



Idaho Board of Alcohol/Drug Counselor Certification, INC.

## **Ethics Disciplinary Procedures**

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## Definitions

<b>Appeal Hearing</b>	A formal hearing conducted when a respondent appeals the decision of the Ethics Committee.
<b>Applicant</b>	A person who has submitted an application for certification with the IBADCC but is not yet certified.
<b>Certified Individual</b>	A person who holds a professional credential administered by the IBADCC.
<b>Complainant</b>	A person who files a formal complaint with the IBADCC against an IBADCC certified individual or applicant.
<b>Consent Order</b>	A voluntary agreement worked out between the Respondent and the IBADCC that carries the same weight as a final decision by the Ethics Committee/ Board of Directors.
<b>Ethical Complaint</b>	A formal notice to the IBADCC alleging that a certified individual or applicant breached the IBADCC Code of Ethics.
<b>Hearing Committee</b>	A committee made up of three members and the hearing officer to hear, consider, and make recommendations when a respondent appeals the decision of the Ethics Committee/Board of Directors.
<b>Hearing Officer</b>	The President of the Board, a non-voting member of the Hearing Committee, who will preside over the Appeal Hearing.
<b>Probative Value</b>	Evidence or facts which tend to prove the existence of other facts or issues.
<b>Respondent</b>	A certified individual or applicant who is the subject of an ethical complaint alleging a breach of the IBADCC Code of Ethics.
<b>Revocation</b>	A sanction resulting in the complete forfeiture of the IBADCC certification or application for certification.

<b>Sanction</b>	A penalty intended to enforce compliance with the Code of Ethics. Sanctions may or may not include required payment of fines and/or completion of educational requirements.
<b>Summary Suspension</b>	An immediate suspension of a certified individual's credentials(s) or application for certification when a preponderance of the evidence contained in the ethical complaint supports emergency action while the case is being investigated.
<b>Suspension</b>	A sanction resulting in the temporary forfeiture of IBADCC certification or application for certification for a specified period of time.
<b>Written Reprimand</b>	A sanction that is a formal, written document expressing disapproval and/or providing a warning in regard to the Respondent's behavior.

## **I. Confidentiality of Proceedings**

- A. Except as is otherwise provided herein, all information, notes, reports, transcripts, and any other documentation of any kind that are generated or received during the course of an ethics investigation, including the ethics committee meetings and appeal hearings, shall be kept confidential by the IBADCC.
- B. The respondent is entitled to a full and complete copy of the:
  - 1. IBADCC Ethics Complaint
  - 2. Investigation Summary Report
  - 3. Ethics Committee's Recommendation for Action
  - 4. Hearing Committee's Finding of Fact and Recommendation for Action.
- C. The complainant is entitled to a full and complete copy of the:
  - 1. The Ethics Committee's Recommendation for Action
  - 2. The Hearing Committee's Finding of Fact and Recommendation for Action

## **II. Conflict of Interest**

- A. In all cases,
  - 1. The Chair of the Ethics Committee will direct ethics investigation with the Ethics Committee members.
  - 2. IBADCC Ethics Committee shall conduct investigative activities, including interviewing relevant persons and collecting and receiving evidence and other documents related to the case.
- B. Should the Ethics Committee Member have a conflict of interest with any party, the duties of said person shall be delegated by the Chair of the IBADCC Ethics Committee and said person shall be recused from any involvement in the case, including investigation and sanction activities.

## **III. Code of Ethics Sanctions**

- A. Possible sanctions for the violation of the Code of Ethics include but are not limited to:
  - i. Written Reprimand
  - ii. Summary Suspension
  - iii. Consent Order
  - iv. Suspension
  - v. Revocation
  - vi. Denial of Application for Certification

- B. The IBADCC may impose any sanction deemed appropriate for the founded violation(s). There is not a requirement that sanctions are imposed in any particular order.
- C. In conjunction with official sanctions, the IBADCC may impose fines, educational requirements, and other conditions deemed necessary and appropriate.
- D. If assessed, fines will be imposed according to the following schedule:
  - 1. First offense: \$500
  - 2. Second Offense: \$700
  - 3. Third offense: \$1,000
- E. The Ethics Committee may consider the applicant's or certified individual's past history in regard to ethical sanctions and disciplinary actions when determining the appropriate sanctions for the current ethics case.
- F. A third offense in a two-year period will automatically result in an immediate summary suspension and sanctions shall include a suspension or revocation of the credential(s).
- G. Public notice of all ethics cases resulting in sanctions shall be published on the IBADCC's web-based public access database. Such notice shall include the name of the Respondent, the rule(s) violated, and the sanction imposed. Web-based notice shall be published the first business day following the date the sanctions are applied. Such notice is permanent and will not be removed from the database.

