



ANZACATA Procedures for Handling Complaints of Violations of the Ethical Standards for Creative Arts Therapists

1. Initiation of Complaints

- 1.1 The Board of the Association shall recognise and accept written complaints from both Members and non-Members of the Association asserting violations of the Ethical Standards.
- 1.2 All complaints must be in writing and emailed. Anonymous or oral complaints will not be recognised as a basis for action or investigation.
- 1.3 All complaints must be signed by the complainant ("Complainant") and accompanied by the Complainant's contact details. In addition, the Board will only act on the basis of a complaint that specifically names the person alleged to have been affected by the accused Member's or membership applicant's ("Accused") conduct and only if the affected person agrees to be identified to the Accused.
- 1.4 Any Member who knows of a violation of the Ethical Standards should bring this to the attention of the Board in the form of a written complaint.
- 1.5 The Board may proceed on its own initiative when it has been presented with sufficient facts which, if proven, would constitute a violation of the Ethical Standards. For example, the Board may proceed based on information received from another professional organisation or a government authority. If the Board decides to proceed on its own initiative it shall prepare a written statement concerning allegations of a violation or violations of the Ethical Standards.
- 1.6 The Board may determine, at its discretion, that a complaint cannot be acted upon since the delay in reporting the allegation to the Board has impaired the Board's ability to render a fair determination. This matter would then be referred to the ANZACATA Board.

2. Initial Action by the ANZACATA Board Chair

Upon receipt of a complaint, the Board shall determine whether the person about whom the complaint has been made is a Governing Member, Associate Member or applicant ("Applicant") for membership in the Association.

- 2.1 If the person is not a Member or Applicant, the Board shall so inform the Complainant in writing and shall explain that the Association has no authority to proceed against the person.
- 2.2 If the person is an Applicant, and the Applicant wishes to proceed with his application for membership, the subsequent provisions of these procedures shall apply.
- 2.3 If the person is a Member (Governing or Associate) or an Applicant, the Board shall send an email to the Complainant acknowledging receipt of the complaint and informing the Complainant that the person complained against is a Member, or an Applicant.

3. Preliminary Determination by the ANZACATA Board

- 3.1 The Board (with the advice of legal counsel for the Association if required by the Board), shall review the complaint and determine whether the complaint warrants further action or whether the matter shall be closed without further action. In the event that the Board determines that the complaint shall be closed without further action the Complainant shall be notified of such decision and the reason for such decision. To aid in making such determination, the Board may request a written response to the email of complaint from the Accused, consult with other preliminary investigators and/or legal advisors as may be appropriate, and/or request additional information from the Complainant.

- 3.2 If the Board requests a written response from the Accused to aid in making the determination referred to in paragraph 3.1 above, or if the Board determines that the complaint warrants further action by the Board, the Board shall request the Complainant's permission for disclosure of his/her name and all written or other matter or evidence provided by the Complainant. the Board shall request that the Complainant agree in writing to waive confidentiality and/or therapist/patient privilege available to him/her so that the Board may obtain information from the Accused and others. A waiver of Confidentiality Form setting forth these issues shall be emailed to the Complainant for approval and digital signature before proceeding further.
- 3.3 If the Complainant refuses permission for the disclosure of his/her name on any of the written matter or evidence provided by the Complainant, or if the Complainant refuses to sign a waiver of confidentiality and/or therapist/patient privilege, the Board, with the advice of legal counsel if requested by the Board, may do any one or more of the following:
 - (a) close the matter and notify the Complainant;
 - (b) decide that an attempt may be made to resolve the case by agreement;
 - (c) decide whether the Board may proceed with the complaint as an investigation on the Board's own initiative; or
 - (d) refer the matter to the ANZACATA Executive Officer for hearing.
- 3.4 All correspondence to the Complainant or to the Accused shall be marked, "Confidential" or "Personal and Confidential".

4. Attempt to Resolve by Agreement

After the preliminary determination by the Board referred to in Section 3 above, the Board may attempt to resolve the case by mutual agreement with the Accused. While resolution by mutual agreement is favoured, the Board is not required to attempt such a settlement or to obtain the content of the Complainant to any settlement.

