

State Board of Psychology
Regulatory Compliance Handbook

CHAPTER 1

**STATE BOARD OF PSYCHOLOGY
REGULATORY COMPLIANCE PROCEDURES:
A PRIMER FOR THE PUBLIC**

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Following is the usual sequence of events when a complaint is registered against a State Board of Psychology licensee, an applicant for licensure, or a supervisee of a licensee.

1. COMPLAINT REGISTERED AT BOARD OFFICE IN COLUMBUS

An initial complaint may be received from a current or former patient/client of an applicant/psychologist/ supervisee, from another professional (psychologist, physician, lawyer, etc.) or from a concerned citizen. The complaint may be an informal telephone or written inquiry.

2. INITIAL EVALUATION BY BOARD INVESTIGATOR

The complaint is evaluated by the Regulatory Compliance staff, in consultation with the Executive Director, for clarity, specificity, actual violation, and the authority of the Board of Psychology.

When a complaint does not allege a clear violation of the provisions of ORC Chapter 4732, the Board will not take action. In some cases, the Board may refer the matter to an ethics committee of a professional association such as the Ohio School Psychologists Association (OSPA), the American Psychological Association (APA), or another board/agency such as the Counselor and Social Worker Board or the Ohio State Medical Board. The complainant receives a letter from the Board advising that the matter has been reviewed and the alleged conduct does not constitute a violation of ORC Chapter 4732. The applicant/licensee also is informed of review and disposition.

3. FORMAL COMPLAINT ESTABLISHED

When a complaint appears to allege a violation of ORC Chapter 4732 or Ohio Administrative Code Rules (OAC 4732), the complainant is required to provide details in writing on the Board's complaint form and also provide a release for all information, when appropriate. A two page description of the administrative process is attached to every complaint form and the investigative staff reviews the administrative process with the complainant, at every opportunity as requested or needed.

4. COMPLAINT REVIEWED BY EXECUTIVE DIRECTOR

The formal investigative procedure requires that a formal complaint be on file in the Board office. At that time, the complaint is reviewed and summarized by a member of the Regulatory Compliance (Investigative) staff, and is then reviewed by the Executive Director for assignment to an investigator and a supervising Board Member. The supervising Board Member, in consultation with the Executive Director and assigned investigator, guides the investigation, and no other discussion regarding the complaint/investigation will occur with other Board members, the public, professional associations, or other persons. Additional information may be gathered and interviews conducted throughout an investigation as needed.

5. COMMUNICATION WITH THE APPLICANT/LICENSEE

After the formal complaint is on file, the supervising Board Member may deem it appropriate to contact the applicant/licensee in writing to discuss the nature of the complaint, the possible violations which may exist if, in fact, the complaint is accurate, and may request a response from the applicant/licensee. On many occasions, the complaint cites a specific allegation, although the supervising Board Member or Executive Director may conclude that other violations appear evident. Therefore, communications with the applicant/licensee may address issues in addition to those initially brought to the Board's attention. In any case recommended for closure without formal action, a second member of the Board reviews the case file prior to a final decision to close the file without formal action.

6. EVALUATION OF EVIDENCE/RESPONSE FROM APPLICANT/LICENSEE

In many instances, the investigation may reveal information suggesting that violations are likely to have occurred. At that time, formal charges may be brought and the process leading to an administrative hearing and/or a "Consent Agreement" begins. The Assistant Attorney General is available to answer questions and provide legal advice during the investigations. It may also be appropriate for the Assistant Attorney General to accompany the investigators during witness interviews. The subject of the complaint may retain legal counsel at any point, and the Board's staff works appropriately with any attorney representing an applicant/licensee.

If formal charges are filed the specific sections of the Revised Code and the rules alleged to have been violated are listed, together with a general description of the applicant/licensee's alleged misconduct.

7. CONSENT AGREEMENT PROPOSED OR CHARGES FILED

When an applicant/licensee acknowledges that s/he has engaged in an action that violates a specific section of ORC Chapter 4732 or OAC Chapter 4732, the subject may meet with the supervising Member to determine whether an appropriate agreement as to sanctions or other appropriate action to address the misconduct is possible. If this process results in a settlement agreement, a "Consent Agreement" is written collaboratively by the AAG, assigned Investigator, Supervising Member, and the Executive Director, and signed by the applicant/licensee (and his/her attorney). Consent agreements are used in many cases in which the subject of the complaint admits to violations, and the Board can provide for measures protective of the public without needing to proceed to a hearing. The Agreement is then reviewed by the full Board during Executive Session at a public meeting of the Board of Psychology. A vote to accept/reject the Agreement will occur in the public session of the Board's meeting.

The Consent Agreement will be maintained in the applicant/licensee's permanent file at the Board Office, and the applicant/licensee's name will be included in the cumulative list of disciplinary actions maintained by the Board of Psychology. There is no requirement to enter into a Consent Agreement or even participate in this process, as opposed to proceeding to charges.

If charges are filed, the specific violations are described and presented during the public session of a Board meeting. When charges are presented to the full Board, no other information regarding the investigation is provided so that Board members vote only on whether to proceed with the charges as presented (i. e., applicant/licensee's name is not revealed; case is designated by number).

8. NOTICE OF OPPORTUNITY FOR HEARING

The charges are incorporated into a "Notice of Opportunity for Hearing" which includes the reasons for the charges, the specific sections of the law/rules alleged to have been violated, and the notice of the right to a hearing if requested within thirty (30) days. The Notice of Opportunity for Hearing also informs the applicant/ licensee of the right to be represented by counsel, present evidence, and examine witnesses. The Notice is sent by registered (certified) mail, return receipt requested. A Notice of Opportunity for Hearing receives prior review and approval by the Assistant Attorney General.

9. ADMINISTRATIVE HEARING

In general, the administrative hearing is governed by ORC Chapter 119, the Administrative Procedures Act. When a hearing is requested, the date and location will be established by the Board office. The hearing is usually conducted in Columbus and generally occurs in conjunction with a public meeting of the full Board. All administrative hearings are public, although legal counsel may request a separation of witnesses. Hearings must occur before a quorum of the State Board of Psychology with the exception of the supervising Member. On occasion, the hearing may be conducted by a single hearing officer appointed by the Board President who may be either: (1) an independent attorney hired by the Board; or (2) a board member appointed by the President pursuant to ORC section 4732.06.

The subject of the complaint and his/her attorney may present oral and written testimony as well as call witnesses or examine Board witnesses. The Board's assigned Assistant Attorney General presents the case on behalf of the State of Ohio.

10. BOARD DETERMINATION

At the conclusion of the hearing, the Board members meet in Executive Session (unless the charged applicant/licensee makes a request that the deliberations be in a public session) to weigh the testimony and evidence, determine whether violations of the law/rules have occurred, and, if violations are found, decide what sanctions, if any, should be imposed. The formal vote on the decision occurs during a public session.

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