



Procedures for the Enforcement of the Ethical Obligations of Diplomates and Candidates

PURPOSE

These "Procedures" are designed to assist in promoting the highest level of professional conduct by Diplomates and Candidates of the American Board of Pediatric Dentistry (the "ABPD") and resolving credentialing and ethical disputes and allegations of misconduct regarding Diplomates and Candidates of the ABPD. They are intended to resolve disputes and allegations in an expeditious manner while at the same time afford the Diplomate or Candidate a fair opportunity to rebut them.

STANDARDS

- The Principles of Ethics and Code of Professional Conduct of the American Dental Association and all Advisory Opinions appended thereto.
- The ABPD Credentials Survey and Attestation Statement.
- The Articles of Incorporation and Bylaws of the ABPD.
- The policies of the ABPD.
- The ABPD Examination Guidelines.

ETHICS COMMITTEE

- An Ethics Committee shall be composed of three (3) members. The ABPD Vice President shall be a member of the Ethics Committee and the two (2) remaining members can both be current Directors or can be a current Director and a past Director appointed at the discretion of the President. The President of the ABPD shall appoint these individuals. Each member of the Ethics Committee shall serve a one (1) year term. A member of the Ethics Committee may be reappointed successive annual terms, but may not serve more than three (3) consecutive annual terms. Vacancies occurring on the Committee shall be filled by the President of the ABPD, appointing a replacement to complete the annual term.
- The Committee shall have all such powers and duties as established herein as well as all powers reasonably necessary to perform those duties.
- The Committee may establish its own rules of procedure consistent with those set forth herein. The Committee shall have the flexibility to conduct its business in a manner that it determines is most appropriate to achieve its objectives, which shall be consistent with the Procedures set forth herein.
- The Committee may meet on a regular basis or as it deems necessary. Meetings may be held in person or via telephone or such other means as the Committee may deem sufficient. The Committee shall meet in the event that any credentialing or ethical disputes or allegations of misconduct involving a Candidate or Diplomate are brought before it.
- The Vice President of the ABPD shall serve as Chairperson of the Committee. Unless the Committee decides otherwise, all meetings shall be conducted by the Chairperson or his or her designee.

INVESTIGATION AND HEARING

INITIATING AND CONDUCTING PROCEEDINGS:

- Credentialing and ethical disputes and allegations of misconduct by or against a Diplomate or Candidate shall be directed to the Ethics Committee Chairperson.

- After receiving a dispute or allegation, the Ethics Committee Chairperson shall select one (1) current ABPD Director (not a member of the Ethics Committee), or a past Director in the event that a member(s) of the current ABPD board has/have a potential conflict of interest associated with the dispute or allegation, to serve on the "Investigation Team" along with the current Chief Executive Officer.
- It shall be the duty of the Investigation Team to conduct a thorough and discreet investigation of the matter and determine whether a reasonable basis exists for dismissing or deferring the dispute or allegation or instituting a Hearing.
- The Investigation Team shall issue its "Findings and Recommendations" which shall include its determination regarding the dispute or allegation and any recommended sanction. The Investigation Team shall summarize in writing the evidence which supports the Findings and Recommendations, and shall send this summary to the Ethics Committee Chairperson.
- If the Investigation Team determines that misconduct has occurred and a sanction should be imposed so that a reasonable basis does exist for instituting a Hearing, the Chairperson of the Ethics Committee shall convene the Ethics Committee to hear the matter. The Hearing may be held in person or via simultaneous electronic communication (such as teleconference or web conference) as the Ethics Committee decides. If the Investigation Team determines that misconduct has not occurred and a sanction should not be imposed so that a Hearing is not necessary, the Ethics Committee shall arrange for the matter to be dismissed or deferred.
- The Investigation and Hearing process set forth in these Procedures shall not be commenced if a Diplomate or Candidate lacks an active license (including but not limited to a suspended or revoked license). Instead, any such Diplomate or Candidate shall automatically be removed from active status and the ABPD shall notify him or her of the same.

