

STATE BOARD OF PSYCHOLOGY of OHIO  
POLICY AND PROCEDURE MANUAL

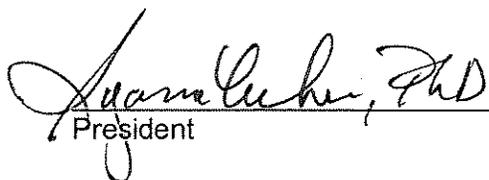
**SECTION 12: ENFORCEMENT AND HEARING PROCEDURES**

**POLICY 12.1: COMPLAINTS INVOLVING SITTING MEMBERS**

**PRIOR DATE EFFECTIVE: MAY 17, 2006**

**AMENDED AND EFFECTIVE: APRIL 29, 2013**

REVIEWED AND APPROVED:

  
President

7/15/13  
Date

  
Executive Director

4/30/13  
Date

**POLICY**

The purpose of this policy is to set forth guidelines for the handling of investigations of:

- Complaints against sitting members of the State Board of Psychology (Board);
- Complaints against persons closely associated with sitting members of the Board; and,
- Complaints against persons subject to complaints filed by sitting members.

It is the policy of the Board to conduct all investigations of alleged misconduct in a manner that affords maximum objectivity and the avoidance of an appearance of impropriety. The Board is responsible for being accountable for every complaint filed, regardless of the identity of the subject of a given complaint. By standard procedure, each formal complaint is assigned to a member of the Board for supervisory oversight and guidance, the "Supervising Member," who under typical circumstances works with an assigned Board investigator, the Executive Director, and Board counsel (Assistant Attorney General, "AAG") in the process of an investigation.

All efforts shall be made by the Board and its staff to avoid any reasonably anticipated loss of objectivity and/or the appearance of impropriety when a sitting Member is related to an investigation, whether as a subject of a complaint, as a close associate of a person subject to a complaint, or as the complainant. The Board hereby establishes the following procedures governing the conduct of investigations in these circumstances:

**I. PROCEDURES REGARDING COMPLAINTS AGAINST A SITTING MEMBER**

- A. When a complaint is received against a sitting member of the Board, the Board investigator processing the complaint shall notify the Executive Director, who shall cause the complaint to be assigned, per standard procedures, to a Supervising Member for oversight. The Supervising Member shall be a current Board member who is not otherwise connected, Board membership

aside, to the sitting member named in the complaint. Membership on the Board is not a sufficient relationship that would be expected to lead a prospective Supervising Member to decline to supervise a case against another sitting member.

- B. The Supervising Member, upon agreeing to supervise a given case, shall review the complaint consistent with current procedures, but without input from any employee of the Board. The Executive Director and Board investigators shall be prohibited from participating in any investigation of a sitting member.
- C. If it is determined by the Supervising Member that a complaint does not allege violations of the laws and rules governing psychologists (and therefore does not provide a basis to proceed to a formal investigation), the Supervising Member shall so notify a Board investigator or the Executive Director and the case will be processed according to established procedures for closures, including review of the allegations by the Board's AAG or designee.
- D. Upon a determination by the Supervising Member that the complaint provides a basis to proceed to a formal investigation, the Supervising Member will so notify Board staff and the Executive Director will subsequently enter in to an agreement with a comparable regulatory board or state agency in order to delegate the investigation to a professional investigator or designee employed by that entity.
  - a. The agreement will authorize the selected person to perform the investigation, shall set forth the Board's procedures for investigations, shall identify the Supervising Member and the Board's counsel (AAG), and shall include a "letter of representation" for the investigator's identification as an agent authorized to conduct the investigation on behalf of the Supervising Member.
  - b. The designated outside investigator may only confer with the Executive Director or Board investigator for guidance surrounding procedural issues and shall not confer with any Board employee relative to decision-making.
  - c. The investigation shall proceed according to established procedures under the direction of the Supervising Member, consistent with the processing of all investigations as outlined in the Board's enforcement handbook and related policies.
  - d. If a decision is made to proceed with formal action against a sitting member, the sitting member subject of the complaint/investigation will be advised in accordance with standard procedures. The sitting member will be responsible for taking any appropriate action regarding his or her relationship with the Board.
- E. The Supervising Member, working in conjunction with the assigned external investigator, shall follow all related Board policies and procedures relative to the initiation of formal proceedings, or the authorization to close a case without formal action upon second member review.

## **II. COMPLAINTS INITIATED OR FILED BY A SITTING MEMBER**

All Board licensees, including members of the Board, must adhere to an administrative rule [OAC 4732-17-01 (J) (4)] that requires filing professional reports with the Board relative to others' suspected serious violations of the laws and rules governing psychologists. When a sitting member files a report/complaint with the Board pursuant to his or her duty to report violations, or causes such a report to be made, the reporting member shall be recused from participation in any decision-making relative to that case.

### **III. COMPLAINTS AGAINST PERSONS CLOSELY ASSOCIATED WITH A SITTING MEMBER**

When a complaint against a person closely associated with a member—including relationship that are social, familial, personal, or professional—is received in the Board office, to the extent that nexus is known, special steps might be taken to ensure that objectivity and appearances are not compromised.

- A. Members who determine that the subject of any given matter is an associate to such an extent that participation might involve impaired objectivity or the appearance of impropriety shall recuse themselves from participation.
- B. In circumstances in which a member must recuse self from a matter because of a pre-existing relationship, Board staff may or may not incur similar responsibilities. Decision-making in this regard shall occur on a case-by-case basis and shall depend on factors including, but not necessarily limited to the nature of the staff's relationship with members at issue. To the extent that the objectivity of the Executive Director or Board investigators is reasonably likely to be impaired in the conduct of any investigation of a person closely associated with a sitting member, or the appearance of impropriety might reasonably be raised, the matter shall be referred to an outside investigator consistent with procedures outline above in Section I. This would generally include, but would not be limited to, circumstances in which the objectivity of Executive Director or investigator is reasonably likely to be impaired because the subject of a complaint is:
  - An employee or employer of a sitting member; or,
  - A family member or close personal associate of a sitting member; or,
  - A person otherwise closely associated with a sitting member and that relationship is known to the Executive Director or Board investigators and the relationship is reasonably likely to impair the staff's ability to conduct an investigation.

### **IV. TRANSPARENCY IN CORRESPONDENCE WITH COMPLAINANT**

By standard procedure, all complainants are advised in writing when a case is closed, whether by formal action or without formal action. Complaints investigated by an external investigator and not resulting in formal action shall be closed in a manner consistent with existing policy and procedure. For the purpose of completing correspondence in these circumstances, a designated Board investigator may provide necessary clerical assistance to cause such correspondence to be sent to the complainant. Said "closure" letter shall contain a general description of the Board procedure leading an external investigator to conduct the investigation, and the name of the external investigator.

### **V. CONSULTATION WITH RELEVANT PARTIES**

The Executive Director shall conduct all necessary consultations to inform decision-making relative to the assignment and processing of any investigation involving a sitting member of the Board should circumstances arise not addressed herein. Said consultations would be anticipated to include the Office of the Attorney General, the Ohio Ethics Commission, and/or the Office of the Inspector General. The Executive Director or designee shall document said contacts in the Board's database consistent with standard documentation procedures.