

Association for the Treatment of Sexual Abusers

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ATSA

Professional Code of Ethics

Association for the Treatment of Sexual Abusers

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Association for the Treatment of Sexual Abusers Professional Code of Ethics

Association for the Treatment of Sexual Abusers

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Dear ATSA Colleagues:

Welcome to the revised (2001) ATSA Code of Ethics. The Code represents a framework for making professional decisions and is intended to augment our own "moral compass." While having a code of ethics is a standard practice for any professional organization, its strength resides in the commitment of its membership to common goals, beliefs, and values. By this measure, our Code should be rock solid. ATSA members have a long tradition of dedication to supporting values of basic human dignity and respect, as well as common goals related to community safety and the long-term eradication of sexual abuse and sexual assault. The Code should be further strengthened by the fact that we are also an organization of professionals committed to mentorship, training, and consultation with colleagues.

The revised Code is structured for ease of use and clarity of purpose. The revision was intended to address a broader array of professional situations and better define the process involved in resolving allegations of unethical behavior. The Code is divided into two sections: (1) Ethical Principles and (2) Rules and Procedures. The Principles represent guidelines for ethical professional conduct. The Rules and Procedures define the process by which ethical concerns are pursued. Efforts were also made to ensure that the Code compliments the newly revised ATSA Standards and Guidelines. It should be noted that certain professional behaviors are required as part of the revised Standards. As such, ethical violations may also arise from a failure to adhere to these prescribed professional behaviors.

As a document with significant legal implications, it was important to base this revision on other ethical codes that have withstood the test of time. We are indebted to the Tennessee Psychological Association and the National Association of Social Workers for allowing ATSA to use their codes as a template. Thanks are due to the members of the ATSA Ethics Committee for their insightful suggestions (Elizabeth Letourneau, Ph.D., Robin McGinnis, M.A., Robert Prentky, Ph.D., and Ted Shaw, Ph.D.). We are also appreciative of the important input received from the ATSA Board of Directors, as well as Dr. Michael Seto and the Professional Issues committee which is revising the ATSA Professional Standards and Guidelines: Donya Adkerson, M.A., Jan Hindman, M.S., Steve Jensen, M.A.,

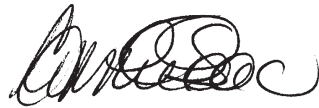
James M. Peters, J.D., Katherine D. Peterson, Psy.D. Finally, Dana Taylor, J.D. (ATSA Legal Counsel) has been an invaluable resource and has helped ensure the legal grounding of the final product.

Please consider the revised Code of Ethics a matter of your personal responsibility. Be aware of ways to improve our profession and our organization. Consider how you may gently and respectfully offer consultation to colleagues as a means of improving their skills, enhancing treatment effectiveness, and diverting ethical complaints. Incorporate ethical principles into your training and encourage other organizations, agencies, and state entities to do the same. We hope the revised (2001) ATSA Code of Ethics is a document that will benefit our work in this field and emphasize the professionalism with which we provide our services.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith L. Kaufman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Keith L. Kaufman, Ph.D.
Chair, Ethics Committee

A handwritten signature in black ink, appearing to read "Connie Isaac". The signature is highly stylized and cursive, with many loops and flourishes.

Connie Isaac
ATSA Executive Director

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Ethical Principles

The Philosophical Foundation

The Association for the Treatment of Sexual Abusers (ATSA) represents professionals committed to the welfare of their clientele, the community, and their professional colleagues. Based upon a foundation of theory and research, knowledge and skill, professions are self-regulating. An inherent assumption in this process is the adoption and adherence to a set of standards or code of ethics that facilitates the evaluation of each professional act as to its positive or negative impact on its constituents. This Code of Ethics is intended to reflect scientifically informed and professionally accepted beliefs regarding professional behavior and conduct. At the same time, such a Code must also satisfy the prevailing community standards.

Standards for professional conduct are developed based on a consensus of members of a profession and, as such, are particularly relevant to the investigation of grievances. The public nature of an organization's code of ethics and the uniform application of these principals are integral to sustaining community confidence. Ethical standards are maintained through individual member's reflection and self-discipline, through collegial input and guidance, and as a result of more formal discipline provided by professional associations. Since association membership is highly valued and contributes to professional success, the potential for formal disciplinary action represents a powerful force in encouraging adherence to ethical conduct.

As members of ATSA, a voluntary association whose members accept its ethical standards as part of their choice to affiliate, the membership has both expected duties to perform as well as rights to be protected. ATSA has the right to become involved in areas of concern to its members and the profession and an obligation to protect its members and the public. As a professional association, ATSA has a duty to inquire into the conduct of its membership.

Ethical principles reflect a code of behavior consistent with the performance of professional duties at the highest level of integrity, within a professional's areas of competence, and maintaining the best interests of their Client, the Client's victims, and the community at large. These principles are intended to complement ATSA's Standards and Guidelines and offer clarification regarding professional conduct, relationships and confidentiality.

1. DEFINITIONS

- (a) **Client** — Any person who enters into a therapeutic or consulting relationship with a member for the purpose of receiving treatment or consulting services.
- (b) **Professional Services** — Services that can only be performed by a member in the course of providing treatment or consulting services to a Client.
- (c) **Professional Tasks** — Tasks that may be performed by, or under the supervision of, a member in the course of rendering treatment or consulting services to a Client.
- (d) **Professional Relationship** — A therapeutic or consulting relationship that a Client has with a member, and persons under the member's supervision, in connection with the Client receiving treatment or consulting services.
- (e) **Confidential Information** — Any information gained in a Professional Relationship on condition, whether express or implied, that the information shall be held inviolate or the disclosure of which would be embarrassing or would likely be detrimental to a Client, Client's family member(s), or research participant.
- (f) **Confidential Relationship** — Any Professional Relationship in which a person entrusts information to a member under terms or circumstances where the member understands, or should understand, that the information is Confidential Information.

