

## **PROFESSIONAL REVIEW PROCEDURES**

### **I. General**

- A. Complaints may be registered against any Board-Certified Diplomate or Candidate, (hereinafter referred to as the “Respondent”) by any fellow Board-Certified Diplomate, Candidate or individual at the discretion of the President (hereinafter referred to as “Complainant”), as to allegations that he/she has violated the Board’s Code of Ethics and Competency (hereinafter referred to as the “Code”). The Board will review all legitimate complaints, which are made in the proper fashion.
- B. All complaints referred to the ABFDE will be treated in strict confidence. The President is the only spokesperson for the ABFDE regarding breaches of the Code. Other members of the Board, including those appointed to the Professional Review Committee (hereinafter referred to as “PRC”) are prohibited from discussing any aspect of these matters except during official deliberations. Likewise, the Complainant and Respondent are prohibited from discussing any aspect of the complaint and investigation with any parties other than their legal representative until which time as the matter has been concluded.
- C. The President and the PRC must rely on all evidence that can be verified and corroborated and only on such evidence.
- D. If the complaint involves pending litigation in which the Respondent is a testifying or consulting expert, no action will be taken by the Board until final adjudication of all court proceedings upon which this original complaint was based. Derivative litigation that may arise subsequent to the initial complaint will not warrant a suspension of action on the original complaint by the Board.
- E. The President may consider extending deadlines outlined in the below procedures, where extenuating circumstances exist. Such extensions shall be documented.
- F. The President will annually publish the statistics of formal written complaints.

### **II. Professional Review Committee Appointments**

- A. The body responsible for conducting inquiries into the conduct of Board Diplomates or candidates is the PRC. This Committee will consist of the ABFDE Vice President as Chairperson, and two other Directors who will be chosen to serve on the Committee by the President.
- B. If, however, a complaint is registered against a Director serving on the Board, two Diplomates in good standing who are not Directors will be chosen by the President to serve with the Vice President on the Committee.

- C. If a complaint is registered against the Vice President, then the President will serve as Chairperson of the PRC.
- D. If a complaint is registered against the President, then the Vice President will serve as the Chairperson with the PRC and shall in that instance serve as spokesperson for the ABFDE regarding the matter and be responsible for all further actions related to the complaint as reserved and assigned to the President herein.
- E. If an unresolved complaint is registered against a Diplomate, such Diplomate cannot act as a PRC member until the matter has been dealt with and settled by the Board.
- F. The PRC must be as free as possible from compromising influences. Consequently, members of the Committee must be chosen with a view toward minimizing any prejudice or perceived prejudice connected with the complaint.
- G. The PRC, after due consideration, shall recommend whatever disciplinary action they feel is appropriate in their report. The Board, upon review of the recommended disciplinary action, may consider that an alternative action is more appropriate and shall establish the final action to be taken.

### III. Registration of Complaints

- A. Before any action can be taken, a formal challenge or complaint against a Diplomate or Candidate must be submitted in writing to the ABFDE President. No anonymous complaints will be accepted.
- B. Only one Diplomate or Candidate can be named in each complaint. If an individual wishes to register complaints against more than one Diplomate or Candidate, then separate complaints must be registered for each Diplomate or Candidate.
- C. The PRC, however, may combine complaints if it is practical to do so.
- D. Every complaint concerning the conduct of ABFDE Diplomates or Candidates must meet the following criteria:
  - 1. The complaint must be made in writing and addressed to the President of the ABFDE.
  - 2. If the complaint is made against the President, the complaint must be addressed to the Vice-President of the ABFDE.
  - 3. The complaint must pertain to a violation of the Board's Code of Ethics and Competency.
  - 4. The complaint must relate to a Diplomate currently certified by the Board or a Candidate.
  - 5. The complaint must clearly describe the disputed issues and include specific examples of the contested behavior.
  - 6. The complaint must be accompanied by supporting evidence.

