

Proposed PAP Scientific and Professional Ethics Committee (PAP-SPEC) Rules and Procedures for Investigations of Unethical Conduct

1. Type of Investigations of Unethical Conduct. There are two types of investigations of unethical conduct: (a) Show cause proceedings : an investigation that is initiated on the basis of an adverse decision or action relating to a member of the PAP; and (b) Reviews of alleged unethical conduct : an investigation initiated by a complainant that charges a PAP member with violation of the Code of Ethics.

1.1. *Show Cause Proceedings.* The show cause procedure can be used when another body — including criminal or civil courts, licensing boards, professional organizations, among others — has already rendered an adverse decision regarding the ethical conduct of a PAP member. For example, if a PAP member has been convicted of a criminal offense; has been expelled or suspended by another professional association; or has been decertified, unlicensed, or deregistered or had a certificate, license, or registration revoked or suspended by a professional licensing board, the PAP-SPEC may initiate a show cause case. The procedures to be followed in show cause proceedings are specified in Section 5 below.

1.2. *Reviews of Alleged Unethical Conduct.* The PAP-SPEC may initiate reviews of unethical conduct of a PAP member in response to a complaint brought by members and nonmembers of the PAP. Complaints must be submitted within specified time periods, with clear documentation of the alleged unethical conduct and reference to the provisions of the PAP Code of Ethics for Philippine Psychologists. The procedures to be followed in reviews of alleged unethical conduct are specified in Section 6 below.

2. Jurisdiction

2.1 *Persons.* The PAP-SPEC has jurisdiction over all active members of the PAP (i.e., fellows, associates, and affiliates). The PAP-SPEC also has jurisdiction over inactive members of the PAP if the alleged unethical behavior was committed during a time when the member was an active member of the PAP.

2.2 Time Limits for Complaints and Initiation of Ethics-Related Procedures

2.2.1. *Show Cause Notices.* The PAP-SPEC may issue a show cause notice less than one year after the date it discovered that the applicable provisions for use of show cause procedures had become final and less than 10 years after the alleged conduct occurred.

2.2.2. *Reviews of Alleged Unethical Conduct.* The PAP-SPEC shall review complaints brought by members and nonmembers of the PAP against any PAP members only if the formal complaint is submitted to the PAP-SPEC less than five years after the alleged conduct either occurred or was discovered by the complainant.

2.2.3. *Exceptions to Time Limits for Complaints by Members and Nonmembers.* Complaints that are not received within the time limits set above may still be considered in cases when the behavior alleged involved one of the following: sexual misconduct; felony conviction; fraud; plagiarism; blatant, intentional misrepresentation; or other behavior likely to cause substantial harm.

3. Confidentiality and Notifications

3.1. *Requirement of Confidentiality.* All information concerning complaints against members shall be confidential, except that the Chair of the PAP-SPEC may disclose such information when compelled by a valid subpoena, in response to a request from a legal agency or when otherwise required by law. Such information may also be released when the Chair determines that release of that information is necessary to protect the interests of (a) the complainant or respondent; (b) other investigative or adjudicative bodies; (c) the PAP; or (d) members of the public, and release will not unduly interfere with the PAP's interest in respecting the legitimate confidentiality interests of participants in the ethics process and its interest in safeguarding the confidentiality of internal peer review deliberation.

3.2. *Access by, Officers, Staff and Other Duly Appointed Persons.* Information may be shared with officers of the PAP, and with staff and/or members of the PAP designated by the PAP President and/or the PAP-SPEC Chair to assist the Committee with its work. Subject to the confidentiality provisions in these Rules, these persons are authorized to use this information only for the purposes set out in these Rules regardless of whether or not the person providing the information has executed a release.

3.3. *Notification in Connection with Investigation or Final Disposition of Investigation.* Any notification of final disposition of an ethical case shall include the ethical standard(s) that were judged to have been violated [and, if violation is not found, the standards not violated,] and the sanction (including a statement that directives were given), if any.

3.3.1. *Notification of Respondent and Complainant.* The PAP-SPEC Chair shall inform the respondent and the complainant of the final disposition in the ethical case within 15 days after the final disposition. This notification shall include the rationale for the Association's actions. The PAP-SPEC Chair may also at any time, as a matter of discretion, provide information to the complainant regarding the status of a case.

3.3.2. *Membership.* The PAP-SPEC Chair shall report annually to the PAP membership the names of individual members who have lost membership due to unethical behavior and the names of members who have resigned their membership while under ethics investigation. For those members who lost their membership, the PAP-SPEC Chair will also report the ethical standard(s) violated or the type of underlying action for a show cause case.