2. PROFESSIONAL CONDUCT

- (a) Members will not allow personal feelings related to a Client's crimes or behavior to interfere with professional judgment and objectivity. When a therapist cannot offer the highest quality of professional service to a Client for any reason, he or she will make a proper referral.
- (b) Members shall not engage in discrimination based on age, gender, race, ethnicity, national origin, religion, sexual orientation, political affiliation, social or economic status, disability, on any basis proscribed by law.
- (c) Members shall not engage in conduct that demonstrates a lack of good moral character. Conduct reflecting upon a lack of moral character shall include acts or conduct that reflect moral turpitude or acts or conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and nation. The conduct or acts in question should be rationally connected to the member's fitness to provide Professional Services or Tasks.
- (d) Members will not engage in behaviors that are harassing, exploitative or demeaning to persons with whom they interact as a part of their work.
- (e) Members will not engage in sexual harassment. Sexual harassment is unlawful discrimination within a Professional Relationship on the basis of gender and includes
 - i) Unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when such conduct is directed toward an individual because of that individual's gender.
 - ii) Any unwelcome verbal or physical conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with a Professional Relationship or creating a hostile, intimidating or offensive professional environment.

- iii) The standard for determining whether harassment based on an individual's gender is sufficiently severe or pervasive to create a hostile, intimidating or offensive professional environment is whether a reasonable person in the circumstances of the complaining individual would so perceive it.
- (f) No member shall have a felony conviction and no member shall engage in illegal behavior that rationally reflects adversely upon the member's fitness to provide Professional Services or Tasks.
- (g) Each member is responsible for becoming fully aware of all statutes that pertain to the conduct of his or her professional practice.
- (h) Members are responsible for familiarizing themselves with the ATSA Standards and Guidelines.
- (i) ATSA recognizes that members must exercise their professional judgment when interpreting and applying the ATSA Guidelines (published in the ATSA Standards and Guidelines document) to their own work.
- (j) Any deviation from the ATSA Standards (published in the ATSA Standards and Guidelines document) shall be considered an ethical violation, except to the extent that a Standard conflicts with applicable law or professional regulations that pertain to a member's practice.

3. PAYMENT FOR SERVICES

- (a) Other than customary fees, members will refrain from using Professional Relationships relating to the assessment or treatment of a Client, to further personal, religious, political or economic interests.
- (b) Bartering for services can result in a multiple relationship and therefore is considered unethical. (See Section 8 for discussion of multiple relationships)
- (c) If a Client does not pay for services as agreed and if the member wishes to use a collection agency to collect the fees, the member must first give written notice to the Client that a collection agency will be employed, but that the Client will first be allowed a reasonable opportunity to make prompt payment. The written notice shall specify a date by which the collection agency will be employed if prompt payment is not received. The member shall limit information provided to the collection agency only to that which is essential to recover the member's fees.

4. MEMBERS' TRAINING AND EXPERTISE

- (a) Members have an obligation to engage in continuing education and professional growth activities on a regular basis to assure an awareness of advances in the field.
- (b) Members will refrain from diagnosing, treating or giving advice about problems outside the recognized boundaries of his or her discipline or training.
- (c) Members interested in developing a new areas of competency shall attend a sufficient number of training sessions that address the newly adopted area of interest before offering or providing treatment or consultation services in that area. Members shall also seek and receive appropriate supervision as they begin to practice in a new area of competency.

5. PERSONAL PROBLEMS AND CONFLICTS

- (a) Members recognize that their personal problems and conflicts may interfere with their effectiveness with Clients. In keeping with this awareness, they shall avoid undertaking an activity where it can be reasonably foreseen that such activity will result in harm to a Client, colleague, student, research participant, or other person to whom they owe a professional or scientific obligation.
- (b) Members are obligated to be alert to signs that a personal difficulty will, or may, adversely impact their professional behavior and seek professional assistance to address this concern.
- (c) In instances where personal difficulties impact professional behavior to a significant extent, members shall consider limiting, suspending, or terminating their work-related duties until these problems are resolved.

6. SUPERVISORY RELATIONSHIPS

- (a) A Member shall only delegate responsibilities to people, such as employees, supervisees, and research assistants, who the member reasonably believes have the competency to perform the delegated Professional Tasks with the supervision the member provides or arranges to provide. Such delegation shall be made based upon the training, education or experience of the person to whom a task is delegated. Consideration can also be given to the frequency, extent and duration of supervision being provided.
- (b) A Member shall provide appropriate supervision to anyone whom the member delegates a professional task. The frequency, extent and duration of supervision shall be adequate to allow competent professional work.
- (c) Supervision arrangements for trainees and research assistants shall be agreed upon in writing and shall specify: (1) expected supervisee duties; (2) the scope and focus of the supervision; and (3) the frequency and duration of meetings between the supervisee and the member to review the supervisee's professional performance.

- (d) Members shall provide proper training and supervision to persons to whom they delegate Professional Tasks and take reasonable steps to see that such persons perform services responsibly, completely, and ethically.
- (e) Members shall not engage in sexual relationships with students, supervisees or others over whom the member has evaluative or direct authority, as such relationships are likely to impair judgment or be exploitative.

7. CLIENT RELATIONSHIPS

- (a) A Member, while offering dignified and reasonable support to Clients, shall not exaggerate the efficacy of his or her services.
- (b) Members shall address the following financial matters with Clients:
 - i) The member's fees for services shall be described to the Client either prior to or at the time of the initial appointment.
 - ii) Payment arrangements for fees shall be settled at the beginning of an assessment or a therapeutic relationship.
 - iii) If there is a change in fees, or if a service is to be provided for which the fees have not been discussed, the Client shall be informed of the change in fees prior to the provision of the service. In the case of an emergency, the Client shall be informed of any fees as soon as is practical after the service is rendered.
 - iv) If the Client is a juvenile, the parent or legal guardian shall be informed of all fees in the manner outlined above.

