

## **Academy/CDR Disciplinary & Ethics Complaints Policy\***

### **INTRODUCTION AND APPLICABILITY**

Information regarding the complaint process will be available to the public via the Commission on Dietetic Registration (CDR or the Commission) and Academy of Nutrition and Dietetics (Academy) websites and in other published documents. A complete copy of this policy is posted to the CDR and Academy web sites and is made available to any individual upon request.

In order to ensure fairness in the administration of testing and to maintain and enhance the credibility of the CDR certification programs and of Academy members, the Commission and the Academy have adopted the following administrative procedures to allow individuals to bring forth issues or complaints concerning the conduct of a CDR certificant and/or an Academy member to the Commission and the Academy.

This Code of Ethics applies to all Academy members and to all CDR credentialed practitioners, as described below:

- All members of the Academy who are credentialed by CDR
- All members of the Academy who are not credentialed by CDR
- All CDR credentialed practitioners, whether or not they are members of the Academy

In the event a certificant or Academy member violates the CDR certification rules, requirements, and/or policies, the Commission may refer the case to the Academy/CDR Ethics Committee.

### **GROUNDINGS FOR CORRECTIVE ACTION**

The grounds for corrective action under these procedures may include but are not necessarily limited to:

- Violation of any principles of the Academy/CDR Code of Ethics for the Nutrition and Dietetics Profession;
- Any restrictions, such as revocation, suspension, probation, or other sanctions of the individual's professional credential, where applicable;
- Violation of established CDR and/or Academy rules, requirements, and/or policies;
- Conviction of a felony or other crime of moral turpitude under federal or state law in a matter related to the practice of nutrition and dietetics, or qualifications for, services provided by CDR certificants or Academy members;
- Gross negligence, willful misconduct, or other unethical conduct in the performance of services for which the individual has achieved CDR certification and/or Academy membership;
- Fraud, falsification, or misrepresentation in an initial application or renewal application for certification and/or Academy membership;
- Falsification of any material information requested by CDR and/or the Academy;
- Misrepresentation of CDR certification and/or Academy membership status, including abuse of logo; and
- Cheating on any certification examination

Actions taken under this policy do not constitute enforcement of the law. Individuals initially bringing complaints are not entitled to any relief or damages by virtue of this process, although they shall receive notice of the actions taken.

## COMPLAINT SUBMISSION AND REVIEW

### **Ethics Committee**

A three (3)-person committee, comprised of members of the Academy of Nutrition and Dietetics and the Commission on Dietetic Registration credentialed practitioners, will be appointed to handle all ethics matters. One person will be appointed each year by the President-elect of the Academy of Nutrition and Dietetics, the Chair of the Commission on Dietetic Registration, or the Speaker-elect of the House of Delegates (based on the expired term). The committee Terms of office will be for three (3) years. Terms will be staggered to allow for continuity and to ensure that there is always a representative of the House of Delegates, Board of Directors and the Commission on Dietetic Registration on the committee.

The Committee shall have authority to consult with subject experts as necessary to conduct its business. The Committee may perform such other educational activities as might be necessary to assist members and credentialed practitioners to understand the Code of Ethics.

### **Ethics Cases**

**Preamble** The ethics complaint procedures are intended to permit a fair resolution of disputes on ethical practices in a manner that protects the rights of individuals while promoting understanding and ethical practice. The Ethics Committee (Committee) has the authority and flexibility to determine the best way to address violations of the Code of Ethics, including educational means where appropriate.

#### *1. Complaint*

A complaint that a member or credentialed practitioner has allegedly violated the Code of Ethics for the Nutrition and Dietetics Profession must be submitted in writing on the appropriate form (ie, Consumer or Member form) to the Ethics Committee.

The complaint must be made within one (1) calendar year of the date that the Complainant (person making the complaint) first became aware of the alleged violation or within one (1) calendar year from the issuance of a final decision in an administrative, licensure board, or judicial action involving the facts asserted in the complaint.