- 4.1 In making such a settlement, the Board may require the Accused to agree to any one or more of the following:
 - (a) cease and desist;
 - (b) accept censure;
 - (c) membership placed on hold pending outcome;
 - (d) receive supervision, education and/or therapy;
 - (e) discontinue his/her application for membership;
 - (f) terminate membership in the Association; or
 - (g) to comply with any other action which the Board deems appropriate.

The Board may, at its discretion, impose more stringent requirements for agreement upon Members or Applicants previously found to be in violation of the Ethical Standards, or any other professional or state code of professional conduct.

- 4.2 Any agreement disposing of a complaint shall be in writing detailing the facts upon which it is based, the terms of the settlement and the manner in which it is to be implemented and/or supervised.
- 4.3 The agreement shall be implemented and/or supervised by the Board and/or any Member of the Association so designated in the agreement.
- 4.4 The agreement shall become final when signed by the Accused and a member of the Board or at any other time designated in the agreement. The agreement shall be placed in a sealed envelope and signed across the seal by a member of the Board. The envelope shall be filed in the National Office Ethics file, indexed by the name of the Accused. Only a current member of the Board from time to time may unseal the envelope when or if new allegations against the Member are made. A summary form listing only the Member's name, date of ethics determination and action shall be

placed in the membership or application file of the Accused to refer investigators to the Ethics file when or if new allegations are made against the Accused.

- 4.5 If the Board does not reach settlement by mutual agreement, it will take other action as set out in Section 3.3 as is in its discretion appropriate.

5. Investigation by the ANZACATA Board or Designees

- 5.1 When the Board has determined that the complaint warrants further investigation by the Board, it shall ensure that copies of the complaint and any supporting documentation/evidence and any written response from the Accused are in the possession of all members of the Board.
- 5.2 The Board shall cause an investigation of the complaint to take place. This investigation may be carried out by one or more members of the Board. Consultation with legal counsel may be taken if desired.
- 5.3 It is considered a conflict of interest if a member of the Board is personally involved with either the Complainant or the Accused and such member shall not review or participate in the case. Such member shall be excused from the investigation and/or any proceedings or decisions on the case.
- 5.4 The Board, in consultation with legal counsel, if it so desires, shall prepare and send an email to the Accused, prior to the investigation commencing, specifying the Ethical Standards which may have been violated by the Accused. The letter shall contain a request that the Accused cooperate with the Board in their efforts to obtain a full understanding of the circumstances which led to the allegation(s), and to provide a written statement responding to the allegation(s) made by the Complainant.
- 5.5 The Accused shall be sent a copy of the Procedures Regarding the Ethical Standards for Arts Therapists, when first contacted by the Board.
- 5.6 Investigations may be conducted by corresponding and/or interviewing the parties involved in the dispute. Interviews may be conducted in person or by telephone.
- 5.7 During the investigative stage of the proceedings, the Accused shall have the right to consult with legal counsel and shall have the right to have benefit of legal counsel for any investigatory meeting or interview.
- 5.8 If an Accused fails to maintain membership in the Association at any stage of the investigations of the complaint, the Board, at its discretion, may continue its investigation and proceedings if the Accused was a Member at the time of the alleged conduct. If inability to pay dues is cited as a reason for voluntary resignation by an Accused under ethics investigation, the Board may suspend dues obligations until the investigation is completed.
- 5.9 After the investigation is completed, a full report shall be made to the Board detailing the findings and recommendations.
- 5.10 The Board, after receiving the report of the investigation, may take such action as is authorised in Section 3.3 of these procedures.

6. Procedures for Hearings

A hearing pursuant to Section 9(1) and (2), or 5(3), of the Constitution, or pursuant to the above mentioned sections of these Procedures, shall be conducted as follows.

- 6.1 A hearing in person or via telephone conference shall be scheduled to take place by a member of the Board. A member of the Board who is personally involved with either the Complainant or the Accused, shall not comprise part of the Board for the purpose of the hearing.
- 6.2 The Complainant and Accused shall be notified promptly of the hearing date, time and place. Each party shall bear its own costs of attendance at the hearing.
- 6.3 At least thirty (30) days before the hearing, the Board shall furnish the Accused and the Complainant with copies of all documents and the names of witnesses who will appear in support of the charges.

