

AFP Procedures For Enforcement of the Code of Ethical Principles and Standards of Professional Practice

**Approved as Board Policy by the Board of Directors November 6, 1992,
with amendments adopted by the AFP Board of Directors November 15, 1993;
July 16, 1994; July 15, 1995; November 7, 1997; July 24, 1999; March 13, 2004; April 2, 2005**

Through its *Code of Ethical Principles and Standards of Professional Practice*, the Association of Fundraising Professionals (AFP) promotes responsible, professional and ethical behavior by its members and by individuals who agree to be bound by the AFP Code of Ethics as a condition of professional certification sponsored by AFP. For purposes of these procedures, the term “member” will refer both to AFP members and to certificants (excluding certificants who are members of the Association for Health Care Philanthropy) unless otherwise specified.

AFP holds its members accountable to these standards and is intolerant of practices which threaten the integrity and reputation of the profession or the strength and fabric of the philanthropic sector. These procedures contain the implicit expectation that the most desirable outcome of the process is the elimination of the unethical behavior, not punishment. Only after all reasonable efforts have failed should formal hearings be conducted.

These procedures are designed to provide appropriate notice and an opportunity to be heard to all members who may be the subject of an inquiry or a complaint, whether or not they have counsel. Members are encouraged to contact the AFP International Headquarters if they have any questions regarding the *Code of Ethical Principles and Standards of Professional Practice* or these procedures.

Confidentiality

AFP shall take reasonable measures to ensure that any proceedings, hearings, deliberations and/or files resulting from implementation of these procedures shall be and remain confidential except as required by law or as otherwise provided in these procedures.

I. COMPLAINT

A. Ethics Queries.

1. Any individual may contact the AFP International Headquarters with an ethics query regarding interpretation or application of the *Code of Ethical Principles and Standards of Professional Practice* (hereinafter referred to as the Code), whether or not the individual is a member of AFP. An ethics query is a means for inquiring whether or not a practice warrants filing a complaint alleging a violation of the Code, for requesting guidance regarding a proposed practice, and for requesting assistance from the AFP Ethics Committee (hereinafter referred to as the Committee) without having to resort to an enforcement proceeding. Ethics queries may be handled by a member of the Committee or by appropriate staff at the AFP International Headquarters who are authorized to address issues arising under the Code and the enforcement procedures, pursuant to processes which provide for consistency and accuracy of responses.

B. Standing to Lodge a Complaint

1. Any individual may lodge a complaint of possible violation of the Code, whether or not the individual is a member of AFP. A complaint must be in writing on AFP's form, "Complaint of Ethics Violation." Complaints must include the name, position, address, telephone number and signature of the author(s) of the complaint and a statement of the Code sections alleged to have been violated. Complaints will not be considered if they fail to meet these requirements or if they are submitted by facsimile or e-mail. Complaints will be logged by the AFP International Headquarters and forwarded to the Chair of the Ethics Committee.
 2. The AFP Ethics Committee is not a substitute for a court of law. AFP may, in its discretion, defer complaints if litigation or other enforcement action has commenced or is pending with regard to the subject matter of a complaint, or for other exigent circumstances. AFP may also, in its discretion, refer matters to federal, provincial, state, or local government agencies in appropriate situations.
 3. AFP requires all complaining parties to agree that, upon request of the AFP Ethics Committee, the complainant will cooperate in the process and, upon request, give personal testimony in the presence of the member against whom the complaint is lodged.
- C. Initiation of Action
1. Action may be initiated by AFP upon receipt of appropriate information. In such cases, the complaint is filed by the Committee.
 2. In all other cases, action is initiated in accordance with these procedures.
 - a. A complaint must be directed to the office of the President and CEO of AFP and filed with the AFP International Headquarters.
 - b. A complaint must be postmarked or delivered to the AFP International Headquarters no later than three (3) years following the discovery of the alleged violation. Complaints may be brought at any time if they allege:
 - i. criminal activity; or
 - ii. false or misleading representations in connection with an application for, or maintenance of, membership in AFP or certification sponsored by AFP.
 3. If a filed complaint is withdrawn before a hearing is held or other action is taken by the Committee, AFP may proceed with a hearing or take other steps necessary to resolve the complaint. In such cases, AFP will become the complainant. All material related to the complaint (including material previously submitted by the parties) may be used in the proceedings.
- D. If an AFP member is the subject of a formal government legal proceeding and/or AFP enforcement proceeding, the member will remain an active member and/or certificant until the AFP enforcement procedure has been completed, whether or not the member attempts to voluntarily resign or terminate membership by failure to renew and/or apply for recertification.