#### **IV. The Complaint Process**

- A. The IBADCC will not accept anonymous complaints.
- B. All complaints must be submitted in writing on the official IBADCC Ethics Complaint form, which can be accessed at [www.IBADCC.org](http://www.IBADCC.org) or by calling the IBADCC office and requesting an official IBADCC Ethics Complaint form.
- C. The IBADCC will accept phone calls from individuals wishing to discuss a particular situation for the purposes of determining if an ethical complaint should be filed. These phone calls are to be directed to an Ethic Committee member as available. Based on the content of the discussion, the IBADCC will either:
  - i. Recommend the issue be dismissed, or
  - ii. Recommend the caller file a formal ethical complaint

- D. Should the IBADCC become aware of a possible breach of the Code of Ethics, A Board of Director member may, on behalf of the IBADCC, file a formal complaint against a certified individual or person seeking certification.
- E. In the instance that a formal complaint has been filed and the complainant subsequently requests to revoke said complaint, the IBADCC may choose to proceed with the investigation.
- F. Completed complaint forms should be mailed to:  
**Ethics Committee Chairperson**  
**IBADCC**  
**2095 Daniels St. #963**  
**Long Lake, MN 55356**
- G. The Ethics Committee Chairperson shall:
- a. Review all formal complaints within 14 business days of receipt to determine if the preponderance of the evidence contained within the complaint warrants opening of an investigation.
  - b. Contact the complainant by certified mail within seven (7) business days of the IBADCC's decision to:
    1. Issue a summary suspension and open an ethics investigation,
    2. Open an ethics investigation, or
    3. Dismiss the case.
    4. Extenuating circumstances – notification can be postponed for up to two more weeks with documentation.
- H. Within seven (7) business days of determining that the IBADCC will open an ethics investigation, the IBADCC shall send, by certified mail, notice to the respondent of such. The notice shall include:
1. A complete copy of the official IBADCC Ethics Complaint, to include the name of the respondent.
  2. The date by which the respondent must submit, to the IBADCC, a written response to the complaint, which shall be no more than 30 business days from the date of the notice.
- I. In the written response, respondents are encouraged to submit their interpretation of the situation or conduct under investigation, including:
1. Any and all facts and circumstances concerning the alleged ethics violation, and
  2. Documentation or other evidence directly related to these circumstance, and

3. Names and contact information of witnesses who can assist in the investigation.
- J. Misrepresentation by either the respondent or complainant, failure to provide information, or failure to cooperate with the investigation may be grounds for the IBADCC to open a subsequent ethical complaint against the respondent or complainant.
- K. Should the respondent fail to respond by the specified date in the formal notice, the IBADCC will assume guilt and will proceed with sanctions as necessary and appropriate.

## **V. The Investigation Process**

- A. The initial investigation shall be conducted by an IBADCC Ethics Committee Member, under the direct supervision of the Ethics Chairperson. The initial investigation shall include, but is not limited to, the gathering of documentation and other evidence from:
1. The Complainant
  2. The Respondent
  3. Others identified by the complainant and/or the respondent.
- B. Upon completion of the initial investigation, the Ethics Committee Member shall conduct a review of all evidence received to date from the complainant, respondent, and others involved in the investigation following receipt of respondents reply.
- C. Based on a preponderance of the evidence, the Ethics Committee Member shall make one of the following recommendations to the Chairperson of the Ethics Committee:
1. Dismiss the case without further investigation,
  2. Close the investigation and prepare the case for submission to the Ethics Committee, or
  3. Continue the investigation.
- D. The Ethics Chairperson may determine:
1. No violation has occurred and that no further investigation is warranted. If so,
    - a. The Ethics Committee Member will develop an Investigative Summary Report for approval by the Ethics Committee.
    - b. The Ethics Committee will report any action taken at the next IBADCC Board of Directors meeting.
  2. Allegations are founded and the investigation is complete. If so,

a. The Chairperson of the Ethics Committee will prepare an Investigative Summary Report for review and recommended action by the Ethics Committee.

b. Sanctions will be applied and the ethics investigation will not be closed until the recommendation of the Ethics Committee is deemed final and the case is closed.

3. Further investigation is warranted.

## **VI. Consent Order**

A. A consent order shall:

1. Be the final action and have the same force and effect of an order made by the Ethics Committee.
2. Result in a waiver of additional procedural steps in front of the Ethics Committee, or an Ethics Hearing Committee.
3. Result in a waiver of the right to challenge or contest the sanctions included in the Consent Order in front of the Ethics Committee or an Ethics Hearing Committee.

B. At any point after the commencement of the investigation, the respondent may, in writing, request negotiation of a Consent Order.