NOTICE:

- The Ethics Committee shall send by certified/signature requested mail a Notice of Hearing informing the Diplomate or Candidate that a dispute exists or that allegations of misconduct have been made against him or her and that a Hearing on the matter is to be held. The Notice shall also state the date and time of the Hearing and whether in person (location to be provided) or via simultaneous electronic communication (such as teleconference or web conference). With this Notice, a copy of the Investigation Team's Findings and Recommendations and written summary of the evidence supporting the allegations shall be sent along with a copy of these Procedures. This Notice must be mailed at least thirty (30) days prior to the date set for the Hearing.
- The Diplomate or Candidate must file a Response with the Ethics Committee within fifteen (15) days of the date of mailing the Notice. The Response must state whether the Diplomate or Candidate admits or denies the Investigation Team's Findings and Recommendations and whether the Diplomate or Candidate will be appearing at the Hearing. If the Diplomate or Candidate will not be appearing at the Hearing, he or she may submit documents or written materials for consideration by the Ethics Committee in its deliberations.
- The Diplomate or Candidate may request in writing an extension of time for the Hearing up to an additional thirty (30) days. The Ethics Committee shall have the discretion to determine if such an extension is merited and whether to grant such an extension.

- Unless the Ethics Committee determines otherwise, the Hearing may be held at the location of a meeting of the ABPD or via simultaneous electronic communication (such as teleconference or web conference).
- If the Diplomate or Candidate fails to respond within (15) fifteen days to a Notice of Hearing, the Ethics Committee shall issue an Initial Determination, including sanctions based upon the Investigation Team's Findings and Recommendations. If a Diplomate or Candidate proves he or she did not respond because he or she never received the Notice, he or she may contact the Chairperson of the Ethics Committee, who shall recommence the Hearing process and any sanctions imposed against such Diplomate or Candidate shall be automatically stayed.

HEARING:

At the Hearing:

- The Investigation Team shall present evidence supporting its Findings and Recommendations, including witnesses, documents, affidavits or other evidence. The Investigation Team shall have the burden of going forward and the burden of persuasion by a preponderance of the evidence. The Investigation Team may have an attorney present at the hearing.
- The Diplomate or Candidate has the right to be present at the Hearing and shall have the opportunity to cross examine any adverse witnesses. All costs and expenses relating to the Diplomate's or Candidate's attendance (including but not limited to legal fees) at the Hearing and the attendance of witnesses on his or her behalf shall be borne by the Diplomate or Candidate.
- The Diplomate or Candidate may be represented by an attorney and shall have the opportunity to present his or her case, including witnesses, documents, affidavits or other evidence. The Hearing shall be conducted without regard to the technical common law rules of evidence; however, the Ethics Committee shall have the exclusive discretion to determine whether evidence or testimony is relevant to the Hearing and the weight, if any, to be given to such evidence or testimony.
- The Diplomate or Candidate may also present evidence that he or she believes should mitigate any proposed sanctions, but such evidence may be limited at the discretion of the Ethics Committee.
- A summary of the proceeding shall be made and preserved at the ABPD Headquarters.

INITIAL DETERMINATION:

- The Ethics Committee shall weigh all the evidence presented and issue an "Initial Determination."
- The Ethics Committee shall issue its Initial Determination, including the basis for its determination, in writing, within ten (10) days of the Hearing or at such time as it may determine if the Diplomate or Candidate failed to file a timely response to the Notice of Hearing. The Initial Determination shall be sent to the Diplomate or Candidate, with a copy to the President of the ABPD.
- In the event the Ethics Committee determines that there was misconduct, the Committee shall also determine what sanction it considers appropriate. The determination regarding a sanction, and the basis for such determination, shall be included as part of the Initial Determination. In making this determination, the Ethics Committee may consider the

severity of the misconduct, any prior misconduct by the Candidate or Diplomate, and any other relevant factors.

- The Initial Determination shall include a notice to the Candidate or Diplomate informing him or her of the right of appeal to an Appeals Board, which shall be composed of those current members of the ABPD who did not serve on the Investigation Team or the Ethics Committee or a past Director.