- E. Upon receipt of a written complaint, the ABFDE President will determine, on the basis of the complaint alone, whether or not the complaint should be referred to the PRC for review. If the President decides not to refer the complaint to the PRC, all submitted materials from the Complainant, along with a letter from the President stating his/her decision, will be returned to the Complainant within one-hundred twenty (120) days. A summary disposition is not appealable to the Board. In the event of a complaint against the President, the actions called for in this paragraph will be taken by the Vice-President.
- F. The Diplomate or Candidate against whom the complaint is registered (the Respondent) will be advised of the complaint in writing. The Respondent will be provided with an opportunity to respond to the allegations if the ABFDE President or Vice-President, as the situation warrants, determines on the basis of the complaint that it should be referred to the PRC.
- G. The Respondent will be provided with copies of all correspondence forwarded to the President by the Complainant. Any responsive submission by the Respondent must meet the following criteria:
  - 1. The response must be submitted in writing and addressed to the ABFDE President (or the Vice-President if the complaint was filed against the President).
  - 2. The response must be submitted within the time limit designated by the President, not to exceed ninety (90) days.
  - 3. The response must refer to issues central to the complaint.
  - 4. The response must be accompanied by supporting evidence.
  - 5. The response must be financed by the Respondent or agents acting on his/her behalf.
- H. If the matter should be referred to the PRC, the ABFDE President will select members to serve on the PRC, which will consider the allegations (Refer to Section II A-D). Apart from the Chairperson (normally the Vice President), the identity of the PRC members will be treated as confidential.
- I. Once all materials from the Complainant and Respondent have been received, the President will prepare three photocopies of the correspondence and attachments and distribute them under confidential cover as follows:
  - 1. The original materials will be forwarded to the PRC Chairperson.
  - 2. Two photocopies will be forwarded to other members of the PRC.
  - 3. The third photocopy will be retained on file at the ABFDE administrative office.

#### IV. Professional Review Committee Procedures

- A. Members of the PRC will independently examine all of the material forwarded by the President and decide whether the actions of the Respondent constitute a

breach of the Code. Each member of the PRC, including the Chairperson, will prepare his/her own written report outlining his/her opinion concerning the allegations and the supporting arguments for that opinion. All reports will be sent to the PRC Chairperson.

- B. The PRC Chairperson will examine the reports and attempt to reach a consensus concerning the findings of individual Committee members. If no consensus can be reached, a 2-to-1 decision of the PRC in favor of the Complainant will allow the complaint to go to the Board. A 2-to-1 decision by the PRC in favor of the Respondent will result in the dismissal of the complaint.
  - C. The Chairperson will be responsible for preparing a PRC report to the President stating the findings of the Committee and any matters which did not receive consensus.
  - D. Each PRC member must sign either the original or a copy of the Committee's report, and the Chairperson will forward all signed copies to the President for appending to the appropriate file.
  - E. The PRC report will be presented at the next full Board meeting for final resolution, unless dismissed by the PRC.
  - F. Once the Committee has submitted its report to the President all copied documents relating to the complaint must be destroyed by the Diplomat in possession of such documents. The original correspondence will be forwarded to the Executive Office for retention for five years from the date of the receipt of the PRC report by the President, after which time these records may be destroyed.
- V. Disciplinary Action by the Board
- A. The Respondent will be given at least thirty (30) days written notice of the time and place when the Board will meet to discuss the PRC report.
  - B. This notice will be in the form of a letter signed by the President and will be delivered to the Respondent by U.S. Certified Mail, return receipt requested.
  - C. A U.S. postal Certified Mailing will satisfy the requirements of paragraph V.A above even if the Certified Mailing is refused or ignored by the Respondent.
  - D. Each written notice will include the following:
    - 1. The time, date, and place when the Board will consider the complaint;
    - 2. A copy of the PRC report issued to the President;
    - 3. Notice that the Respondent may, within fifteen (15) days of receipt of the notice, submit a written acknowledgment of his/her intention to make either an oral presentation before the Board or provide a written statement to further explain the circumstances. The oral presentation of the Respondent cannot be made by a person other than the Respondent. As

this is a procedural matter, rather than a legal proceeding, no legal counsel or other agent may be present.