- (c) Informed consent is an essential component of the provision of any professional service. At the time of the initial appointment, each Client (adult and juvenile) and the parent or guardian of a juvenile Client, shall be informed verbally or in writing of:
- The types of services proposed.
 - Reasonable expectation of outcome.
 - Alternatives to the type of services proposed.
 - Potential benefits and risks involved in the services.
 - The limits of privilege and confidentiality.
- (d) Members shall engage in supervisory or peer-based consultation under circumstances where a reasonable practitioner would recognize that a Professional Relationship might be non-therapeutic for a Client.
- (e) Sexual intimacy with Clients or former Clients is unethical. A member shall not engage in a sexual relationship with any Client who is receiving or has received Professional Services, regardless of whether payment for the services was involved.
- (f) Sexual intimacy with a Client's, or former Client's, family members is also unethical. Such situations constitute multiple relationships and may compromise confidentiality.
- (g) Members shall not withdraw services from a Client in a precipitous manner. When considering termination of services, each member shall give careful consideration to all factors involved in the situation and take care to minimize possible adverse effects on the Client.
- (h) If a member anticipates the termination or disruption of services to a Client, he or she shall notify the Client promptly and, when possible, provide for transfer or referral to another service provider.
- (i) Members who serve a Client of a colleague during a temporary absence or emergency will serve that Client with the same consideration afforded to their own Clients.

8. MULTIPLE RELATIONSHIPS

- (a) Members will avoid engaging in multiple relationships with a Client.
 - i) A multiple relationship occurs whenever a member and a Client have a relationship with one another in one context (e.g., social or business relationships) that conflicts with and/or compromises the primary Professional Relationship.
 - ii) Multiple relationships may impair professional judgment and pose a significant risk for Client exploitation.
 - iii) It may not be possible or reasonable for a member to avoid other nonprofessional contact with Clients. Any foreseeable non-professional contact with a Client shall take place only after all other possible options are exhausted.
- (b) A member shall refrain from accepting professional or scientific obligations when any pre-existing relationship may foreseeably impair the member's professional judgment or create a risk of harm.
- (c) If a potentially harmful multiple relationship develops, due to unforeseen circumstances, the member shall attempt to resolve it as quickly as possible, with due regard for the best interest of Clients, supervisees, and other persons relying upon the member in his or her professional capacity, and in keeping with the ATSA Code of Ethics.

9. CONFIDENTIALITY

- (a) Members are responsible for insuring that Clients, consultation parties, family members, research participants, organizations/agencies, and all other work related Clients fully understand issues related to confidentiality. This includes, but is not limited to:
 - i) informing Clients of the limits of confidentiality;
 - ii) informing Clients of any circumstances that may cause an exception to the agreed upon confidentiality;
 - iii) specifically informing Clients about mandatory reporting requirements; and
 - iv) clarifying issues of confidentiality where multiple parties are involved.
- (b) Members shall clarify issues of confidentiality in cases involving minors in a manner that the minor Client is capable of understanding with respect to requirements for sharing information with parents, guardians, and/or agencies that may have custody of the minor.
- (c) When a member agrees to provide service to several persons who have a relationship (such as husband and wife or family members), the member shall clarify at the outset how confidentiality will apply among participants and to any external party (e.g., criminal justice agency).
- (d) Members shall comply with mandated reporting laws and statutes. No part of this ethical code shall be construed as releasing members from such obligations. If the circumstances allow, members shall inform Clients that they will comply with mandated reporting requirements.
- (e) Members shall ensure that a Client is informed when an individual under the member's supervision is providing services to the Client, such that the Client is informed of the name of the member or members who are responsible for providing supervision and how this impacts confidentiality.

- (f) In instances where persons are legally incapable of giving informed consent, members must obtain written informed consent from a legally authorized person or agency for providing services, for participation in research and in video-taping for educational purposes.
- (g) When working with Clients incapable of giving informed consent, including minors, the member is still responsible to (1) inform those Clients about any proposed assessments and/or interventions in a manner commensurate with the persons' psychological or developmental capabilities, (2) seek their help and participation in such interventions, and (3) consider such persons' preferences and best interests.
- (h) Live demonstrations of treatment techniques with current or former Clients or their family members is considered exploitative and compromises confidentiality beyond what can be justified relative to educational benefits.
- (i) Unless reporting is mandated, written permission shall be required before any data may be divulged to persons beyond a member's staff. The Client shall be informed of the reason for the release of information.
- (j) Client information is not communicated to others without the written and informed consent of the Client, unless the following circumstances apply:
- The Client presents a clear and immediate danger to another individual or individuals.
 - The Client presents a clear and immediate danger to him/herself.
 - There is an obligation to comply with specific governmental statutes or regulations requiring reporting to authorities.

- (k) When consulting with colleagues, a member shall not share Confidential Information that might reasonably lead to the identification of a Client, research participant, or other person or organization with whom the member has a Confidential Relationship unless the member first obtained prior written and informed consent to do so, or if the disclosure cannot be avoided. If disclosure cannot be avoided in the course of a professional consultation, then the only information disclosed shall be limited to that which is necessary to achieve the purpose of the consultation.
- (l) While providing training or workshops, a member shall not share Confidential Information that might reasonably lead to the identification of a Client, research participant or other person or organization with whom the member has a Confidential Relationship.
- (m) When utilizing audio tape and/or video tape information in the context of training, workshops or research studies, members shall protect the confidentiality of participants. Such tapes shall be used only with the written and informed consent of all individuals portrayed on the tapes for that particular use (i.e., training/workshops, research studies).
- (n) A Member providing services within criminal justice settings shall inform all parties (including the Client) of the level of confidentiality that applies.

