



## **CODE OF ETHICAL AND PROFESSIONAL CONDUCT**

December 1, 2022

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## INTRODUCTION

The Florida Certification Board is dedicated to the principle that health and human services professionals must demonstrate high standards of ethical and professional conduct. The FCB requires all applicants for FCB certification and FCB-certified professionals to comply with the FCB Code of Ethical and Professional Conduct. This document contains (1) the Rules of Ethical and Professional Conduct, and (2) Complaint, Investigation, and Discipline Policies and Procedures, and (3) Appeal Policies and Procedures.

The FCB is committed to investigating and sanctioning any certified professional who violates this Code. It is the responsibility of certified professionals to become thoroughly familiar with the Rules and Disciplinary Procedures of the FCB Code of Ethics and Professional Conduct and conduct their professional behavior accordingly.

If the FCB makes changes to the Code of Ethical and Professional Conduct it will notify applicants and certified individuals, but it remains the responsibility of these individuals to ensure that they are complying with the most current standards. The most updated version of the FCB Code of Ethical and Professional Conduct is maintained and available for download on the FCB website.

## DEFINITION OF TERMS

**Advisory Council:** An FCB standing committee composed of representative certified professionals who provide feedback and direction on policy-related issues, ethical violations, and other issues impacting the certified population.

**Appeal Hearing:** A formal hearing conducted when a Respondent is granted an appeal of disciplinary action by the FCB Board of Directors in regard to an alleged violation of the FCB Code of Ethical and Professional Conduct.

**Appeal Hearing Committee:** A committee convened by the FCB Board of Directors to hear, consider, and make recommendations following an appeal by a Respondent of the decision of the Ethics Committee. The committee has three voting members who compose the Appeal Hearing Panel and one non-voting member who presides over the Appeal Hearing.

**Appeal Hearing Officer:** A non-voting member of the Appeal Hearing Committee who presides over the Appeal Hearing.

**Appeal Hearing Panel:** The three voting members of the Appeal Hearing Committee.

**Applicant:** An individual who has submitted an application for certification, but is not yet certified, including professionals who are FCB-certified in one area and are seeking additional certification in another area. Applicants are subject to the Code of Ethical and Professional Conduct.

**Certified Professional:** An individual with an FCB-issued credential in good standing.

**Chapter 120 Hearing:** A state administered hearing afforded to applicants and certified professionals seeking or holding credentials governed by Chapter 397, Florida Statutes. Per 2021 legislative citation



(397.321(15), F. S.): “Duties of the department. The department shall recognize a statewide certification process for addiction professionals and identify and endorse one or more entities responsible for such certification of service provider personnel. Any decision by a department-recognized credentialing entity to deny, revoke, or suspend a certification, or otherwise impose sanctions on an individual who is certified, is reviewable by the department. Upon receiving an adverse determination, the person aggrieved may request an administrative hearing pursuant to ss. 120.569 and 120.57(1) within 30 days after completing any appeal process offered by the credentialing entity or the department, as applicable.”

**Clear and Convincing Evidence:** Information relating to an allegation which is credible and verifiable, including witness memories that are clear, and without confusion. Such information must create a firm belief and conviction of the truth of the facts presented and, when considered as a whole, must convince the FCB without hesitation that the Respondent will pose a threat to the safety and/or well-being of others, especially clients. Clear and convincing evidence is a heavier burden than the “preponderance of the evidence” standard but less than the “beyond a reasonable doubt” standard.

**Client:** An individual seeking or receiving services from an employer of an applicant or certified professional.

**Code:** An abbreviated term denoting the FCB Code of Ethical and Professional Conduct.

**Code of Ethical and Professional Conduct:** The FCB standards of ethical and professional conduct, including rules and procedures for complaints, discipline, and appeals.

**Complaint:** A formal written allegation of ethical or professional misconduct by an FCB applicant or certified professional.

**Complainant:** An individual who files a formal complaint against an FCB applicant or certified professional.

**Consent Order:** A voluntary agreement between the FCB and the Respondent that waives continued investigation and specifies the sanctions to be applied for violation of the Code of Ethical and Professional Conduct. Carries the same weight as a final decision by the FCB Board of Directors.

**Ethics Committee:** A standing committee of subject matter experts who receive and review Investigation Summary Reports and supporting documentation and subsequently recommend sanctions, dismissal, or return of the case for further investigation.

**Ethics Investigator:** An FCB staff member assigned to conduct the investigative activities necessary to present to the Ethics Committee a full picture of the Complaint, the Respondent's written response, and supporting documentation for review and action.

**Fraudulent Claim:** A fraudulent claim includes, but is not limited to, charging a client or a third-party payer for a service not performed, or submitting an account or charge for a service that is false or misleading. Charging for a missed appointment is not considered a fraudulent claim.

**Immediate Family:** A spouse, domestic partner, child, parent, parent-in-law, sibling, grandchild, grandparent, or any other household member of an FCB applicant or certified professional.



**Investigation Summary Report (ISR):** A document prepared for the Ethics Committee that includes a complete copy of the original Complaint, the Respondent’s written response, and other relevant information collected and analyzed by the FCB Ethics Investigator in response to the Complaint.

**Preponderance of the Evidence:** A greater than 50 percent chance that the Complainant’s allegations are true.

**Probative Value:** The degree to which evidence or facts tend to prove the existence of other facts or issues.

**Respondent:** The FCB applicant or certified professional who is the subject of a formal Complaint alleging a violation of the FCB Code of Ethics and Professional Conduct.