- E. Failure to respond to or otherwise cooperate with an investigation by the AFP Ethics Committee may itself be grounds for disciplinary action.
- F. The Committee and/or subcommittees may conduct their activities at in-person meetings, via telephone conference call, or through other secure and confidential means designed to ensure participation and deliberation by relevant or designated Committee members.

II. INVESTIGATION OF COMPLAINT

- A. Upon receipt of a complaint, the Chair of the Committee or AFP President & CEO must determine whether the complaint against the member:
 - 1. alleges a violation of the Code; and
 - 2. contains sufficient and reliable information and is not patently frivolous or inconsequential so as to warrant initiation of steps to determine factual sufficiency for a hearing.
- B. The Chair or AFP President & CEO may request additional information, consult with Committee members, and take other actions consistent with the Chair's or AFP President & CEO's obligation to determine if a complaint meets these criteria and warrants further investigation.
 - 1. If the Chair or AFP President & CEO determines that a complaint satisfies the criteria, the Chair will refer the matter to the Committee for consideration.
 - 2. If the Chair or AFP President & CEO, in his or her discretion, determines that a complaint does not satisfy the criteria, the Chair or AFP President & CEO may reject the complaint and notify the complainant of this decision. All such decisions by the Chair or AFP President & CEO are reported to the Committee.
- C. Within forty-five (45) days of receiving the complaint from the Chair, the Committee shall determine whether the complaint warrants Committee investigation.
 - 1. If the Committee determines that a complaint warrants Committee investigation, the Committee shall promptly:
 - a. provide the member against whom the complaint was filed with a copy of the Code and the Procedures and written notification stating that an investigation is to be conducted; summarize the issues raised in the complaint; and notify the member that he or she may submit a response and supporting documentation to the Committee, and that such response should be submitted within sixty (60) days of receiving this notification;
 - b. notify, in writing, the complainant that the complaint has been received and indicating the status of the complaint; and
 - c. designate the member(s) of the Committee (excluding the Chair of the Committee) who will be responsible for investigating the complaint and serving as judge advocate pro tem, if necessary.
 - 2. If the Committee determines that a complaint does not warrant Committee investigation, the matter will be closed and notice of this decision will be promptly forwarded to:

- a. the member against whom the complaint was filed, who shall be advised immediately by telephone or other efficient means, followed by written confirmation;
 - b. the complainant(s);
 - c. the Committee; and
 - d. the President and CEO of AFP.
- D. All material gathered by AFP in the course of any of its investigations, including but not limited to information submitted by a complainant(s) and the member(s) against whom a complaint has been lodged, will be the property of AFP.

III. DETERMINATION TO CONDUCT HEARING

- A. The Committee member(s) designated to investigate the complaint shall examine all relevant matters, including any written response submitted by the member against whom the complaint was filed. The Chair and/or the Committee members designated to investigate the complaint may work directly with the member who is the subject of the complaint (and complainant, if applicable) to resolve the matter without resorting to a formal hearing. The member may be asked to agree to take certain corrective or preventive actions, to cease and desist from certain activities, or to otherwise meet certain conditions in order to resolve the complaint in this manner.
- B. If efforts to resolve the complaint pursuant to the procedures in Section III.A. are unsuccessful, or if the member(s) designated to investigate the complaint determine(s) that the ethical misconduct on part of the member is habitual or of such magnitude to warrant a hearing, the matter shall be presented to the full Committee for vote as to whether a hearing should be held. Based on an affirmative vote by a simple majority of the Committee, the Committee shall proceed with a hearing.
- C. If any member of the AFP Ethics Committee has or has had a business, financial, personal or familial relationship with any party to the action, that Committee member shall disclose this potential conflict of interest and shall recuse himself or herself if appropriate. If a Committee member does not voluntarily recuse himself or herself, recusal may be mandated by a majority vote of the full Committee.
- D. The Committee shall establish the time and place of the hearing and shall determine which member(s) of the Committee shall present the case against the member and act as judge advocate *pro tem* at the hearing.
- E. The Committee shall also select an Ethics Hearing Panel. The Ethics Hearing Panel:
1. shall consist of members of the Committee, unless conflicts of interest or other exigent circumstances disqualify a majority of the Committee from serving on the Ethics Hearing Panel; in such cases, the Chair may appoint members of the AFP Board of Directors, former Ethics Committee members, and/or other independent and unbiased persons to the panel as appropriate;
 2. shall consist of no less than one (1) and no more than nine (9) individuals;