10. PROFESSIONAL RELATIONSHIPS

- (a) Members will refrain from knowingly offering services to a Client who is in treatment with another professional without consultation between the professionals involved.
- (b) At the time of the initial appointment, a Client shall be asked to provide information about treatment received from other service providers and a release of information shall be required in order to consult with that service provider. If the Client refuses to comply, the member shall discontinue the therapeutic relationship.
- (c) If, after involving a Client in therapy, a member discovers that the Client was in treatment with another service provider, the release of information shall be signed immediately and consultation with the other service provider shall occur in a timely fashion.
- (d) In cases where a member agrees to provide services to a person, agency or organization at the request of a third party, the member shall clarify at the outset of the service, the nature of the relationship with each party, including the role of the member, the potential use of the services to be provided and any information obtained, as well as any limits to confidentiality.
- (e) A member shall not accept or continue employment if the exercise of the member's professional judgment on behalf of the member's Client will be, or reasonably may be, affected by
 - i) the member's own financial business, property, or personal interests;
 - ii) the member's treatment of another or existing Client; or
 - iii) any commitment or relationship the member has, or may have, with any third party or entity.
- (f) A member will neither offer nor accept payments for referrals.

11. RESEARCH AND PUBLICATIONS

- (a) Members shall plan and conduct research in a manner consistent with applicable federal, state and provincial laws and regulations, as well as professional standards governing the conduct of research. For example, US members shall comply with the U.S. Department of Health and Human Services' regulations for the protection of human subjects.
- (b) The practice of informed consent applies to all research projects.
- (c) The research participant shall have full freedom to decline to participate in or withdraw from research at any time without any prejudicial consequences.
- (d) The research subject shall be protected from physical and mental discomfort to the greatest degree possible.
- (e) Publication credit is assigned to those who have contributed to a publication in proportion to their contribution and in accordance with customary publication practices.

12. PUBLIC INFORMATION AND ADVERTISING

- (a) All professional presentations shall be based upon accurate information and, whenever possible, supported by scientific literature.
- (b) Information that appears in advertising shall include:
 - i) Office or agency identifiers (name, group name, names of professional associates, address, telephone and fax number, e-mail address second languages, office hours).
 - ii) Professional degrees, state licensure and/or professional certification.
 - iii) Specific experience and training in their specialization and services offered.
 - iv) Fee information, including methods of payment accepted.
- (c) Members shall refrain from public presentations and/or advertising that produce unrealistic expectations, bring about a lack of confidence in the profession or are harmful to the community.
- (d) Members shall refrain from the use of a name or credential that could mislead referral sources or the public.
- (e) A member must indicate any limitations in his or her practice, including any requirements for the member's supervision.
- (f) A member shall not represent his or her affiliation with any organization or agency in a manner that falsely implies sponsorship or certification by that organization.

Rules and Procedures

Proceedings Relating to Unethical Conduct

Ultimately, Complaints regarding members' conduct under the Code of Ethics for the Association for the Treatment of Sexual Abusers (ATSA) are measured against the privilege of continued membership in ATSA.

Membership is conditioned, in part, on members' assent to ATSA's rules and regulations. ATSA members indicate their consent to be governed by the *Code of Ethics*, as well as the obligatory items covered in the ATSA Standards and Guidelines when they sign the membership application.

ATSA requires its members to exhaust their remedies within the organization before resorting to a court for review. An Ethics decision by the Board is considered to be final and binding upon the parties, with the exception that a court of competent jurisdiction may review an Ethics decision by the Board for procedural compliance with these rules and procedures. A court will not retry the matter by instituting a new fact-finding effort, nor will it substitute itself for ATSA's Ethics Committee or Board of Directors in the interpretation of ATSA's Code of Ethics.

Ethical Conduct

ATSA's Code of Ethics is reviewed, revised, and amended on a periodic basis to respond to changing needs and developments in the field of sexual abuse. As a condition of ATSA membership, members are bound to uphold the Code of Ethics in all respects of professional practice. ATSA has established procedures to interpret the meaning of its Code of Ethics to the community and practitioners, to protect its members from irresponsible accusations of unethical behavior, and to discipline members who violate the Code based on objective evidence weighed judiciously by peers. These procedures serve a concomitant purpose for ATSA providing the machinery for unifying concepts of professional values through the examination of specific behavior in professional practice. Moreover, in a time when professions generally are under public scrutiny, it is increasingly important that members be held to high standards of professional conduct.

Rules and Procedures

1. DEFINITIONS

- (a) **"Committee"** shall mean the Ethics Committee.
- (b) **"Board"** shall mean ATSA's Board of Directors.
- (c) **"Code of Ethics"** shall mean ATSA's Code of Ethics.
- (d) **"Complaint"** shall mean an ethics complaint.
- (e) **"Complainant"** shall mean the person who files a Complaint.
- (f) **"Subject Member"** shall mean the person who is the subject of a Complaint. The person may be a current or prior member.