3.3.3. *Other Entities.* When the PAP Board of Directors determines that further notification is necessary for the protection of the PAP or the public or to maintain the standards of the PAP, the Chair of the PAP-SPEC shall communicate the final disposition to those groups and/or individuals so identified. Such notification may be made to the PRC Board of Psychology and Psychometrics, and/or other similar parties.

3.3.4. *Disclosure of Fact of Investigation.* Pertinent to 3.3.4, the PAP-SPEC Chair may disclose the fact that an individual is under ethical investigation in cases deemed to be serious threats to the public welfare, but only when to do so before final disposition appears necessary to protect the public, and only when the PAP Board of Directors approves the disclosure of said information.

3.3.5. *Notification of Loss of Membership Upon Written Request.* The PAP shall inform any person who submits a written inquiry concerning a psychologist that a former member has lost membership due to unethical behavior, or that a former member has resigned while under ethics investigation.

- 3.4. *Initiation of Legal Action Constitutes Waiver.* A respondent to an ethical case who initiates a legal action against the Association or any of its agents concerning any matters considered or actions taken by the PAP-SPEC shall be considered to have effectively waived any interest in confidentiality recognized in these rules with respect to the subject matter of the legal action.
- 3.5. *Communication for Investigation or Other Functions.* The provisions regarding confidentiality shall not prevent the PAP-SPEC Chair from communicating any specific information (including information from the respondent, complainant, or a witness) to the respondent, complainant,

witnesses, or other sources of information to the extent necessary to facilitate the performance of any functions set forth in these rules and procedures.

4. Records

- 4.1. Confidentiality of Ethics Files. Files of the PAP-SPEC related to investigation and disposition of cases shall be confidential. Investigation records containing personally identifiable information shall be maintained for at least five years after a matter is closed. However, in cases in which members have lost membership, records shall be maintained indefinitely.
- 4.2. Records for Educative Purposes. The provisions on confidentiality of records shall not prevent the PAP-SPEC from maintaining records in a secure place for archival or record keeping purposes, or from using or publishing information concerning ethics matters for educative purposes, provided that all identifying is removed.

5. Rules for Use of Show Cause Procedures

5.1. Predicates for Use of Show Cause Procedures

5.1.1. Conviction of a Criminal Offense. If a PAP member has been convicted of a criminal offense, and such conviction is not under appeal, the PAP-SPEC may use the show cause process.

5.1.2. Expulsion, Suspension, Unlicensure, Decertification, or Other Actions. If one of the following actions has been taken and is not under appeal, the PAP-SPEC may use the show cause process: (a) a member has been expelled or suspended for ethical violations from another regional or national psychological association or any professional organization related to the profession of psychology; or (b) a member has been denied a license, certificate, or registration, has been unlicensed, decertified, or deregistered, has had a license, certificate, or registration revoked or suspended by the PRC's Board of Psychology and Psychometrics, or any similar entity for ethical violations, or has voluntarily surrendered a license or certificate of registration as a result of pending allegations of unethical conduct.

5.2. Initiation of and Guidelines for Show Cause Procedures. When the predicates indicated in 5.1 are satisfied, the PAP-SPEC may open a show cause case.

5.2.1 The PAP-SPEC Chair shall notify the respondent regarding the initiation and predicates of the show cause procedures, and invite the respondent to explain why he/she should not be expelled by the PAP for unethical conduct.

5.2.2. The respondent shall be given 60 days to explain why the PAP should not expel the respondent from PAP membership on the basis of the

previous adverse decision. The respondent may show that procedures involved in the previous adverse decisions were not fair and may argue against the merits of the previous action. The respondent may request that the pending PAP decision be reviewed in view of the arguments.

5.2.3. If the respondent asks for a review, and upon receipt of the respondent's request for review and supporting statement and upon conclusion of any necessary further investigation, the case shall be reviewed by the PAP-SPEC. The PAP-SPEC may designate other PAP members to assist the committee in its review of the case. When review of a case has been completed, the Committee shall vote to take one of the following actions:

5.2.3.1. Dismiss the matter

5.2.3.2. Recommend one of the following actions to the PAP Board:

5.2.3.2.1. *Reprimand or Censure, With or Without Directives.* The PAP-SPEC may recommend that the respondent be reprimanded or censured, with or without one or more directives.