C. The IBADCC may, at its discretion, agree to or reject the offer of request to negotiate a Consent Order.

1. If the request is granted, the IBADCC will defer the proceedings a reasonable time to permit negotiation of a Consent Order.
2. If the request is denied, the investigation will proceed as planned.

## **VII. Action by the Ethics Committee**

A. The Ethics Committee shall receive a completed Investigation Summary Report and the full ethics investigation file for all cases where the investigation is complete. The Investigation Summary Report shall include, but is not limited to the:

1. Complaint,
2. A summary of the investigation conducted, including the respondent's rebuttal to the complaint,
3. Recommended sanctions, and
4. Grounds for recommendation(s).

- B. No later than 30 business days from receipt of the Investigation summary Report and investigation file, the Chair of the Ethics Committee shall issue a written *Recommendation for Action*, which shall include:
1. A copy of the Investigation Summary Report,
  2. The committee's finding of fact, and
  3. The committee's recommendation for action
- C. The Ethics Committee's *Recommendation for Action* shall call for one of the following actions:
1. Dismissal of the complaint
  2. Return of the complaint to the Ethics Committee Member for further investigation
  3. Sanctions
- D. If the Ethics Committee recommends returning the complaint to the Ethics Committee Member for further action, the recommendation must detail the additional information desired by the Committee for consideration.
- E. If the Ethics Committee recommends sanctions, the recommendation must detail the sanctions to be imposed, including fees, educational requirements, and time frames for compliance.
- F. Within seven business days of the determination by the Ethics Committee, the IBADCC Ethics Chair shall send, by certified mail, a letter to the complainant and the respondent detailing the outcome of the investigation.
1. If the case has been dismissed, the letters to the complainant and respondent must state that the investigation has determined that no breach of the Code has occurred and the case has been dismissed.
  2. If the case has resulted in sanctions:
    - a. The letter to the complainant must state that the investigation is complete, the rule(s) that have been breached, and the sanctions(s) to be applied.
    - b. The letter to the respondent must state that the investigation is complete, the rule(s) that have been

breached, the sanction(s) to be applied, and the process to appeal the results of the investigation.

- G. The Chair of the Ethics Committee shall present the committee's written Recommendation for Action to the Board of Directors at its next regularly scheduled meeting.

## VIII. The Appeal Process

- A. A respondent may, within 20 business days of receipt of the Ethics Committee's decision, submit a written *Request for an Appeal Hearing* to the IBADCC. This request must include the evidentiary basis for the items to be appealed.
- B. The *Request for an Appeal Hearing* should be mailed to:  
**IBADCC, Executive Director, Appeal Hearing**  
**2095 Daniels St. #963**  
**Long Lake, MN 55356**
- C. Within seven (7) business days of receipt of the Request for an Appeal Hearing, the Executive Director shall, by email, notify the President of the Board of such request.
- D. Within 20 business days of notice from the Executive Director of the *Request for an Appeal Hearing*, the President of the Board shall:
1. Appoint a Hearing Committee, whose members must not:
    - a. Be a member of the standing Ethics Committee
    - b. Have any prior involvement in the case, and/or
    - c. Have other actual or perceived conflict of interest with any of the parties to the case.
  2. Schedule the Appeal Hearing for a date no less than 20 days and no more than 90 days from the date the *Notice of Appeal Hearing* is sent to the Respondent.
- E. The Executive Director will send, by certified mail, a written *Notice of Appeal Hearing* to both the respondent and the complainant. Such notice shall advise the respondent and complainant of the following:
1. The date, time, and location of the Appeal Hearing,
  2. The names of the Appeal Hearing committee members, and
  3. A copy of the IBADCC Disciplinary Procedures, directing them to the section on the Appeal Hearing process, including notice that:

a. Prior to the hearing, there shall be no contact between the respondent and the complainant, or the respondent and the IBADCC, for purposes of discussing any part of the case, including actions from receipt of the complaint through the request for an appeal hearing.

b. Any request for postponement of the Appeal Hearing must be served in writing to the IBADCC at least 10 business days prior to the scheduled date. The decision to grant or deny the request for postponement is solely that of the IBADCC.

- F. The Appeal Hearing shall be governed by the following rules:
1. The Appeal Hearing shall be presided over by the Hearing Officer, which is a non-voting member of the Hearing Committee.
  2. The respondent shall have the burden of proof at the Appeal Hearing.
  3. The Hearing Committee shall not be bound by common law or statutory rules of evidence and may consider all facts having reasonable probative value:
    - a. The Hearing Committee will base its decision solely upon the evidence presented at the hearing.
    - b. No discovery is permitted and no access to IBADCC files is permitted.
    - c. Objections concerning evidence will be resolved by the Hearing Officer.
  4. The IBADCC shall be represented by the Chair of the Ethics Committee or its designee.
  5. Any party, at the party's own expense, may be advised by counsel at the hearing
  6. Any party, at the party's own expense, may request the services of a court reporter at the hearing. If the respondent elects to hire a court reporter, the respondent must provide a copy of the transcript, without charge, to the IBADCC.
  7. Evidence may be presented and witnesses cross-examined by both sides.