The Complainant need not be a member of the Academy of Nutrition and Dietetics nor a practitioner credentialed by the Commission on Dietetic Registration.

The complaint must contain details on the activities complained of; the basis for Complainant's knowledge of these activities; names, addresses, and telephone numbers of all persons involved or who might have knowledge of the activities; and whether the complaint has been submitted to a court, an administrative body, or a state licensure board. The complaint must also cite the section(s) of the Code of Ethics for the Nutrition and Dietetics Profession allegedly violated.

The complaint must be signed, sworn to by the Complainant(s), and notarized.

## *2. Preliminary Review of Complaint*

The chair of the Ethics Committee, legal counsel for the Academy of Nutrition and Dietetics, and appropriate staff will review the complaint to determine if all the required information has been submitted by the Complainant and whether an ethics issue is involved.

If a complaint is made regarding an alleged violation of the Code of Ethics for the Nutrition and Dietetics Profession and a similar complaint is already under consideration regarding the same individual by a state licensure board of examiners, an administrative body, or a court of law, the Ethics Committee will not process the complaint until a final decision has been issued.

## *3. Response*

If Ethics review determines that the process should proceed, the Academy staff or chair of the Ethics Committee shall notify the Respondent (person against whom the complaint is made) that a complaint has been made.

The notice shall be sent from Academy staff via delivery confirmation mail service. The Respondent shall be sent a copy of the complaint, the Code of Ethics for the Nutrition and Dietetics Profession, the Review Process, and Response to Complaint form.

The respondent shall have thirty (30) calendar days from receipt of the notification in which to submit a response. The response must be signed, sworn to, and notarized by the respondent(s) and submitted by mail (electronic submissions shall not be accepted).

If the Ethics Committee does not receive a response, the chair of the Ethics Committee or his/her designee shall attempt to contact the respondent by telephone (voicemail messages are not used due to confidentiality concerns). If contact with the respondent is still not made, a written notice shall be sent via delivery confirmation mail service to ensure proof of delivery or attempted delivery. Failure to reach the respondent shall not prevent the Committee from proceeding with evaluation of the complaint.

The response submitted to the Ethics Committee by the respondent, may, upon request by the Complainant, be provided to the Complainant following the decision of the Committee. The Complainant must submit this request within thirty (30) calendar days of notification of the Committee's decision.

## *4. Ethics Committee Review*

The chair of the Ethics Committee shall add the complaint and response to the Committee's agenda, after consultation with appropriate staff and legal counsel. The complaint and the response shall be reviewed by the Ethics Committee.

The Ethics Committee has broad discretion to determine how to proceed, including, but not limited to, dismissing the complaint, requesting further information from the parties, resolving the case through educational activities, holding a hearing as specified hereafter, or in any other way deemed advisable. The Committee may use experts to assist it in reviewing the complaint and response and determining further action.

All Ethics Committee recommended action regarding the respondent's credential (Censure, Suspension or Revocation) shall receive final review by the Board of the Commission on Dietetic Registration. If upheld by the Board of the Commission, the decision of the Ethics Committee shall be implemented.

At the appropriate time, the CDR/Ethics Committee shall notify the Complainant and the respondent of the decision, which may include the Committee's preliminary opinion with a request that the respondent take certain actions, including, but not limited to, successful completion of continuing professional education in designated areas, or supervised practice based on the terms to be set forth by the Ethics Committee.

The Ethics Committee may also recommend appropriate remedial action to the parties, which if undertaken, would resolve the matter.

The Ethics Committee may recommend, in its discretion, that a hearing be held subject to the other provisions of these procedures.

If a respondent does not agree with the Ethics Committee's recommendation, he or she may request a hearing.

#### *5. Licensure Board Action or Final Judicial or Administrative Action*

When the Ethics Committee is informed by a state licensure body that a person subject to the Code of Ethics for the Nutrition and Dietetics Profession has had his/her license suspended or revoked for reasons covered by the Code, the Ethics Committee may take appropriate disciplinary action without a formal hearing.