5.2.3.2.2. *Expulsion.* The PAP-SPEC may recommend that the respondent be expelled from the PAP.

5.2.4. A respondent who does not respond within 60 days of notification, has effectively waived the right to a review, and thus, would be automatically expelled.

5.2.5. At the outset of the case, instead of contesting the charges, the respondent may offer a resignation, which is deemed a resignation while under ethics investigation, and would mean the termination of the show cause procedure.

6. Rules for Complaints Alleging Violation of the Ethics Code

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

6.2. Review of Alleged Violation. When a member appears to have violated the PAP's Code of Ethics, the PAP-SPEC may proceed on its own initiative. The Committee may, at any time, exercise its discretion to discontinue a review. If the Committee does so, the respondent shall be so notified.

6.3. Anonymous Complaints. The PAP-SPEC shall not act upon anonymous complaints.

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

- 6.5. Review Based Upon a Member's Filing of a Capricious or Malicious Complaint. To prevent abuse of the ethics process, the PAP-SPEC is empowered to bring charges against a complainant if the initial complaint is judged by the entire membership of the PAP-SPEC to be (a) frivolous and (b) intended to harm the respondent rather than to protect the public. The filing of such a complaint constitutes a violation of the Ethics Code.
- 6.6. Countercomplaints. The PAP-SPEC will not consider a complaint from a respondent against a complainant during the course of its investigation of an existing complaint involving the two parties. Rather, the PAP-SPEC shall study all sides of the matter leading to the first complaint and consider countercharges only after the first complaint is resolved.
- 6.7. Consecutive Complaints. When a complaint is lodged against a member who is involved in another previously closed ethical case regarding similar alleged behavior, materials in the prior case may be considered as evidence in connection with the new case as long as the PAP-SPEC is informed of the final disposition of the prior case.
- 6.8. Simultaneous Complaints. When more than one complaint is simultaneously pending against the same member, the PAP-SPEC may choose to combine the cases or to keep them separate. In the event the cases are combined, the PAP-SPEC shall inform the various complainants about this decision, and shall also take reasonable steps to ensure that the legitimate confidentiality interests of any complainant, witness, or respondent are not compromised by combination.
- 6.9. Filing of Complaints. A complaint shall include of a detailed account of the alleged unethical behavior with specific references to provisions of the PAP Code of Ethics that are alleged to have been violated. For purposes of determining time limits, a complaint shall be considered filed with PAP as soon as the complaint is received by the PAP Office.
- 6.10. Preliminary Evaluation of Complaints. The PAP-SPEC Chair or a designated PAP officer shall review each complaint to determine if jurisdictional criteria are met and if it can be determined whether cause for action exists. If jurisdictional criteria are not satisfied, the matter shall be closed and the complainant notified about this decision. If the information is not sufficient to determine whether jurisdictional criteria are met, the PAP-SPEC Chair shall inform the complainant about so, and the complainant will be given 30 days from receipt of the request for supplemental information. If no response is received from the complainant within that period, the matter may be closed.
- 6.11. Substantial Evaluation of Complaints. All complaints not closed under 6.10 shall be reviewed by the PAP-SPEC Chair to determine whether cause for action by the PAP-SPEC Committee exists.

6.11.1 Cause for Action Defined. Cause for action shall exist when in the judgment of the PAP-SPEC Chair the respondent's alleged unethical acts (or omissions), if proved, would constitute a breach of ethics. For purposes of determining whether cause for action exists, incredible, speculative, and/or internally inconsistent allegations may be disregarded.

6.11.2 Information Insufficient to Determine Cause for Action. If the PAP-SPEC Chair assesses that the information is not sufficient to determine whether a case should be opened, the Chair may inform the complainant about so. The complainant shall be given 30 days from receipt of the request to supplement the complaint. If no response is received from the complainant within this period, the matter may be closed.

6.11.3 Preliminary Investigation Due to Insufficient Information. If the PAP-SPEC Chair decides that there is insufficient information to determine whether a case should be opened, the Chair may also initiate a preliminary investigation.

6.11.3.1. *Notification to Respondent.* The PAP-SPEC Chair shall inform the respondent in writing if a preliminary investigation is opened. The PAP-SPEC Chair will include a copy of all evidence in the file; a copy of the PAP Code of Ethics Code; a copy of these rules; a statement that information submitted by the respondent shall become a part of the record and can be used if further proceedings ensue; and an invitation to give an initial response.