2. PURPOSE AND RESPONSIBILITY OF THE ETHICS COMMITTEE

- (a) **Maintain Standards.** The objectives of the Ethics Committee shall be to promote ethical conduct by ATSA members at the highest professional level.
- (b) **General Operating Rules and Nature of Authority**
 - i) **Power to Investigate.** The Committee has the power to investigate allegations of unethical scientific and professional conduct that may be in violation of the Code of Ethics.
 - ii) **Failure to Follow these Rules and Procedures.** Failure to follow these Rules and Procedures by the Committee is not a reason to set aside any action taken by the Committee, unless the failure resulted in demonstrable prejudice to the Complainant or the Subject Member.
 - iii) **Relationship to ATSA Board of Directors.** The Committee is responsible to the Board. Decisions of the Committee may be superseded by the Board.
 - iv) **Committee Membership.** The Committee shall consist of ATSA members appointed by the ATSA President subject to the approval of the Board.
 - v) **Chair.** The Chair is to be appointed as a member of the Committee by the ATSA President from among the Board members with the approval of the Board.
 - vi) **Frequency of Meetings and Quorum.** The Committee shall meet at reasonable intervals as needed. A quorum shall consist of a majority of the appointed members of the Committee, including the Chair.
 - vii) **Relationship to ATSA Board of Directors.** The Chair of the Committee shall make regular reports of Committee activity to the Board.
 - viii) **Jurisdiction over Individuals.** The Committee has jurisdiction only over ATSA members.

- ix) Litigation. Civil, administrative, or criminal litigation pending against members shall not bar the consideration of Complaints by the Committee. It shall be within the sole discretion of the Committee whether to proceed during the course of litigation or wait until its completion. At the Committee's discretion, investigations by the Committee may be deferred when another body, such as a state licensing board, is involved in the matter. Delay in conducting the investigation by the Committee during pending litigation shall not constitute a waiver of jurisdiction by the Committee.
- x) Confidential Sessions. Committee deliberations are confidential and any attendance beyond the Committee's membership shall be at the Committee's discretion. The deliberations of the Committee are considered to be peer review functions by a professional Association.

3. PROCEDURAL STEPS INVOLVED IN FILING AN ETHICAL COMPLAINT AND INVESTIGATION BY THE COMMITTEE

- (a) **Submitting A Complaint Alleging Violations of the Code of Ethics.** Complaints may only be submitted by ATSA members or by a Special Advocate (as described in Section 11) regarding other ATSA members. A Complaint must contain a precise description of the behavior constituting the alleged ethics violation, including the specific section(s) of the Code of Ethics that the Subject Member is alleged to have violated. The Complaint's allegation must cover conduct during the period of time the Subject Member was an ATSA member, but in no event shall the Complaint cover violations alleged to have occurred more than one year prior to the Complaint being received by the ATSA Executive Director's office. This description shall include the name of the Subject Member as well as any other individual(s) who may have witnessed the behavior, been involved in the behavior or to whom the behavior was directed. The only exception to this rule is that the Complainant may choose not to divulge the name(s) of a Client if doing so will violate Client confidentiality. All Complaints shall be submitted in writing to the attention of the "ATSA Ethics Committee Chair" and delivered to the ATSA business office.

- (b) **Determining Subject Member Membership Status & Acknowledging the Complaint.** “Upon receiving the Complaint, the ATSA Executive Director will determine
- i) if the Complainant is a current ATSA member as of the date the Complaint is received by the Executive Director’s office;
 - ii) whether the Subject Member was an ATSA member during the time the ethics violations are alleged to have occurred in the Complaint; and
 - iii) whether the ethics violation is alleged to have occurred within one year prior to the date the Executive Director’s office received the Complaint.

If the Executive Director determines that the Complaint satisfies the membership and time limitation requirements, then the Executive Director will notify the Complainant in writing that the Complaint has been referred to the Committee. If the Executive Director determines that the membership and time limitation requirements have not been met, then the Executive Director will send written notification to the Complainant that ATSA cannot take any action on the Complaint, giving the reasons why.

The Executive Director’s determinations as to the membership and time limitation requirements shall not be final, and are subject to review by the Committee and the Board. If the Complainant or Subject Member disagree with any of the Executive Director’s determinations as to membership or time, they may request a review by the Committee. The Committee’s determination shall only be subject to review by the Board.

In any case, within 10 business days from the date the Executive Director’s office receives the Complaint, it will provide the Complainant with written acknowledgment of its receipt of the Complaint, which will include the date it received the Complaint.

- (c) **Subject Member Request for Reply.** The Committee Chair shall send the Subject Member a copy of the Complaint within 10 business days after the Executive Director's office sends the acknowledgment of the Complaint to the Complainant. The Complaint will be accompanied by a copy of the Code of Ethics, including these rules and procedures and a letter requesting the Subject Member to provide the Chair with a response within twenty-one (21) days of the date on the letter. Failure by the Subject Member to file a timely response is grounds for suspension and possible dismissal from ATSA.
- (d) **Lack of Cooperation.** Failure or delay in responding, or lack of cooperation in the investigation shall not prevent continuation of any proceedings and in itself may constitute a violation of the Code of Ethics or these rules and procedures.
- (e) **Action of the Committee.** Within a reasonable time, the Chair shall provide Committee members with copies of the Complaint, as well as a copy of the Subject Member's response. The Committee may determine that additional information is required from the Complainant, the Subject Member, and/or a third party that may have pertinent information. Based upon the type of information required, the Committee will make a written request of the individual or individuals it deems to have relevant information to respond within a particular period of time. Failure of a member to respond to the Committee is grounds for suspension and possible dismissal from ATSA. Once the Committee determines that it has sufficient information, it will deliberate and render a recommendation to the Board regarding the allegations in the Complaint. Such a recommendation shall be agreed upon by a majority vote of the Committee's members.
- (f) **Case Closure.** After the receipt of a written response from the Subject Member, the Committee may determine that the Complaint has no basis in fact, or is insignificant, and may dismiss the complaint without further action.