When a person has been finally adjudged or has admitted to committing a misdemeanor or felony related to the practice of nutrition and dietetics, the Ethics Committee may take appropriate disciplinary action without a formal hearing.

#### *6. Hearings*

##### *A. General*

Hearings shall be held as determined by the Ethics Committee under the following guidelines. Hearing dates shall be established by the chair of the Ethics Committee. All hearings shall be held in Chicago.

The Ethics Committee shall notify the respondent and the Complainant by delivery confirmation mail service of the date, time, and place of the hearing.

The respondent may request a copy of the ethics complaint file and shall be allowed at least one postponement, provided the request for postponement is received by the Academy of Nutrition and Dietetics at least fourteen (14) calendar days before the hearing date.

##### *B. Conduct of Hearings*

The chair of the Ethics Committee shall conduct a hearing with appropriate staff and legal counsel present. Individuals who have no conflict of interest shall be appointed.

In the event that any Ethics Committee member cannot serve on the hearing panel for any reason, a replacement shall be appointed by the representative of the original body that made the appointment, either the Academy of Nutrition and Dietetics President, Speaker of the House of Delegates, or the Commission on Dietetic Registration Chair.

Complainant and Respondent shall have the right to appear, to present witnesses and evidence; to cross-examine witnesses, to have legal counsel present. Legal counsel for the parties may advise their clients, but may only participate in the hearings with the permission of the chair.

Any documents or statements that Complainant or Respondent expect to use at the hearing shall be provided to the Ethics Committee at least 30 calendar days prior to the hearing. The hearing is the sole opportunity for the participants to present their positions.

Three members of the Ethics Committee shall constitute a quorum. Affirmative vote of two-thirds (2/3rd) of the Ethics Committee members voting will be required to reach a decision.

#### C. Costs

The Academy of Nutrition and Dietetics shall bear the costs for the Ethics Committee, the Academy's legal counsel, staff, and any other parties called by the Academy of Nutrition and Dietetics. The Academy of Nutrition and Dietetics shall bear the travel and one (1) night's hotel expenses for the Complainant and Respondent and one person that each chooses to bring, provided that such person is necessary to the conduct of the hearing as determined by the chair of the Ethics Committee. The Ethics Committee shall distribute the regulations governing the payment of these expenses 30 calendar days prior to the hearing.

The Respondent and the Complainant shall be responsible for all costs and fees incurred in their preparation for and attendance at the hearing, except expenses for travel and hotel as stated above.

#### D. Decision

The Ethics Committee shall render a written decision specifying the reasons therefore and citing the provision(s) of the Code of Ethics for the Nutrition and Dietetics Profession that may have been violated. The Committee shall decide that:

- 1) No ethics violation is found;
- 2) Educational opportunities are required;
- 3) The respondent is censured, placed on probation, suspended, or expelled from the Academy of Nutrition and Dietetics; and/or
- 4) It recommends that the credential of the respondent is suspended or revoked by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics;
- 5) All Ethics Committee action regarding the respondent's credential (Censure, Suspension or Revocation) shall receive final review by the Board of the Commission on Dietetic Registration;
- 6) If upheld by the Board of the Commission, the decision of the Ethics Committee shall be sent to the Respondent and the Complainant as soon as practicable after the hearing.

#### *7. Request by Complainant for Review of Respondent's Response*

The Ethics Committee shall, except where the response contains information that the Committee determines for good reasons should not be shared, grant the request of a Complainant to review the response received from the Respondent in an ethics case, provided the request is made within thirty (30) calendar days of notification of the final action of the Ethics Committee. The Complainant shall be required to maintain confidentiality of the documentation and to refrain from sharing it with any other third parties or individuals. The Complainant shall have twenty (20) calendar days to advise the Ethics Committee as to any comments, concerns or issues with regard to the Respondent's response, but the Committee shall have no obligation to take further

action. The Respondent shall be notified of the Ethics Committee's action to release the response to the Complainant.