6.11.3.2. *Time for Respondent Response.* The respondent shall have 30 days after receipt of the notification of a preliminary investigation to file an initial response. The respondent may in the alternative accept the opportunity to resign from membership.

6.11.3.3. *Information From Other Sources.* During the preliminary investigation the PAP-SPEC Chair may request additional information from the complainant, respondent, or any other appropriate source. The information submitted by such sources shall be shared with the respondent, and the respondent shall be given an opportunity to respond to the additional information.

6.11.3.4. *Action if There Continues to Be Insufficient Information.* At the conclusion of the preliminary investigation, if the PAP-SPEC Chair determines that they still lack evidence sufficient to determine whether cause for action exists, the matter shall be closed.

6.11.4. Determination of Cause for Action.

6.11.4.1. If the PAP-SPEC Chair determines that cause for action does not exist (with or without a preliminary investigation), the matter shall be closed.

6.11.4.2. If the PAP-SPEC Chair determines that a cause for action exists (with or without a preliminary investigation), the Chair shall convene the PAP-SPEC to consider whether (a) there is a reasonable basis to believe that it would be extremely difficult to prove the alleged ethical violation by a preponderance of the evidence, and (b) the alleged ethical violation constitutes only minor or technical violation that does not warrant further action, have already been adequately addressed by the respondent in another forum, or are likely to be corrected by the respondent. If the PAP-SPEC agrees that either (a) or (b) are met, the matter shall be closed. Otherwise, the matter shall be opened as a case investigation following the procedures in 6.12.

6.11.4.3. *Educative Letter.* If a matter is closed under 6.11.4.1 or 6.11.4.2, the PAP-SPEC may send an educative letter to the respondent that calls the respondents' attention to the pertinent ethical code and standard.

6.12. Case Investigation

6.12.1. *Issuance of Charge Letter and Response From Respondent.* If a case investigation is opened, the PAP-SPEC shall inform the respondent in a charge letter. The charge letter shall contain a concise description of the alleged behaviors at issue and identify the specific section(s) of the PAP Code of Ethics that the respondent is alleged to have violated. The charge letter shall include a copy of the complaint and any materials submitted by the complainant or on the complainant's behalf that will be included in the record before the Committee, a copy of the PAP Code of Ethics and these rules, a statement that information submitted by the respondent shall become a part of the record, and can be used if further proceedings ensue, and a specific set of directives regarding how the respondent is expected to reply.

6.12.2. *Issuance of New Charge Letter to Conform to Evidence Discovered During Investigation.* At any time prior to final resolution of the case investigation, in order to make the charges conform to the evidence developed during the investigation, the PAP-SPEC may opt to issue a new charge letter setting forth a new set of ethical standard(s) and/or describing alleged behaviors to those contained in the initial charge letter.

6.12.3. *Time for Respondent's Response.* The respondent shall have 30 days after receipt of the charge letter to file an initial response. This deadline may be extended provided a request is made in writing within the 30 days indicating a good cause for an extension.

6.12.4. *Resignation under Ethical Investigation.* The respondent may in the alternative accept the opportunity to resign from membership.

6.12.5. *Personal Appearance.* The personal appearance of the respondent is not mandated, nor is it the right of the respondent to have a personal appearance with the PAP-SPEC. However, the PAP-SPEC may request the respondent to appear personally before the Committee if doing so would assist the PAP-SPEC in the case investigation.

6.12.6. *Information From Other Sources.* The PAP-SPEC may also request for additional information may be requested from the complainant, respondent, or any other appropriate source.

6.13. Review and Resolution by the PAP-SPEC. The PAP-SPEC may assign a member of the Committee or any PAP officer, member, or staff to serve as a case monitor. The monitor may provide assistance to the PAP-SPEC to assure that an adequate record is prepared for the review. Officers and members may also be assigned to participate during review deliberation, but they may not vote in the PAP-SPEC's resolution of the case. When review of a case has been completed, the PAP-SPEC shall vote to take one of the following actions described below: dismiss the charges, recommend reprimand or censure, or recommend expulsion. In addition to any of these actions, the Committee may vote to issue an educative letter. In cases when the charge letter involves several ethical violations, the PAP-SPEC may decide to dismiss some charges but find violation and take disciplinary action on other charges in the charge letter. The respondent shall be notified of the PAP-SPEC's action, the ethical standard(s) involved, if any, the rationale for the Committee's decision, and if appropriate, any sanction and directives.

6.13.1. Dismissing the Charges

6.13.2.1. *No Violation.* The PAP-SPEC may dismiss a charge if it finds the respondent has not violated the ethical standard as charged.