- (g) **Information from Other Sources.** The Committee may request additional information from persons or witnesses involved, including Boards, Committees, or Ethics Committees of professional licensing boards or other relevant entities.
- (h) **Action of the ATSA Board of Directors.** The Committee Chair shall present the recommendations of the Committee to the Board during the next regularly scheduled Board meeting after the Committee has agreed upon a recommendation. Final decision by the Board regarding disposition of the Complaint shall be determined through discussion and a formal resolution by the Board. The resolution shall describe the sanctions, if any, to be imposed against the Subject Member. The Board's action shall not be subject to review by any court of law or other forum, except for procedural compliance with these rules.
- (i) **Notification of Parties Involved.** The ATSA office staff, in coordination with the Chair of the Committee, will notify the Complainant and Subject Member regarding the Board's final resolution.
- (j) **Monitoring of Sanctions.** The Chair of the Committee will coordinate and monitor any sanctions that are decided upon by the Board.
- (k) **Notification of ATSA Members.** If the Board finds that the Subject Member violated the Code of Ethics, it shall publish in the next scheduled issue of the ATSA newsletter the Subject Member's name; the circumstances of the violation; the Code of Ethics section(s) violated; the corrective action, directive and/or sanction(s) imposed; and the status of the Subject Member's ATSA membership.
- (l) **Waive Right to Subpoena.** Membership in ATSA constitutes a member's agreement to waive any right to subpoena from ATSA, its officers, directors, and other members, any documents or information in connection with a Complaint, including Committee investigations and recommendations and Board materials, for any purpose, including private civil litigation.

4. CONFIDENTIALITY

- (a) **Correspondence.** All case material mailed from the ATSA office relating to a specific Complaint shall be designated as confidential both on the envelope and on the face of the material enclosed.
- (b) **Disclosure of Information During Investigations.** All information concerning Complaints against members shall be confidential except that the Committee may disclose such information when compelled under a validly issued subpoena or court order or when otherwise required by law. The Committee in its sole discretion may divulge such information as it deems necessary to complete its investigation.
- (c) **Disclosure of Information in Cases Closed by the Committee.** If the Committee dismisses a Complaint without further action, it shall so notify the Complainant and the Subject Member in writing of its action. The Committee's action shall be final and binding upon the parties and shall not be subject to review by any court of law or other forum, except for procedural compliance with these rules.
- (d) **Disclosure of Corrective Action, Directives and/or Sanctions.** If the disposition of a case results in a corrective action, directive, and/or sanction, a description of the corrective action, directive and/or sanction can be released to any individual upon that individual's written request. ATSA will respond to the written request by providing the name of the Subject Member, the Code of Ethics sections violated, and the corrective action, directive and/or sanctions imposed against the Subject Member.

- (e) **Requirement of Confidentiality.** Except as otherwise provided within these rules and procedures, all information concerning Complaints against members shall be confidential. Notwithstanding the confidential nature of Complaint materials, such information may be released when the Chair and the Board in their discretion agree that the release of that information is necessary to protect the interests of: a) the Complainant or Subject Member; b) other investigative bodies; c) ATSA; d) the public; or e) a Client, and that the release will not unduly interfere with ATSA's interest in respecting the legitimate confidentiality interests of participants in the ethics review process, the interests of Clients, and ATSA's interest in safeguarding the confidentiality of internal peer review deliberation.
- (f) **Communication for Investigation.** Nothing in this section shall be construed as preventing the Committee from communicating with the Complainant, witnesses, potential members of other fact-finding committees, or other sources of information necessary to enable the Committee to carry out its investigative function.

5. RECORDS

- (a) **Confidential Permanent Files.** Permanent files of the Committee shall be confidential according to these rules and procedures. The files shall be maintained at the main ATSA office, and shall be available only to those specifically authorized by the Committee. These records are the property of ATSA.
- (b) **Files for Loss of Membership.** Files of individuals whose membership has been terminated because of an ethical violation shall be maintained for five years.
- (c) **Files for Non-Violation.** Except for cases closed for insufficient evidence, personally identifiable information concerning Subject Members who have been found not to have committed an ethical violation shall be destroyed five years after the Committee has closed the case.

- (d) **Files for Insufficient Information.** In cases where the Committee has closed a case due to evidence insufficient to sustain a Complaint, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.
- (e) **Files for Lesser Sanctions.** In cases where the Committee has found an ethical violation but where the sanction is less than termination of membership, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.
- (f) **Records for Educational Purposes.** Nothing in this section shall preclude the Committee from maintaining records in a form that prevents identification of the parties involved so that the records may be used for remediation, education, or other legitimate purposes.

6. RECOMMENDATION DEVELOPMENT

- (a) **Focus of Recommendations.** Since the purpose for investigating Complaints is to improve the profession and instill confidence from the community, any corrective action, directive and/or sanction recommended by the Committee and resolved by the Board shall be fashioned with an aim to instruct whenever possible.
- (b) **Form of Recommendations.** The Committee has the latitude to suggest a broad array of corrective actions, directives, and/or sanctions. Its final written recommendations shall, however, include: (1) a synopsis of its findings regarding each of the alleged Code of Ethics violations; (2) details describing its rationale for the conclusions drawn; (3) specific corrective actions, directives, and/or sanctions to be imposed upon the Subject Member; (4) the impact of these recommendations on current and future membership in ATSA; and (5) a specific time-frame for any recommended corrective action, directive and/or sanction.

- (c) **Sanctions for Non-Compliance With Requests for Information from Members Pertaining to An Ongoing Investigation of an Ethical Violation.** The Committee may immediately impose temporary suspension of membership privileges for any member who does not fully comply with informational or investigatory requests from the Committee. Other sanctions may be considered with consultation from the ATSA Executive Committee or the Board. Membership will be fully reinstated upon compliance with the Committee's requests. Reinstatement will include, but is not limited to, the forwarding of back issues of the Journal and newsletter.
- (d) **Sanctions for Non-Compliance With Approved Final Recommendations.** The Committee may recommend additional and more severe consequences for members who do not comply with corrective actions, directives, and sanctions approved by the Board as a result of findings of ethical violations.

