

**FLORIDA  
CERTIFICATION  
BOARD'S**



**DISCIPLINARY  
PROCEDURES**

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## **II. Definitions**

Appeal Hearing	A formal hearing conducted when a respondent appeals the decision of the Board of Directors.
Applicant	A person who has submitted an Application for Certification with the FCB but is not yet certified.
Certified Individual	A person who holds a professional credential administered by the FCB.
Complainant	A person who files a formal complaint with the FCB against an FCB certified individual or applicant.
Consent Order	A voluntary agreement worked out between the Respondent and the FCB that carries the same weight as a final decision by the Board of Directors.
Ethical Complaint	A formal notice to the FCB alleging that a certified individual or applicant breached the FCB Code of Ethics.
Ethics Committee	A standing committee of the FCB Board of Directors charged with the responsibility of reviewing and making recommendations on ethical complaints filed against an FCB certified individual or applicant.
Hearing Committee	A committee convened by the FCB Board of Directors to hear, consider, and make recommendations when a respondent appeals the decision of the Board of Directors.

Hearing Officer	A non-voting member of the Hearing Committee who presides over the Appeal Hearing.
Probative Value	Evidence or facts which tend to prove the existence of other facts or issues.
Respondent	A certified individual or applicant who is the subject of an ethical complaint alleging a breach of the FCB Code of Ethics.
Revocation	A sanction resulting in the complete forfeiture of FCB certification or application for certification.
Sanction	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.
Summary Suspension	An immediate suspension of a certified individual's credential(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.
Suspension	A sanction resulting in the temporary forfeiture of FCB certification or application for certification for a specified period of time.
Written Reprimand	A sanction that is a formal, written document expressing disapproval and/or providing a warning in regard to the Respondent's behavior.

### **III. 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 FCB.
- B. The respondent is entitled to a full and complete copy of the:
  - 1. FCB 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

#### **IV. Conflict of Interest**

- A. In all cases, the
  - 1. Director of Certification will direct ethics investigations under the supervision of the Executive Director, who shall approve or deny all recommendations for action made by the Director of Certification.
  - 2. FCB Ethics Investigator shall conduct investigative activities, including interviewing relevant persons and collecting and receiving evidence and other documents related to the case, under the direct supervision of the Director of Certification.
- B. Should the Executive Director, the Director of Certification, or the Ethics Investigator have a conflict of interest with any party to the case, the duties of said person shall be delegated to the Chair of the FCB Ethics Committee and said person shall be recused from any involvement in the case, including investigation and sanction activities.

#### **V. Code of Ethics Sanctions**

- A. Possible sanctions for the violation of the Code of Ethics include but are not limited to:
  - 1. Written Reprimand
  - 2. Summary Suspension
  - 3. Consent Order
  - 4. Suspension
  - 5. Revocation
  - 6. Denial of Application for Certification
- B. The FCB 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 FCB 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: \$750
  - 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. Except as may be provided in a consent order, public notice of all ethics cases resulting in sanctions shall be published in the FCB newsletter, *Briefings*, and on the FCB's web-based public access database. Such notice shall include the name of the Respondent, the rule(s) violated, and the sanction imposed.
1. Public notice shall be published in the quarterly issues of *Briefings* following the date the sanctions are applied.
  2. 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.

## VI. The Complaint Process

- A. The FCB will not accept anonymous complaints.
- B. All complaints must be submitted in writing on the official *FCB Ethics Complaint* form, which can be accessed at [www.flcertificationboard.org/Ethics.cfm](http://www.flcertificationboard.org/Ethics.cfm) or by calling the FCB offices and requesting an official *FCB Ethics Complaint* form.
- C. The FCB will accept phone calls from individuals wishing to discuss a particular situation for the purposes of determining if an ethical complaint should be filed. Based on the content of the discussion the FCB will either:
1. Recommend that the issue is dismissed, or
  2. Recommend that the caller file a formal ethical complaint.
- D. Should the FCB become aware of a possible breach of the Code of Ethics, the Director of Certification may, on behalf of the FCB, 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 FCB may choose to proceed with the investigation.
- F. Completed complaint forms should be mailed to:
- Director of Certifications – Investigation  
Florida Certification Board  
1715 South Gadsden Street  
Tallahassee, FL 32301
- G. The Director of Certification shall:
1. Review all formal complaints within 24 business hours of receipt to determine if the preponderance of the evidence contained within the complaint warrants opening of an investigation.
  2. Contact the complainant by certified mail within 48 hours of the FCB's decision to:
    - a. Issue a summary suspension and open an ethics investigation,
    - b. Open an ethics investigation, or
    - c. Dismiss the case.