6.13.2.2. *Violation Would Not Warrant Further Action.* The PAP-SPEC may dismiss the complaint if it concludes that any violation it might find (a) would constitute only a minor or technical violation that would not warrant further action, (b) has already been adequately addressed by the respondent in another forum, or (c) is likely to be corrected by the respondent.

6.13.2.3. *Insufficient Evidence.* The PAP-SPEC may dismiss a charge if it finds insufficient evidence to support a finding of an ethics violation.

6.13.2. Recommend Sanctions. If the PAP-SPEC finds that the respondent has violated the PAP Code of Ethics, the PAP-SPEC will recommend sanctions specified in 6.14, with or without one or more available directives indicated in 6.15.

6.13.4. **Educative Letter.** Where the PAP-SPEC deems it appropriate, the PAP-SPEC may issue an educative letter, to be shared only with the respondent, concerning the behaviors charged or other matters. An educative letter may be issued whether the PAP-SPEC dismisses the charges or recommends sanctions after finding violations.

6.13.5. **Resignation Under Ethics Investigation.** A respondent may in the alternative accept the opportunity to resign from membership with the understanding that such resignation will be deemed for all purposes a “resignation under ethics investigation.” This opportunity is available only if the respondent provides to the PAP-SPEC a signed, notarized affidavit indicating acceptance of the opportunity to resign while under ethics investigation.

6.14. **Available Sanctions.** In cases when the PAP-SPEC finds that the respondent has violated the PAP Code of Ethics, the PAP-SPEC shall recommend appropriate sanction on the basis of circumstances that aggravate or mitigate the culpability of the member, including prior sanctions, directives, or educative letters from the PAP or similar external agencies as set forth below.

6.14.1. **Reprimand.** Reprimand is the appropriate sanction if the ethical violation is of a kind *not* likely to cause harm to another person or to cause substantial harm to the profession and was *not* otherwise of sufficient gravity as to warrant a more severe sanction.

6.14.2. **Censure.** Censure is the appropriate sanction if the ethical violation was of a kind likely to cause harm to another person, but the violation was *not* of a kind likely to cause substantial harm to another person or to the profession and was not otherwise of sufficient gravity as to warrant a more severe sanction.

6.14.3. **Expulsion.** Expulsion from membership is the appropriate sanction if the ethical violation was of a kind likely to cause substantial harm to another person or the profession or was otherwise of sufficient gravity as to warrant such action. In cases when the respondent is a Certified Psychology Specialist, expulsion shall also mean decertification.

6.15. **Available Directives.** In addition to the sanctions, the PAP-SPEC may also indicate specific directives in their disposition of the ethical case.

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

6.15.2. **Other Corrective Actions.** The PAP-SPEC may require other corrective actions as may be necessary to remedy a violation, protect the interests of the PAP, or protect the public. In no case shall a corrective action involve

a requirement that the respondent make a monetary payment to the PAP or persons injured by the conduct.

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

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

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

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

6.16. Concurrent Litigation or Other Disciplinary Proceedings. Civil or criminal litigation, or any other disciplinary proceedings involving the respondent shall not prevent the PAP-SPEC from acting to execute its functions; the PAP-SPEC may proceed or may stay the ethics process during the course of litigation. Delay in conducting the investigation by the PAP-SPEC during the pendency of civil or criminal proceedings shall not constitute waiver of jurisdiction. When another body or tribunal has investigated the same allegations and found no merit to the allegations, the PAP-SPEC may, in its discretion, decide not to open a matter or, if a matter has already been opened, the PAP-SPEC may close the matter.

7. Respondent's Response to Disposition of Ethics Case. The respondent shall be given 30 days after receipt of the final disposition of an ethical procedure (whether show cause procedures of review of alleged ethical violation) to respond to the PAP-SPEC's final disposition and recommendations. The response may request the PAP Board of Directors to review and reconsider the PAP-SPEC's decision and provide appropriate supporting arguments for this request. The request may not contain information that had previously been considered by the PAP-SPEC, but may include new information that had previously not been considered by the PAP-SPEC during its review or investigation. The PAP Board of Directors has the option to dismiss or to act on the request to review. In case that the Board opts to review, it shall define a set of procedures for the review based on their assessment of the requirements of the review. After completing their review, the PAP Board of Directors may reaffirm or revise the PAP-SPEC's original disposition and recommendation. The PAP Board of Directors' decision is final and may not be subject to further review.

End of Rules