7. TYPES OF RECOMMENDATIONS FOR SANCTIONS, CORRECTIVE ACTIONS AND DIRECTIVES

- (a) **Cease and Desist Order.** This directive requires the member to cease and desist specified unethical behaviors.
- (b) **Education, Training, or Tutorial Requirement.** This corrective action requires that the member engage in education, training, or tutorials specified and approved by the Committee.
- (c) **Supervision or Clinical Consultation Requirement.** This corrective action requires that the member engage in supervision or clinical consultation by a supervisor or consultant recommended and approved by the Committee. The Committee may stipulate the type, frequency, duration, goals, and content of supervision or consultation.
- (d) **Reprimand.** This sanction requires that a written statement of censure for unethical or unprofessional behavior be sent to the Subject Member clarifying the inappropriate nature of the Subject Member's conduct.

- (e) **Evaluation and/or Treatment.** This directive requires that the Subject Member be evaluated to determine the possible need for treatment and/or, if a dysfunction has been established, to obtain remedial treatment approved by the Committee and the Board.
- (f) **Suspension.** Suspension is an immediate change in status that ends membership until a specified period of time elapses or until the Board allows reinstatement.
- (g) **Termination.** Termination constitutes expulsion from current and future membership on a permanent basis (usually the result of a particularly egregious ethical violation and/or non-cooperation in the Committee's investigation).

8. MEMBERSHIP

- (a) **Application for Membership.** The Chair of the Committee shall review applications for membership. After such review, the Chair may recommend to the Board through the Membership Committee that an application for a membership be denied or voided because of past or current ethical violations.
- (b) **Voided Membership.** The Committee may recommend to the Board that it void the membership of any person who obtained membership on the basis of false or fraudulent information.
- (c) **The Effect of Resignation.** A Subject Member's resignation shall have no effect upon the investigation and resolution of a Complaint, so long as the Code of Ethics violation(s) alleged in the Complaint took place during the term of the Subject Member's membership with ATSA.
- (d) **Application for Readmission.** The Committee shall automatically review all applications for readmission received by the Membership Committee from persons who have been expelled or suspended from membership.

- (e) **Procedures for Readmission.** The Chair of the Committee shall submit to the Committee for consideration a summary of the application for readmission, including copies of any statements submitted by sponsors of the application and any available record of the previous case against the former member. The Committee shall make one of the following recommendations to the Membership Committee:
- **Readmission.** Recommend to the Membership Committee that the former member be readmitted;
 - **Denied Readmission.** Recommend to the Membership Committee that readmission be denied; or
 - **Deferred Decision.** Recommend to the Membership Committee is deferred pending the results of further investigation.

9. PROCEDURES FOR COMMENCING AN INVESTIGATION ON THE COMMITTEE'S OWN MOTION

The Committee, on its own motion or by referral to the Special Advocate, may commence an investigation according to these rules and procedures under the following circumstances:

- (a) **Felony or Other Illegal Offense.** When the Committee learns that a member has been convicted of a felony or other illegal behavior that rationally reflects adversely upon the Subject Member's fitness to provide Professional Services or Tasks and the Committee determines that an investigation is necessary for protection of the public or the profession, and such felony conviction is not under appeal.
- (b) **Expulsion, Suspension, Delicensure, or Decertification.** When the Committee learns that a member has been expelled or suspended from a state, regional, or national psychological association, or delicensed or decertified, or had a certificate or license revoked or suspended by a State or Local Board, and the action is not under appeal.
- (c) **Public Information.** When the Committee learns of publicly available information indicating unethical conduct and the Committee determines that commencing an investigation is necessary for the protection of the public or the profession.

- (d) **Multiple Complaints.** The Committee may take into consideration previous Complaints, regardless of outcome, and may elect to commence an investigation under these rules and procedures if the Committee determines that there has been a pattern of ethically questionable behavior.
- (e) **Notice to the Subject Member.** The Committee shall provide notice to the Subject Member that it has commenced an investigation on its own motion with the same specificity required as if a Complaint were filed, and the Subject Member shall have the same time period to respond as if responding to a Complaint.

10. GENERAL CONSIDERATIONS

- (a) **Time Requirements.** Any failure to adhere to the time requirements specified in these rules and procedures shall not prevent an investigation from proceeding to final resolution by the Board unless the Committee or the Subject Member can show that such failure was willful or prejudicial.
- (b) **Clarification by the Committee on Client Responsibility.** If the Subject Member believes there is a conflict between responsibility to Clients and the Committee's request for information, the Subject Member may seek advice from the Committee to resolve the conflict.
- (c) **Release of Information.** The Complainant, upon submitting a Complaint, is deemed to have consented that the Complaint and all associated materials submitted with the Complaint will be provided to the Subject Member and to other people, as provided in these rules and procedures.
- (d) **Telephone Inquiries about Potential Complaints.** Telephone inquiries shall not be considered as Complaints.
- (e) **Previous Remedy.** The Complainant may be required to inform the Committee of previous steps, if any, that have been taken to remedy the situation.