- 6.4 The Executive Officer shall conduct the hearing and shall have the right to:
- (a) confer with and/or have legal counsel for the Association present;
 - (b) receive testimony of witnesses and evidence to support or represent the charge;
 - (c) examine witnesses who appear for either party; and
 - (d) contact third parties who may have knowledge of pertinent facts.
- 6.5 The Complainant and/or a representative of the Board (if it should see fit) and the Accused shall each have the right to:
- (a) be present and be heard at the hearing;
 - (b) be represented by legal counsel;
 - (c) present witnesses and evidence;
 - (d) cross-examine witnesses against him/her and appear on his/her own behalf;
 - (e) make opening and closing statements; and
 - (f) submit written representations and memoranda supporting his/her position.
- 6.6 All evidence which is considered relevant and reliable, as determined by the Board shall be admissible. The formal rules of evidence shall not apply. The weight of all evidence and credibility of testimony shall be judged solely by the Board.
- 6.7 A tape recording of the hearing shall be made if requested by either party or the Board. If a party makes the request, he/she shall pay the expense of recording the hearing and shall be entitled to a copy of such recording.
- 6.8 The Complainant (or if there is no Complainant, then the representative of the Board) shall have the burden of proving the charges by preponderance of the evidence.
- 6.9 The Executive Officer shall issue the decision in writing within thirty (30) days after the hearing.
- 6.10 The decision shall state in writing:
- (a) the Board's findings of fact;
 - (b) whether a violation of the Ethical Standards was found and, if so, the Ethical Standards violated;
 - (c) the Board's decision; and
 - (d) an outline of the Board's reasons for its findings and decision.
 - (i) if no violation of the Ethical Standards is found, the Board shall order the complaint dismissed.
 - (ii) if one or more violations of the Ethical Standards are found, the Board shall order any action to be taken, including an order to cease and desist, censure, therapy, probation, rehabilitation, supervision, education, suspension of membership or expulsion, reject an application for membership, or any other action which the Board deems appropriate.

The decision shall also specify the manner and timing in which the action is to be implemented and/or supervised.

6.11 A copy shall be provided to the Complainant, the Accused, and the Board.

6.12 Appealing a decision:

- (a) pursuant to the provisions of the Constitution, Sections 9(4) and 9(5), a decision by the Board to expel a member may be appealed to the Association in general meeting.
- (b) pursuant to the provisions of the Constitution, Sections 5(4) and 5(5), a decision by the Board to reject an application for membership may be appealed to the Association in general meeting.

7. Records and Disclosure of Information

The permanent files of the Board shall be maintained in the records of the Association.

- 7.1 All information obtained by the Board, and all proceedings of the Board, shall be confidential except as follows:
 - (a) information may be disclosed by those investigating the complaint to the extent reasonably necessary to pursue a thorough investigation.
 - (b) the Board may, at its discretion and with the approval of the Chair of the Board, authorise the publication of settlements by mutual agreement without disclosing the name of the Complainant or the Accused.
 - (c) in situations in which an accused Member resigns from ANZACATA and a notification by the Board that it has received a complaint, and a violation of the Ethical Standards is subsequently proven, any publication may include the fact of the accused Member's resignation.
- 7.2 Whenever there is a finding made that a Member has violated the Ethical Standards and disciplinary action is ordered, the Board or its designee is authorised to disclose the ethics violation and disciplinary action to the membership of the Association and any actions affecting membership status. Publication may also be made of other sanctions at the discretion of the Board. Publication will be made in the Newsletter and will include the Member's full name, any earned degree, geographical location and the violation of the section of the Ethical Standards proven.
- 7.3 Whenever the Board finds that a Member is not guilty of the Ethical Standards violations charged, that fact shall be disclosed to the membership of the Association only upon the written request of the Accused.
- 7.4 The Board may inform government authorities and other professional organisations of any disciplinary action taken against a Member for violating the Ethical Standards.