- H. Within 24 business hours of determining that the FCB will open an ethics investigation, the FCB shall send, by certified mail, notice to the respondent of such. The notice shall include:
  - 1. A complete copy of the official *FCB Ethics Complaint*, to include the name of the respondent.
  - 2. The date by which the respondent must submit, to the FCB, a written response to the complaint, which shall be no more than 20 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. documentation or other evidence, and
  - 2. name(s) and contact information for witnesses who can assist in the investigation.
- J. Misrepresentation by a respondent, failure to provide information, or failure to cooperate with the investigation may be grounds for the FCB to open a subsequent ethical complaint against the respondent.
- K. Should the respondent fail to respond by the specified date in the formal notice, the FCB will assume guilt and will proceed with sanctions as necessary and appropriate.

## **VII. The Investigation Process**

- A. The initial investigation shall be conducted by the FCB Ethics Investigator, under the direct supervision of the Director of Certification. 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 Director of Certification shall conduct a review of all evidence received to date from the complainant, respondent, and others involved in the investigation. Such review must be complete within five (5) business days of the date the respondent is required to submit a written response to the allegations.
- C. Based on a preponderance of the evidence, the Director of Certification shall make one of the following recommendations to the Executive Director:
  - 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 Executive Director may determine:
1. No violation has occurred and that no further investigation is warranted. If so,
    - a. The Director of Certification will develop an Investigative Summary Report for approval by the Ethics Committee at the next Board of Director's Meeting.
    - b. The ethics investigation will not be closed until the recommendation of the Ethics Committee is voted on by the Board of Directors.
  2. Allegations are founded and the investigation is complete. If so,
    - a. The Director of Certification will develop an Investigative Summary Report for review and recommended action by the Ethics Committee at the next Board of Director's Meeting.
    - b. Sanctions will not be applied and the ethics investigation will not be closed until the recommendation of the Ethics Committee is voted on by the Board of Directors.
  3. Further investigation is warranted.

## **VIII. 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 and voted on by the Board of Directors.
  2. Result in a waiver of additional procedural steps in front of the Ethics Committee, the Board of Directors, 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, the Board of Directors, or an Ethics Hearing Committee.
- B. At any point after the commencement of the investigation, but no later than 14-days prior to the next regularly scheduled meeting of the Ethics Committee, the respondent may, in writing, request negotiation of a Consent Order.
- C. The FCB may, at its discretion, agree to or reject the offer of request to negotiate a Consent Order.
1. If the request is granted, the FCB 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.

## IX. 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 committee's *Recommendation for Action* shall call for one of the following actions:
  - 1. Dismissal of the complaint.
  - 2. Return of the complaint to FCB for further investigation.
  - 3. Sanctions.
- D. If the Ethics Committee recommends returning the complaint to the FCB 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 timeframes for compliance.
- F. The Chair of the Ethics Committee shall present the committee's written *Recommendation for Action* to the Board of Directors for voting at its next regularly scheduled meeting. For each presented case, the Board shall vote to:
  - 1. accept the recommendation of the Ethics Committee as presented,
  - 2. reject the recommendation of the Ethics Committee and impose different sanctions, or
  - 3. reject the recommendation of the Ethics Committee and return the complaint to the FCB for further investigation.
- G. Within seven (7) business days of the determination by the Board of Directors, the FCB 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 of Conduct has occurred and the case has been dismissed.