3. shall not include the Chair of the Ethics Committee or any Committee member who has participated in the investigation of the complaint or who is appointed to serve as judge advocate *pro tem*;
 4. shall act in this matter with the same authority as the Committee, and its decision shall have the same weight and effect as a decision of the Committee; and
 5. shall not include any individual who has a past or present business, financial, personal or familial relationship with any party to the action.
- F. The purposes of the hearing are to:
1. determine if the member has violated the Code; and
 2. if the member has violated the Code, decide upon any appropriate disciplinary action.

IV. NOTIFICATION OF HEARING

- A. The Chair of the AFP Ethics Committee shall serve notice, in writing, of the pending hearing. The letter of notification:
1. shall be signed by the Chair of the Committee;
 2. shall be sent to the member via certified mail or by traceable courier (i.e., Federal Express), addressee only, return receipt requested;
 3. shall state the place of the hearing and offer a choice of a minimum of two dates and times;
 4. shall advise the member that he or she may submit an additional written response and supporting documentation; and
 5. shall be mailed a minimum of forty-five (45) days in advance of the earliest choice of hearing dates so that the member may:
 - a. schedule his/her appearance;
 - b. obtain counsel, if desired; and
 - c. adequately prepare his/her presentation.
- B. The notification to the member shall be accompanied by a copy of the original complaint and shall state that:
1. the Committee has examined the complaint(s) brought against the member concerning violation of the Code and that, as a result of investigation, the Committee has determined that a hearing be held;
 2. the member is charged with violation of a specified element or elements within the Code as a result of specified act(s) or conduct, which are disclosed within the notice;

3. the hearing will be conducted by the Ethics Hearing Panel, which is empowered to:
 - a. ascertain all material facts, with emphasis on facts provided by the parties and with a minimum of interpretative fact-finding by the Panel;
 - b. decide the merits of the complaint; and,
 - c. if the complaint is sustained, impose disciplinary measures.
 4. the member may be represented by counsel or appear on his/her own behalf, may confront the complainant(s), and may present and examine witnesses in accordance with hearing procedures adopted by the Committee;
 5. the member may waive the option to appear and/or the forty-five (45) day notice period, and such waiver(s) must be in writing and addressed to the Chair of the Committee;
 6. should the member decline to appear, the Committee reserves the right to conduct the hearing and resolve the issues in the member's absence; and
 7. should the member not respond within thirty (30) days of the date of receipt of the notification of a complaint, the Committee will proceed with its enforcement procedures without the member's participation.
- C. Copies of the notice shall be sent to:
1. the complainant(s); and
 2. the President and CEO of AFP.