- A. The materials describing the ethics complaint process, including those materials provided to the Complainants and Respondents, shall be amended to disclose the fact that a Respondent's response may be made available to the Complainant.
- B. Any request to review the Respondent's response must be submitted in writing (electronic or mail) no later than thirty (30) calendar days after final action by the Ethics Committee.
- C. Academy staff shall notify the Ethics Committee of the request and will provide a timeline for addressing it.
- D. Within five (5) business days of the request being received, the Ethics Committee shall advise the Respondent that the Complainant has made the request and is being given access to the response. The requested documentation shall be sent to the Complainant via delivery confirmation mail service to provide proof of delivery or attempted delivery.
- E. The Complainant shall be required to commit in writing to maintain the confidentiality of the documentation by signing a statement to this affect.
- F. Any comments, concerns, issues with Respondent's response must be communicated to Academy staff within twenty (20) calendar days in writing (electronic or mail). Academy staff will add the Complainant's comments, concerns, or issues onto the agenda of the next Ethics Committee conference call or meeting. The Ethics Committee shall determine whether further action is necessary and shall communicate its determination to the Complainant.
- G. The Complainant shall return the documents after review via delivery confirmation mail service to ensure proof of delivery or attempted delivery at the expense of the Academy within twenty-five (25) calendar days.

#### CORRECTIVE ACTIONS

Any of the following corrective actions may be imposed by the Ethics Committee upon a CDR certificant or Academy member for whom the Committee has determined to have violated any of the principles of the Academy/CDR Code of Ethics for the Nutrition and Dietetics Profession, although the corrective action applied must reasonably relate to the nature and severity of the violation, focusing on reformation of the conduct of the practitioner and deterrence of similar conduct by others:

***Education:*** Mandatory participation in continuing professional education units (CPEUs), assigned by the Ethics Committee in relationship to the ethics principle(s) violated. Failure to successfully complete the assigned CPEUs may result in other disciplinary action being taken. It carries no loss of membership or registration status.

Time frame — specified time to be decided on a case-by-case basis.

***Censure:*** A written reprimand expressing disapproval of conduct. It carries no loss of membership or registration status, but may result in removal from office at the national, state, and district levels and from Academy committee membership.

Time frame — not applicable to the disciplinary action.

***Probation:*** A directive to allow for correction of behavior, which may include mandatory participation in remedial programs (e.g., education, professional counseling, and peer assistance). Failure to successfully complete these programs may result in other disciplinary action being taken. It carries no loss of membership or registration status, but may result in removal from office at the national, state, and district levels and from Academy committee membership.

Time frame — specified time to be decided on a case-by-case basis.

**Suspension:** Temporary loss of membership and all membership benefits and privileges for a specified time with the exception of retention of coverage under health and disability insurance. The Academy of Nutrition and Dietetics group malpractice insurance will not be available and will not be renewed during the suspension period.

Time frame — specified time to be decided on a case-by-case basis.

**Suspension of Registration:** Temporary loss of credential and all benefits and privileges associated with Academy membership for a specified period of time. It may include mandatory participation in remedial programs (e.g., education, professional counseling, and peer assistance).

At the end of the specified suspension period, membership and registration benefits and privileges are automatically restored, contingent upon participation as stated above.

Time frame—specified time to be decided on a case-by-case basis.

**Expulsion:** Removal from membership and a loss of all benefits and privileges.

Time frame — may apply for reinstatement after a five (5)-year period has elapsed or sooner if the basis for the expulsion has been removed, with payment of a reinstatement fee. The individual must meet membership requirements in effect at the time of the application for reinstatement.