2. If the case has been returned to the FCB for further investigation, the letters to the complainant and respondent must state that the FCB Board of Directors has returned to case to the FCB pending further investigation.
3. If the case has resulted in sanctions, either those recommended by the Ethics Committee or determined by the Board of Directors:
  - a. The letter to the complainant must state that the investigation is complete, the rule(s) that have been breeched, and the sanction(s) to be applied.
  - b. The letter to the respondent must state that the investigation is complete, the rule(s) that have been breeched, the sanction(s) to be applied, and the process to appeal the results of the investigation.

## **X. The Appeal Process**

- A. A respondent may, within 20 business days of receipt of the Board's decision, submit a written *Request for an Appeal Hearing* to the FCB.
- B. The *Request for an Appeal Hearing* should be mailed to:

Director of Certifications – Appeal Hearing  
Florida Certification Board  
1715 South Gadsden Street  
Tallahassee, Fl 32301
- C. Within 24 business hours of receipt of the *Request for an Appeal Hearing*, the Director of Certification shall, by email, notify both the Executive Director and the Chair of the Ethics Committee of such request.
- D. Within 20 business days of notice from the Director of Certification of the *Request for an Appeal Hearing*, the Chair of the Ethics Committee 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 Director of Certification 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 FCB 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 FCB, 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 FCB at least five (5) business days prior to the scheduled date. The decision to grant or deny the request for postponement is solely that of the FCB.
- 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 FCB files is permitted.
    - c. Objections concerning evidence will be resolved by the Hearing Officer.
  4. The FCB shall be represented by the Chair of the Ethics Committee or its designee.
  5. Any party, at the party's own expense, may be represented 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 FCB.
  7. Evidence may be presented and witnesses cross-examined by both sides.
  8. The respondent shall present its case to the Hearing Committee first.
  9. The FCB shall present its case to the Hearing Committee second.
    - a. At the hearing, the Chair of the Ethics committee will present evidence in support of the recommendation by the Ethics Committee and the vote by the Board of Directors.
    - b. Such evidence is limited to the written *Recommendation for Action* and the *Investigation Summary Report*.
  10. The Appeal Hearing is closed to the public.

- G. Should the respondent fail to attend the appeal hearing 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, 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 fees, educational requirements, and timeframes for compliance.
- J. The Executive Director shall present the Hearing Committee's written *Finding of Fact and Recommendation for Action* to the Board of Directors for voting at its next regularly scheduled meeting. For each presented case, the Board shall vote to:
  - 1. accept the recommendation of the Hearing Committee as presented, or
  - 2. reject the recommendation of the Hearing Committee and impose different sanctions.
- K. Within seven (7) business days of the final determination by the Board of Directors, 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 of Conduct has occurred and the case has been dismissed.
  - 2. If the case has resulted in sanctions, either those recommended by the Hearing Committee or determined by the Board of Directors,
    - 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.

## **XI. 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 Executive Director may authorize reinstatement of the credential, unless:
  - 1. An additional complaint has been received and accepted by the FCB 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. When a certified individual's credential is revoked, the individual must return the credential certificate and certification card to the FCB within 20 business days of receipt of the formal notice of revocation.
- D. Typically, revocation of credentials will not be overturned. Respondents may petition the FCB to request permission to petition the Board of Directors to overturn a revocation. The FCB 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 FCB \$1000 as reimbursement for the cost of the disciplinary proceedings incurred by the Board.
  - 4. In the event that 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 passage of written exams, even if said exams have already been successfully passed.

## **XII. Statement on Cultural Norms**

- A. The FCB 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 FCB may seek the assistance of cultural leaders, teachers, elders, or others to assist in understanding the cultural norms in question.
- B. The FCB will strive to be appropriately sensitive to cultural differences throughout the disciplinary process.

## **XIII. Reports to Other Agencies**

- A. If during the course of the investigation it appears that criminal misconduct has occurred, the Executive Director will report such allegations to the appropriate law enforcement agency.
- B. If the investigation results in sanctions, the Executive Director may report such to other licensing boards, certification boards, and/or employers.