V. CONDUCT OF HEARING

A. Nature of the hearing:

1. the Committee may adopt specific procedures for the hearing to preserve proper decorum and provide for a fair and adequate hearing;
2. the member may be represented by counsel;
3. testifying parties are to be sworn or affirmed;
4. the member will not be required to testify against him/herself;
5. a transcript or recording is to be made;
6. specific charges against the member, including Code sections alleged to have been violated, are to be read into the record;
7. the case against the member is to be presented first with the member given the opportunity to examine witnesses;
8. the member is to be given ample opportunity to present his/her defense;
9. written evidence is to be made part of the record;

10. formal rules of evidence will not apply to these proceedings, and relevant information may be presented and considered;
 11. the hearing will be confidential and will be closed to all individuals who are not participating in the proceedings; and
 12. a member of the Ethics Hearing Panel may be appointed by the Chair as Chief Hearing Officer.
- B. Roles of the Parties.
1. The judge advocate *pro tem* designated by the Committee is responsible for presenting and moving the case against the member, but shall not participate in the Ethics Hearing Panel's decision as to whether a violation of the Code has occurred. The judge advocate *pro tem* shall:
 - a. state the specific violation(s) with which the member is being charged;
 - b. summarize the Committee's investigation into the complaint and present the results of such investigation;
 - c. introduce into the record any nonverbal (i.e., written, taped, visual, etc.) testimony against the member;
 - d. present and examine any witness(es) against the member; and
 - e. examine any witness(es) testifying on behalf of the member.
 2. The member or the member's counsel may:
 - a. present the case on his/her behalf;
 - b. introduce into the record any nonverbal (i.e., written, taped, visual, etc.) testimony on behalf of the member;
 - c. present and examine any witness(es) on his/her behalf;
 - d. confront and examine any complainant(s) or witness(es) testifying against the member.
 3. The Ethics Hearing Panel shall be charged with the responsibility of determining whether, on the facts presented, the member violated the Code as charged. Members of the Panel may ask questions of any party to the hearing. The Panel shall decide solely upon matters introduced in the course of the hearing.
- C. Hearing Decision.
1. After deliberation, the Ethics Hearing Panel shall render a decision based on majority vote within fifteen (15) days or as soon as practicable and shall promptly notify the member of the decision. If the decision is that the member did violate the Code, the panel must, at the same time and place, render a decision as to penalty.
 2. If the decision is that the member did violate the Code, notification of the decision, the attendant penalty, and the member's right to an appeal shall be forwarded in writing to the member, the Committee, the Chair of the AFP Board

of Directors, the Chair-Elect of the Board of Directors of AFP in the discretion of the Chair of the Ethics Committee, and the President and CEO of AFP.

3. If the decision is that the member did not violate the Code, the member shall be informed in writing of the decision, as well as any other person requested by the member. This decision is final.
4. A copy of the record, along with all material considered by the Hearing Panel, plus a copy of the notification of decision shall be filed confidentially at the AFP International Headquarters.
5. No information about the proceedings shall be otherwise disseminated or published until after an appeal has been finally decided or until the time within which a member must appeal has expired. At that time, notification and publication shall follow the procedures set forth in Section VII.G.

VI. DISCIPLINARY ACTIONS

- A. The following disciplinary actions may be imposed upon members found to be in violation of the Code:
 1. *Reprimand.* A reprimand is a formal rebuke in writing.
 2. *Censure.* Censure is a more serious rebuke in writing, and carries a prohibition on holding any Association or chapter AFP office. Effective on the date of the final decision to censure a member, a member shall be barred from holding any AFP Association or chapter office for a period of one (1) year.
 3. *Suspension.* Suspension excludes an individual from membership in AFP for a stated period of time and/or under stated conditions. Upon expiration of the suspension period, the member shall be eligible to reapply for membership.
 4. *Revocation of Membership.* Revocation bars an individual from membership in AFP and is permanent. Revocation of membership automatically includes a recommendation to revoke certification sponsored by AFP, if applicable.
- B. In imposing disciplinary actions, the Ethics Hearing Panel or Executive Committee, as applicable, will consider the severity of the violation, the intent of the member, the extent of injury to other persons or the profession, and whether the violation was willful or negligent. The Ethics Hearing Panel or Executive Committee may in its discretion impose any disciplinary action, as warranted, in specific cases.

