate, limit the evidence and testimony solely to (a) whether the individual is no longer licensed to conduct clinical practice other than due to normal retirement or reasons of health, or has been found by another body to have committed a serious violation of clinical licensing laws or regulations, or has been convicted of a felony, as the case may be; and (b) the appropriate sanction. In conducting such a hearing, the Ethics Committee shall not be required to re-adjudicate the underlying allegations or circumstances leading to the respondent's voluntary or involuntary loss of license, or any determination or findings made by a court, tribunal or other body having jurisdiction over the matter, all of which shall be considered binding on the respondent. An individual's voluntary or



involuntary loss of license other than due to normal retirement, health or similar reasons, or conviction of a felony, shall, without more, constitute adequate grounds for being suspended from or expelled from the Society.

8. Notifications to Other Organizations.

- a. Mandated Notice to American Psychoanalytic Association: In instances where the respondent is a member of the American Psychoanalytic Association and has either been (a) suspended or expelled from the Society under any of the foregoing procedures or (b) found following a formal hearing to have engaged in conduct that would have warranted such suspension or expulsion had the respondent not already resigned from or otherwise ceased to be affiliated with the Society, the President of the Society shall notify in writing the Chairperson of the Committee on Ethics of the American Psychoanalytic Association of that decision.
- b. Other Notifications to Professional Organizations and Licensing Authorities: On the recommendation of the Ethics Committee final decisions of the Ethics Committee and/or other pertinent information obtained by the Ethics Committee shall be transmitted to any regulatory or licensing body to whom such disclosure is required by applicable law, and may be transmitted to the Committee on Ethics of other professional organizations (including without limitation the American Psychoanalytic Association), to any regulatory or licensing body (including the Massachusetts Board of Registration in Medicine or similar licensing authority), and/or to the National Practitioner Data Bank where such notification is considered to be in the public interest. The Ethics Committee may determine in a particular case that such notifications are unnecessary if they have already been made under other provisions of these policies or procedures.

9. Informal Resolution Procedures.

With the consent of the complainant and respondent, and approval pursuant to section 6(f) of the Chairperson of the Ethics Committee, a complaint may be subjected to informal resolution procedures. In such a case, one or two members of the Society, or such other persons that the Chairperson deems suitable to serve, shall be appointed to mediate the dispute. The investigator/mediator(s) will have the responsibility of determining from the complainant and respondent their views of the circumstances leading to the complaint and to conduct a process of mediation. Through the mediation process the parties may be engaged to determine whether there are actions to be taken



that will resolve the matter satisfactorily for both parties, short of a full ethics investigation as set out above in these policies and procedures.

If both parties agree to some form of action that is satisfactory, they may jointly request that the full ethics investigation not be pursued further and that the matter will be considered to be resolved on the terms to which they have agreed. The Chairperson shall in such event determine in his or her discretion, in view of the Ethics Committee's responsibilities, whether the informal resolution is acceptable. Any approved agreement resulting from the mediation process shall be memorialized in a written document signed by both the complainant and respondent.

10. **Retention of Records.** Records of the proceedings of the Ethics Committee shall be retained in confidential files for as long as the respondent is a member of BPSI or continuing in practice when there has been a finding of a violation of Ethical Standards. When a complaint has resulted in a finding that there was no violation a record of the proceedings or decisions that were made shall be retained for a period of seven years.
11. **Amendment of Policies and Procedures.** These policies and procedures shall become effective upon their approval by the Society's Board of Trustees. They may be amended by the Ethics Committee with the approval of the Board of Trustees.

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