SANCTIONS

- In cases of Candidate misconduct, the Ethics Committee may do any of the following:
 - Exclude the Candidate from further participation in the examination process.
 - Impose such conditions on that Candidate's further participation as it deems appropriate.
 - Preclude the Candidate from reapplying for the examination process or impose conditions on the Candidate's right to reapply.
- In cases of Diplomate and Candidate misconduct, the Ethics Committee may do any of the following:
 - Letter of Warning. The Ethics Committee in its discretion may issue an appropriate letter of warning to the Diplomate or Candidate.
 - Reprimand. The Ethics Committee in its discretion may issue a reprimand, which may be entered on the permanent record of the Diplomate or Candidate.
 - Suspension. The Ethics Committee in its discretion may suspend a Diplomate's board certification or Candidate's status. Suspensions may be imposed for a definite or indefinite term. The Ethics Committee may order that a suspended Diplomate or Candidate take corrective measures and document satisfactory completion of those measures within a specified period of time or risk indefinite suspension.
 - Revocation. The Ethics Committee in its discretion may revoke a Diplomate's board certification or Candidate's status.

APPEAL

- The Diplomate or Candidate may appeal an adverse Initial Determination of the Ethics Committee.
- The Diplomate or Candidate may appeal either the determination of misconduct or the sanction proposed or both.
- The Diplomate or Candidate shall initiate an appeal by filing a statement of particulars with the Ethics Committee Chairperson no later than thirty (30) days after the date of the mailing of the Initial Determination accompanied by a request for an appeal before the Appeals Board. The Appeals Board shall be composed of three (3) current members of the ABPD who did not serve on the Investigation Team or the Ethics Committee or a past Director. The appeal shall be limited to those issues set forth in the statement of particulars filed with the Ethics Committee.
- The Initial Determination of the Ethics Committee shall automatically become the Final Determination of the Appeals Board and the final decision of the ABPD in the event that the Candidate or Diplomate does not initiate an appeal within thirty (30) days after the date of mailing the Initial Determination.
- All sanctions shall be stayed pending the decision of the Appeals Board.
- The Diplomate or Candidate shall submit his or her appeal in writing (not to exceed 10 typed pages) and may also submit any documentary evidence presented at the Ethics Committee Hearing.
- The Investigation Team and/or the Ethics Committee may also present in writing (not to exceed 10 typed pages) grounds to uphold the Initial Determination along with any documentary evidence presented at the Hearing.

- The Appeals Board shall consider these submissions along with the Initial Determination of the Ethics Committee. The Appeals Board may in its discretion afford both sides the opportunity for oral argument, with the length to be determined by the Appeals Board.
- After consideration of all the evidence before it and the Ethics Committee's Initial Determination, the Appeals Board shall issue a "Final Determination" in writing which conforms to one of the following:
 - The Appeals Board upholds the Initial Determination of the Ethics Committee.
 - The Appeals Board reverses the Initial Determination of the Ethics Committee.
 - The Appeals Board upholds the Initial Determination of the Ethics Committee as to the determination of misconduct, but imposes the less severe sanction of _____ (insert appropriate sanction).
- The Final Determination of the Appeals Board shall require a majority vote of those members of the Appeals Board present and participating in the Appeal Hearing. In the event of a tie vote, the Initial Determination shall be upheld and constitute the Final Determination of the Appeals Board.
- The Final Determination of the Appeals Board shall be the final decision of the ABPD. The final decision shall be sent to any persons or entities deemed necessary and appropriate by the ABPD as well as to the Diplomate or Candidate.
- In no event shall the ABPD take longer than one (1) year after the Appeals Board issues its Final Determination to impose any sanctions.

NON-LIABILITY

- The Diplomate or Candidate shall agree that neither the ABPD nor its members, officers, directors or agents shall be liable for any action taken or decision rendered pursuant to these Procedures.

Process Caveats

- The follow principles shall apply to these Procedures:
 - Any current or past ABPD Director, or its current Chief Executive Officer, who has a conflict of interest associated with the dispute or allegation shall be automatically disqualified from serving on any of the committees described herein.
 - The President of the ABPD shall assign all committee appointees and may consult with the current ABPD members in making assignments.
 - Past Directors of the ABPD who may be asked to serve on any committees described herein shall be selected by a random process whereby all names of past Directors from the last five (5) years are placed in a pool. The mechanism by which the names are selected may vary; however, the selection mechanism shall involve the principle of randomization. Per diem and travel shall be provided as necessary to individuals providing service on any committees described herein.

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