8. The respondent shall present its case to the Hearing Committee first, which will include all evidence submitted for consideration.
  9. The IBADCC shall present its case to the Hearing Committee second, which will include all evidence submitted for consideration.
    - a. At the hearing, the Chair of the Ethics committee or its designee, will present evidence in support of the recommendation by the Ethics Committee.
    - b. Such evidence is limited to the evidence already gathered, the Recommendation for Action, and the Investigation summary Report, to support the Ethics Committee's recommendations.
  10. The Appeal Hearing is closed to the public.
- G. Should the respondent fail to attend the hearing, whether represented by counsel or not, it shall be deemed as a waiver of the appeal and the appeal will be dismissed and the decision of the Board of Directors will stand.
  - H. Within 20 business days of the conclusion of the Appeal Hearing, the Hearing Officer will prepare and submit, to the Executive Director of IBADCC, a written *Finding of Fact and Recommendation for Action*, which shall call for one of the following actions:
    1. Dismissal of the complaint.
    2. Sanctions.
  - I. If the Hearing Committee recommends sanctions, the recommendation must detail the sanctions to be imposed, including fines, educational requirements, and time frames for compliance.
  - J. The Chair of the Hearing Committee shall present the Hearing Committee's written *Finding of Fact and Recommendation for Action* to the Board of Directors at its next regularly scheduled meeting.
  - K. Within seven (7) business days of the final determination by the Hearing Committee, the Executive Director shall send, by certified mail, a letter to the complainant and the respondent detailing the outcome of the investigation.
    1. If the case has been dismissed, the letters to the complainant and respondent must state that the

investigation has determined that no breach of the Code has occurred and the case has been dismissed.

2. If the case has resulted in sanctions by the Hearing Committee:
  - a. The letter to the complainant must state that the appeal hearing is complete, the rule (s) that have been breached, and the sanction(s) to be applied.
  - b. The letter to the respondent must state that the appeal hearing is complete, the rule(s) that have been breached, the sanction(s) to be applied, and a statement that the decision is not open to further appeal.

## **IX. Reinstatement following Disciplinary Action**

- A. When a respondent's credential is suspended, the certified individual may not use the credential during the period of suspension.
- B. Once the suspension period has expired, the President of the Board of Directors may authorize reinstatement of the credential, unless:
  1. An additional complaint has been received and accepted by the IBADCC for investigation,
  2. An additional disciplinary action has been taken against the individual,
  3. The respondent has failed to maintain renewal payments and CEUs during the time of the suspension, or
  4. The respondent has failed to comply with the terms of the sanction.
- C. Typically, revocation of credentials will not be overturned. Respondents may petition the IBADCC to request permission to petition the Board of Directors to overturn a revocation. The IBADCC maintains sole discretion to grant the respondent permission to petition the Board. If granted, such petition will not be submitted for Board consideration until:
  1. A minimum of 36 months has passed since the effective date of the revocation, and
  2. The respondent has submitted a written request and reasonable rationale as to why permission to petition the board should be granted, and,
  3. The respondent has paid the IBADCC \$1000 as reimbursement for the cost of the disciplinary proceedings incurred by the Board.

4. In the event the Board of Directors approves a petition for reversal of revocation, the respondent must reapply for certification, starting the process as a new applicant, and must meet all standards in place at the time of application, including passing the IC & RC exam, even if said exams have already been successfully passed.

5. In the event the revoked certification is reversed, a provisional certificate can be granted subject to the following:

- a. 2,000 hours of supervised work with AODA clients
- b. 100 hours of direct supervision by IBADCC approved supervisor.

## **X. Statement on Cultural Norms**

A. The IBADCC recognizes that there may be some cultural differences regarding the interpretation of the Code of Ethics. In cases where cultural norms are used as a defense against a complaint, the IBADCC may seek the assistance of cultural leaders, teachers, elders, or others to assist in understanding the cultural norms in question.

B. The IBADCC will strive to be appropriately sensitive to cultural differences throughout the disciplinary process.

## **XI. Reports to Other Agencies**

A. If during the course of the investigation it appears that criminal misconduct has occurred, the Ethics committee members may report such allegations to the appropriate law enforcement agency.

B. If the investigation results in sanctions, the Ethics Committee Member may report such to other licensing boards, certification boards, and/or employers.