4. Should either party request that a court reporter be present to record the presentation, the party requesting this action will bear the entire cost of this service and provide the other side (at no cost) with a complete copy of all recorded information including transcripts.
- E. The Board will receive the Respondent's written or oral submission during a meeting of the Board for which there is a quorum present. The Board has the option of holding a special meeting to hear the Respondent's submission.
- F. If the Respondent chooses not to make a written or oral submission, the Board will proceed on the basis of whatever information is available.
- G. The President will provide each Director with a copy of the PRC report at a Board meeting. These copies will only be made available at the Board meeting and will be collected before the meeting adjourns.
- H. After the matter has been discussed, a vote will be taken to determine if a violation of professional or ethical conduct has taken place. If at least three-fourths (3/4) of those in attendance do not vote in favor of a breach of conduct then the complaint will be dismissed. All submitted materials will be returned to the President or Vice-President, as the case may be, and then forwarded by that individual to the Complainant and Respondent with a letter stating the Board's findings.
- I. If the Board decides that a breach of conduct has occurred, the Board will consider what disciplinary action is appropriate under the circumstances and take the following factors into account if they are applicable:
  1. The severity of the breach of conduct or competency;
  2. The circumstances surrounding the breach of conduct or competency;
  3. Whether or not this is the Respondent's first infraction or the number of previous infractions;
  4. The length of time since Respondent's last infraction; and
  5. The severity of earlier infractions.
- J. The Board will decide by majority vote what disciplinary action is most appropriate. The Respondent will be advised of the Board's decision in a letter from the President. This will be sent to his/her current mailing address by U.S. Certified Mail; return receipt requested, and shall be deemed received even in the event the Respondent does not accept the certified mailing.
- K. If the Board decides that a breach of conduct has occurred, the Board must determine which disciplinary action is appropriate. The disciplinary rulings which the Board may affect are as follows:
  1. Oral Reprimand

- a. This is the least severe form of corrective action which the Board can take.
  - b. Its purpose is to bring a particular problem to the attention of a Diplomate and correct a problem which could become more serious.
  - c. One or more Directors of the Board will meet with the Diplomate and explain the nature of the complaint, the section of the Code pertaining to the complaint, and any action which the Board deems necessary to correct the problem.
  - d. Immediately following the discussion, the Director(s) will complete a record that such a discussion occurred but will not include any details. This document will be filed in the Diplomate's official records for a period of five (5) years. A copy of this document will be given to the Diplomate.
  - e. The Board should help the Diplomate correct a problem in any manner which is reasonable.
  - f. The Respondent, upon a finding of a breach by the Board, shall comply within 60 days with any recommendation by the Board and present documentation of compliance as requested. Failure to comply as instructed shall result in decertification.
2. Written Reprimand
- a. The written reprimand is considered more severe than an oral reprimand. Its purpose is to help a Diplomate correct improper actions, which would have serious consequences if allowed to continue.
  - b. This reprimand is a written statement issued by the President. It should briefly cite the incident(s) that caused the ruling, the section of the Code pertaining to the complaint, and any action necessary to correct the problem.
  - c. The written reprimand can be delivered personally to the Diplomate or sent to his/her mailing address under confidential cover via registered mail.
  - d. A copy of this document will remain in the Diplomate's file for a period of five (5) years.
  - e. The Board should help the Diplomate correct a problem in any manner which is reasonable.
  - f. The Respondent, upon a finding of a breach by the Board, shall comply within 60 days with any recommendation by the Board and present documentation of compliance as requested. Failure to comply as instructed shall result in decertification.
3. Suspension