VII. APPEAL

- A. The Executive Committee of the AFP Board of Directors shall decide appeals from decisions of the Ethics Hearing Panel. If any Executive Committee member participated on the Ethics Hearing Panel or has or has had a business, financial, personal or familial relationship with any party to the action, that person shall recuse himself or herself from consideration of the appeal.
- B. Appeals must be submitted by the member within thirty (30) days of receipt of the decision from the Hearing Panel. Appeals must be submitted in writing to the Chair of the AFP Ethics Committee. Such appeal should outline the bases of appeal for relief, which are limited to:

1. failure of the Ethics Hearing Panel to follow published criteria, policies, or procedures, or
 2. material errors of fact.
- C. Should the Executive Committee, by simple majority vote, approve the request for appeal, the Executive Committee shall serve notice, in writing, of the pending appeal. The letter of notification shall be sent to the member via certified mail, addressee only, return receipt requested and shall state that:
1. the appeal shall be limited to a review of the written record, and shall not include a hearing or any similar trial-type proceeding;
 2. only facts and conditions up to and including the time of the Hearing Panel's determination as represented by facts known to the Hearing Panel are considered during an appeal;
 3. the member may request an appearance in person before the Executive Committee, which request is subject to the discretion and approval of the Executive Committee; and
 4. the decision of the Executive Committee is final.
- D. The Executive Committee will review the written record and take one of the following actions, by majority vote:
1. affirm the hearing decision in full;
 2. modify the hearing decision; or
 3. reverse the hearing decision, in which case any penalty imposed shall be rescinded.
- E. The Executive Committee will reach a decision within 15 days or as soon as practicable and notify the member promptly. In all cases, a letter signed by the Chair of the Ethics Committee, stating the determination shall be sent by certified mail to the member. Notification shall also be disseminated to:
1. the complainant(s);
 2. the Committee;
 3. the President and CEO of AFP;
 4. the Chair of the AFP Board of Directors; and
 5. the Chair-Elect of the Board of Directors of AFP, in the discretion of the Chair of the Ethics Committee.
- F. A copy of the record, along with all material considered by the Executive Committee, plus a copy of the notification of decision shall be filed confidentially at the AFP International Headquarters.
- G. After an appeal has been finally decided or after the time within which a member must appeal has expired, information regarding disciplinary action may be disseminated, as follows:

1. From time to time there will be AFP-wide publication of final actions taken by the Committee via Association newsletters, web sites, and other means. This is done for educational purposes only and will not identify any member who has been reprimanded, censured, or suspended.
2. In the case of censure or suspension, notification will also be disseminated to the president of the member's chapter(s).
3. In the case of revocation, notification will also be disseminated to the president of the member's chapter(s) and to all members of AFP. The revocation will be reported to the members in Association newsletters, web site material, and other means and such report shall be limited to the statement that:

(), a member of the () Chapter, has been permanently expelled from AFP by action of the AFP Ethics Committee, as authorized by the AFP Board of Directors, for violation of the Code of Ethical Principles and Standards of Professional Practice; a letter of revocation has been sent to the member; and notification of this action has been given to the complaining parties and to the AFP International Headquarters.

VIII. MEMBERS AND NONMEMBERS WITH CERTIFICATION

- A. Individuals who hold certification sponsored by AFP, and who agree to be bound by the AFP Code of Ethics as a condition of professional certification, are bound by the AFP Code whether or not they are members of AFP. For purposes of this Code and this Section VIII, the term “certified nonmember” refers to any individual who holds certification sponsored by AFP except for members of the Association for Healthcare Philanthropy (“AHP”), who agree to be bound by AHP’s procedures and disciplinary codes in all matters related to certification.
- B. The AFP Ethics Committee will accept complaints of possible violations of the Code against certified nonmembers as well as against certified members. All matters concerning certified members and nonmembers regarding potential violations of the Code will be determined by the AFP Ethics Committee, which shall make recommendations to the appropriate professional certification board. Complaints will be administered in accordance with the AFP Procedures.
- C. A professional certification board will be responsible for certification and decertification of AFP members and nonmembers. However, all matters concerning certified members and nonmembers who may have violated the Code will be determined by the AFP Ethics Committee, whose recommendations to the professional certification board shall be binding.
- D. Should a certified nonmember be found in violation of the Code by the AFP Ethics Committee, publication of disciplinary action by the professional certification board (including revocation of the certified status) will follow the procedures set forth in Section VII.G.