**Revocation of Credential:** Loss of registration status and removal from registry; loss of all benefits and privileges associated with Academy membership. Upon revocation, the former credentialed practitioner shall return the registration identification card to the Commission on Dietetic Registration.

Time frame — Specified time for reapplication to be decided on a case-by-case basis, but, at minimum, current recertification requirements would need to be met. A credential will not be issued until the Commission on Dietetic Registration determines that the reasons for revocation have been removed.

## APPEAL

### REQUEST FOR REVIEW OF ETHICS COMMITTEE DECISION

#### A. General

Only the Respondent may appeal an adverse decision to the Academy/CDR. During the appeals process, the membership and registration status of the Respondent remains unchanged. The Academy of Nutrition and Dietetics President, the Chair of the Commission on Dietetic Registration, and the Speaker of the House of Delegates shall each appoint one person to hear the appeal. These individuals shall constitute the Appeals Committee for that particular case. Individuals who have no conflict of interest will be appointed. The members of the Appeals Committee shall be different than the individuals who serve on the Ethics Committee. Appeals specific to the Censure, Suspension, or Revocation of a CDR credential shall be heard by a CDR Appeals Panel, following the CDR Appeals Panel procedures.

## B. Recourse to the Appeals Committee

To request a hearing before the Appeals Committee, the Respondent shall notify the Vice President, Member Services at the Academy of Nutrition and Dietetics headquarters, by delivery confirmation mail service that the Respondent wishes to appeal the decision. This notification must be received within thirty (30) calendar days after receipt of the letter advising the Respondent of the Ethics Committee's decision.

## C. Contents of Submission to the Appeals Committee

Within thirty (30) days after the notice is sent, the Respondent may submit to appropriate staff the following information:

- 1.) The decision being appealed
- 2.) The date of the decision
- 3.) Why the Respondent thinks the decision is wrong or was improperly rendered (See E, "Scope of Review," below)
- 4.) The relief requested by the Respondent

Any statements must be signed, sworn to, and notarized.

## D. Procedures

Upon receipt of the notice, appropriate staff shall promptly notify the chair of the Appeals Committee that the Respondent is appealing a decision made by the Ethics Committee.

The Appeals Committee chair, jointly appointed by the Academy Board President and CDR Chair, shall acknowledge the appeal and request a copy of the relevant written information on the case from appropriate staff.

### 1.) Location and participants

- a) All appeals hearings shall be held in Chicago, Illinois.
- b) The Complainant, the Respondent, and the chair of the Ethics Committee shall have the opportunity to participate in the appeals hearing.
- c) The parties may have legal counsel present, who may advise their clients, but may only participate in the hearings with the permission of the Appeals Committee chair.
- d) Attendance at the hearing shall be limited to persons determined by the Appeals Committee chair to have a direct connection with the appeal and appropriate staff and legal counsel.
- e) Any Complainant, Respondent, Ethics Committee chair, Appeals Committee member or their respective counsel may participate by synchronous video or other method that allows participants to communicate in real time. Witnesses may only participate by such methods with advance approval from the Appeals Committee.

### 2.) Conduct of the hearing

The Complainant, Respondent, and Ethics Committee chair shall be given the opportunity to state why the decision and/or disciplinary action of the Ethics Committee should be upheld, modified, or reversed.



#### E. Scope of Review

The Appeals Committee shall only determine whether the Ethics Committee committed procedural error that affected its decision, whether the Ethics Committee's decision was contrary to the weight of the evidence presented to it, or whether there is new and substantial evidence that would likely have affected the Ethics Committee's decision that was unavailable to the parties at the time of the Ethics Committee's hearing for reasons beyond their control. In reviewing the decision of the Ethics Committee, the Appeals Committee shall consider only the transcript of the hearing and the evidence presented to the Ethics Committee.

#### F. Decision of Appeals Committee

- 1.) The Appeals Committee shall prepare a written decision stating the reasons therefore. The decision shall be to affirm, modify, or reject the decision and/or disciplinary action of the Ethics Committee or to remand the case to the Ethics Committee with instructions for further proceedings.
- 2.) Decisions of the Appeals Committee will be final.