- a. Suspension involves the temporary removal of a Diplomate's association with the Board and his/her certification status. The Board will not refund any certification fees for the current year, in whole or in part.
  - b. A Diplomate who has been suspended can resume active status without reapplying for certification. He/She must, however, express an interest to resume active status in writing to the President.
  - c. This action is reserved for situations when the Code has been breached several times. Despite the seriousness of these violations, there should be reason to believe that the Diplomate is capable of correcting the problem(s).
  - d. The President will write a letter to the Diplomate which briefly cites the incident(s) that caused the ruling, the section of the Code pertaining to the complaint, and any corrective action that is necessary.
  - e. The suspension notice can be delivered personally to the Diplomate or sent to his/her mailing address under confidential cover and via registered mail.
  - f. A copy of this document will remain in the Diplomate's file for a period of five (5) years.
  - g. The Board should help the Diplomate correct a problem in any manner which is reasonable.
  - h. The Respondent, upon a finding of a breach, shall comply within 60 days with any recommendation by the Board and present documentation of compliance as requested. Failure to comply as instructed shall result in decertification.
4. Decertification
- a. This is the most severe disciplinary action that can be taken by the Board and is used to permanently remove a Diplomate's certification.
  - b. This action is appropriate in situations where it is not reasonable to expect that the Diplomate will be able to correct the problem(s). It is also pertinent when a Diplomate would severely damage the reputation of the Board if he/she were associated with the Board in any way.
  - c. The President will write a letter to the former Diplomate which briefly restates the incident(s) that caused the ruling and the section of the Code pertaining to the complaint. The letter will indicate that the PRC has evaluated all evidence and has come to the decision that the appropriate course of action is to decertify the Diplomate. The letter will admonish the former Diplomate to cease and desist describing himself/herself as a Diplomate of the ABFDE. A request will be made in writing to the former Diplomate to return his/her certificate. The written notification can be personally delivered to the former

Diplomate or sent to his/her mailing address under confidential cover via registered mail.

- d. A copy of the letter will remain in the former Diplomate's file in perpetuity.
  - e. Because the incident which prompted the decertification was found to be so egregious, the Board cannot be expected to resolve the problem. The Board can exercise discretion in evaluating any future mitigating factors not previously considered.
5. Termination from Testing
- a. If the Board has decided the candidate has incurred a breach of conduct or competency, the candidate will be terminated from the testing process. In the case of competency, mentoring may be offered to the candidate, upon the discretion of the Board.
  - b. Reapplication may be made in accordance with Paragraph IV.D of Qualifications and Requirements for Certification in Forensic Document Examination.

VI. Notification of Investigation and Results to Membership and Complainant

- A. If the complaint is forwarded on to the PRC for investigation, the Complainant shall be notified in writing by the President that such complaint is under further investigation and discussion of such matter is prohibited.
- B. At the conclusion of an investigation by the PRC, the Complainant shall be notified in writing by the President of the results of the investigation and whether the complaint was upheld or dismissed. Upon a finding that the complaint was substantiated, the type of disciplinary action shall not be revealed to the Complainant.
- C. In an effort to educate the members of the ABFDE, an annual report shall be forwarded to the members of the ABFDE by the President, indicating the type of complaints received for the year, whether such were dismissed or substantiated, and the basis for such dispensation. The identities of all Complainants and Respondents shall remain anonymous.

VII. Further Action

- A. In the event that there is a dispute between the Board and the Respondent as to the action to be taken by the Board upon a finding of a breach, all matters must be submitted to binding arbitration in Houston, Texas.

- B. Request for Arbitration must be postmarked to the President no later than 60 days after the final finding by the PRC. Failure to make such a request within the specified time frame shall render the finding by the PRC final.
- C. Arbitration shall take place in Houston, Texas within a reasonable time not to exceed one year from the scheduled date for Arbitration, or the PRC recommendation will stand. The Arbitration shall be conducted under the laws and procedures regarding the same of the state of Texas.
- D. The Arbitrator shall be selected by agreement of the Respondent and the President from one of the national arbitration organizations. Should the Respondent and President fail to reach an agreement on the arbitration organization within 30 days of the request for arbitration, the ABFDE President shall select such arbitrator
- E. The Respondent, ABFDE President and PRC Chair, acting on behalf of the ABFDE, may be present for the entire Arbitration proceeding. Each party may, in the presentation of their case to the Arbitrator, present oral testimony, experts, and findings by other investigators, or other evidence.
- F. Findings by the Arbitrator shall be final and binding on the Parties. In the event that an adverse finding is found against the Respondent, he/she shall have 60 days in which to comply with the recommendation(s) of the Arbitrator. Failure to do so shall result in de-certification of the Respondent.