11. SPECIAL ADVOCATE

- (a) **Situations Requiring Special Advocates.** Ideally, complaints against ATSA members are filed by ATSA members who are personally affected by or who have first-hand knowledge of the alleged misconduct. However, in some instances, violations of the Code of Ethics may come to the attention of members or the Committee indirectly through the media, from second hand communication with other individuals, or from a member who is not willing to follow through with filing a Complaint. In such cases, the need for ATSA to respond is no less critical. A surrogate Complainant or "Special Advocate," can serve as a substitute for a Complainant.
- (b) **Appointing Special Advocates.** A special advocate can be any ATSA member appointed by the Chair of the Committee. Appointments shall be in writing and shall include a copy of the Code of Ethics and sufficient information for the Special Advocate to consider drafting a formal Complaint.
- (c) **Role of the Special Advocate.** The role of the special advocate is to review existing information and seek additional materials sufficient to write a formal Complaint to the Committee against the member identified in the letter from the Chair of the Committee. The Special Advocate may also be called upon to participate in the Committee's investigation as the investigatory process continues. In an instance where the Special Advocate feels that sufficient information is not available to write a formal Complaint, he/she shall first consult with the Committee Chair in an attempt to clarify what information is missing. If this does not provide resolution, the Special Advocate shall indicate his/her inability to proceed in the form of a letter to the Chair of the Committee. The Committee may then choose to drop the case or appoint a successor Special Advocate to review the matter.

- (d) **Conflict of Interest.** The initial appointment letter shall be preceded by a telephone conversation with the potential Special Advocate to ensure that there is no conflict of interest or appearance of conflict. Conflicts may include professional or personal relationships. A Special Advocate can, at any time, declare a conflict of interest. For example, as the Special Advocate obtains additional information regarding the case, he/she may discover that the Advocate's relationship with a third party involved in the case may cause a conflict. Special Advocates shall be warned of this potential problem when they are appointed. Questions of a potential conflict shall be addressed by the Chair of the Committee and copied to the ATSA Board President.
- (e) **Submitting A Complaint.** The steps required and the form of the Complaint filed by the Special Advocate are identical to Complaints filed by any other member. Details are provided in Section 3 of these rules and procedures.

12. EVALUATION OF COMPLAINTS

- (a) **Evaluation by the Committee.** The Committee shall review each completed Complaint and take action as outlined in these Rules and Procedures.
- (b) **Immediate Referral.** The Committee may immediately refer the matter to the appropriate professional licensing board for action prior to action by the Committee.
- (c) **Impaired Members.** The Committee Chair may determine that the alleged violation may have resulted from a member's substance abuse, mental and/or emotional problems. Such a determination will not preclude the Committee from proceeding with the process outlined in these rules and procedures and may, in fact, form the basis of the Committee's recommendations to the Board.

- (d) **Violations with Potential for Harm to Public.** If the Committee determines that the alleged violation has potential for harm to the public, the Chair shall immediately consult with ATSA's legal counsel, who may recommend that the case be referred to the appropriate jurisdiction of law enforcement.
- (e) **Conflict of Interest.** The Committee must first determine that there is no conflict of interest precluding the Committee from proceeding with the Complaint (e.g., Complaints against ATSA officers Committee members, ATSA Board members, etc.). If a conflict of interest is deemed present, the Committee Chair shall immediately notify ATSA's President and the ATSA Executive Director. If the Complaint involves either the President or the Executive Director, the Committee Chair shall notify the other individual and the ATSA Past President. If the conflict involves the Chair of the Committee, the President shall appoint another member of the Board, subject to the Board's approval, to chair Committee matters involving this Complaint. If the conflict involves any member of the Committee, that member shall recuse him/herself from Committee discussions and decisions pertaining to the case. If the conflict involves an ATSA Board member, that member shall not participate in discussions or decisions regarding the case. In all other situations where there is a conflict of interest, the ATSA President and the Committee Chair shall take such action as deemed prudent to resolve the conflict.
- (f) **Request for Further Information.** If the Committee determines that there is insufficient information from which to make a recommendation to the Board, the Committee may request further information from the Complainant or others. If a request is made to the Complainant, the Complainant shall have twenty-one (21) days to respond. Failure to respond to this request may result in a recommendation by the Committee to dismiss the Complaint for lack of evidence. Continued refusal by a member to provide the Committee with information within that member's control may constitute grounds for an ethics violation and can result in discipline including dismissal from ATSA.

- (g) **Multiple-Category Complaints.** A single Complaint may include allegations about individual ethics violations and violations of the obligatory sections of the ATSA Standards and Guidelines.
- (h) **Anonymous Complaints.** The Committee shall not act upon anonymous Complaints except when information in the public domain is of sufficient weight that the Committee determines there is adequate cause to refer the matter to a Special Advocate.
- (i) **Complaints about Non-Members.** Complaints about non-members will not be considered.
- (j) **Counter Complaints.** The Committee will not accept formal Complaints from a Subject Member member against a Complainant member during the course of an investigation of the initial Complaint. Rather, the Committee shall indicate that all sides of the matter leading to the Complaint will be considered and that a countercharge will not be considered until after the initial Complaint is resolved.
- (k) **Capricious Complaints.** The Committee may recommend that a Complaint be filed against a Complainant if the Committee determines that the initial Complaint is capricious or intended primarily to harm the Subject Member rather than to uphold professional standards.

13. LEGAL REPRESENTATION

- (a) **Involvement of Legal Representation.** The ATSA investigation procedures do not allow for “legal representation” of a Subject Member before the Committee or the Board in the investigation process or with respect to any deliberations. ATSA’s rationale for precluding active participation by attorneys in this process is that an ethics investigation is a peer review and the members of ATSA are best able to conduct the professional review process.
- (b) **Communications.** Attorneys may be present to serve as advisors to a Complainant, Subject Member or witness only if they are ATSA members and are present solely in a membership capacity. In furtherance of the policy of peer review, ATSA Board members and Committee Members shall communicate solely with Complainants, Subject Members and witnesses on substantive matters rather than with attorneys or advisors. Responses to general inquiries or procedural questions may be permissible exceptions. Exceptions shall be considered on a case-by-case basis.
- (c) **ATSA’s Access to Legal Counsel.** ATSA, including the Committee and the Board, will retain the right to consult with its own attorney at any point in this process.

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