#### G. Costs

The Academy of Nutrition and Dietetics shall bear the costs for the Appeals Committee, staff and the Academy's legal counsel, and any parties called by the Academy of Nutrition and Dietetics. The Academy of Nutrition and Dietetics shall bear the travel and one night's hotel expenses for the Respondent, Complainant, and the chair of the Ethics Committee. The Ethics Committee shall distribute the regulations governing the payment of these expenses 30 calendar days prior to the proceeding.

The Respondent and the Complainant shall be responsible for all costs and fees incurred in their preparation for and attendance at the hearing, except expenses for travel and hotel as stated above.

#### *10. Notification of Adverse Action*

If the Respondent is disciplined by the Ethics Committee and does not appeal the decision, the chair of the Ethics Committee shall notify the appropriate Academy of Nutrition and Dietetics organizational units, Commission on Dietetic Registration, the affiliate dietetic association, appropriate licensure boards, and governmental and private bodies within thirty (30) calendar days after notification of the final decision.

In the event the Respondent appeals a decision to discipline him/her and the Ethics Committee decision is affirmed or modified, similar notification shall be made by the chair of the Ethics Committee.

In response to an inquiry about registration status and/or membership, the Commission on Dietetic Registration and the Academy of Nutrition and Dietetics shall state only whether a person is currently registered and/or a member. Inquiries regarding disciplinary action must be submitted in writing to the Commission on Dietetic Registration.

#### *11. Record Keeping*

A. Records shall be kept for a period of time after the disposition of the case in accordance with the Academy of Nutrition and Dietetics' record retention policy.

B. Information shall be provided only upon written request and affirmative response from the Academy of Nutrition and Dietetics' legal counsel.

## *12. Confidentiality Procedures*

The following procedures have been developed to protect the confidentiality of both the Complainant and the Respondent in the review of a complaint of an alleged violation of the Code of Ethics for the Nutrition and Dietetics Profession:

- A. The need for confidentiality shall be stressed in initial communications with all parties.
- B. Ethics Committee members shall refrain from discussing the complaint and hearing outside of official committee business pertaining to the complaint and hearing.
- C. If the hearing on a complaint carries over to the next Ethics Committee, the complaint shall be heard by the original Ethics Committee.
- D. Communication with Academy of Nutrition and Dietetics' witnesses shall be the responsibility of the Ethics Committee chair or staff liaison.
- E. Witnesses who testify on behalf of the Academy of Nutrition and Dietetics shall be informed of the confidentiality requirements and agree, in writing, to abide by them.
- F. The Ethics Committee chair shall stress the importance of confidentiality at the time of the hearing.
- G. To ensure confidentiality, all materials that were mailed or distributed to Ethics Committee members or printed from the Ethics Committee portal should be returned to the Academy of Nutrition and Dietetics staff, along with any notes taken by Ethics Committee members.

## RESIGNATION

If an Academy member or CDR certificant who is the subject of a complaint voluntarily surrenders his or her membership and/or certification(s) at any time during the pendency of a complaint under these Procedures, the complaint shall be surrendered as no contest and dismissed without prejudice or any further action. The entire record is sealed and the individual may not reapply for certification nor membership. However, legal counsel for the Academy/CDR may authorize the Executive Director of CDR and/or the Vice President, Member Services of the Academy to respond to written requests, communicating the fact and date of resignation and the fact and general nature of the complaint which was pending at the time of the resignation, to or at the request of a government entity engaged in the administration of law. Similarly, in the event of such resignation, the person or entity who submitted the complaint is notified of the fact and date of resignation and that the Ethics Committee has dismissed the complaint as a result.

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\*Approved by the Board of the Commission on Dietetic Registration, November 2017 and the Board of the Academy of Nutrition and Dietetics, January 2018.