**Revocation:** The complete forfeiture of all FCB-issued credentials and eligibility to apply for future credentials for a minimum of three years.

**Rules:** Standards of ethical and professional conduct that apply to all FCB applicants and certified professionals.

**Sanction:** Any disciplinary action imposed by the FCB at the recommendation of the Ethics Committee in response to investigative findings. Sanctions may include fines, written reprimands, suspension, and/or revocation of certification. Imposed sanctions apply to all applications for certification or certifications held by the Respondent.

**Sexual Misconduct:** Engaging, attempting to engage, or offering to engage in any spoken, written, or physical behavior that is intended to be sexually arousing, including kissing, touching breasts, genital areas, buttocks, or thighs, whether clothed or unclothed; any form of intercourse; or any form of oral sex. Applicants and certified professionals are prohibited from any form of sexual conduct, whether consensual or nonconsensual, with: (1) a client of their employer, even if the client is not assigned to receive services from the individual, (2) an immediate family member of a client, or (3) a direct supervisee.

**Summary Suspension:** An immediate suspension of all FCB-issued credential(s) or application(s) for certification when a preponderance of the evidence contained in the ethical Complaint supports emergency action while the case is being investigated.

**Supervisee:** An individual who works under the direct supervision of an FCB applicant or certified professional.

**Suspension:** A sanction resulting in the temporary forfeiture of all FCB-issued credentials and eligibility to apply for future credentials until the suspension period and related requirements are satisfied and the individual is granted approval to reinstate the suspended credential(s).

**Written Reprimand:** A formal sanction that expresses disapproval and/or provides a warning in regard to the Respondent’s behavior. A written reprimand becomes part of the Respondent’s certification record, but is not a public sanction. No more than two written reprimands per individual may be issued before suspension or revocation is warranted.



# RULES OF ETHICAL AND PROFESSIONAL CONDUCT

The Rules of Ethical and Professional Conduct (hereafter, “Rules”) are the foundation of the FCB Code of Ethical and Professional Conduct. All FCB applicants and certified professionals are expected to comply with these Rules. Failure to follow the Rules may result in the formal Complaint process described in the section on Complaint, Investigation, and Discipline Policies and Procedures.

Some of the Rules below are supplemented with a discussion section. The discussion is intended to explain or illustrate the meaning of a Rule. The Rule itself is the formal and authoritative description of the conduct for which disciplinary action may be imposed.

## 1. Professional Standards

- 1.1 An applicant or a certified professional will meet and comply with all terms, conditions, or limitations of any professional credential(s) they hold.
- 1.2 An applicant or a certified professional will not perform services outside of their area of training, expertise, competence, or scope of practice.

*Discussion of Rule 1.2: When the therapeutic issues of a client are outside the applicant or certified professional's level of professional functioning or scope of practice, the applicant or certified professional must refer the client to another professional with the qualifications needed to provide the appropriate therapeutic approach for the client.*

- 1.3 An applicant or certified professional will not in any way participate in discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, socio-economic status, political belief, psychiatric or psychological impairment, physical disability, or previous therapeutic or treatment occurrences.
- 1.4 An applicant or certified professional will place their application or credential(s) on inactive status when any mental, physical, or behavioral-health-related adversity interferes with their professional functioning.

*Discussion of Rule 1.4: The private life of an applicant or certified professional remains a personal matter to the same degree as any other person. However, when a personal issue begins to adversely affect professional performance, thus reducing the quality of service delivered and putting the client at risk, the applicant or certified professional must take sufficient and timely action to resolve the adversity before returning to professional practice.*

- 1.5 An applicant or certified professional will not practice during the period of any denial, suspension, revocation, probation, or other restriction or discipline related to their certification, license, or other authorization to practice that was issued by any certification authority or any state, province, territory, tribe, or the federal government.
- 1.6 An applicant or certified professional must maintain a high standard of ethical and professional conduct.

*Discussion of Rule 1.6: The moral, ethical, and legal standards of behavior of the applicant or certified professional are a personal matter to the same degree as they are for any other individual, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in applicants or certified professionals.*



## 2. Criminal Activity

- 2.1 An applicant or certified professional will comply with all State and Federal laws.
- 2.2 An applicant or certified professional will report all arrests and case dispositions to which they have been subject, regardless of adjudication of any felony or first-degree misdemeanor crime. Such report must be received within 72 hours of release from any State or Federal confinement.

*Discussion of Rule 2.2: Any public record pertaining to an arrest, charge, disposition, or sentencing of a certified professional will be deemed as conclusive evidence of guilt of the felony or misdemeanor for which he or she has been convicted. If that felony or misdemeanor relates to the individual's ability to practice in the credentialed discipline, the fact of conviction will also be proof of violation of Rule 2.3. All proceedings in which the sentence has been deferred, suspended, adjudicated, or withheld, or where a conviction has been expunged, will be deemed a conviction within the meaning of this section.*

## 3. Sexual Misconduct

- 3.1 An applicant or certified professional will not engage in any sexual misconduct with a client during the time when services are rendered to the client and for a minimum of two years after the termination of the professional relationship.

*Discussion Rule 3.1: This Rule applies to any client of the agency employing the applicant or certified professional, regardless of whether or not the client is assigned to the applicant or certified professional. The Rule also applies for a minimum of two (2) years from the date of the client's last professional interaction with the applicant or certified professional's employer. Although the professional relationship is deemed terminated two (2) years after termination of professional services, the certified professional will not engage in or request sexual contact with a former client at any time if engaging with that client would be exploitative, abusive, or detrimental to the client's welfare.*

- 3.2 An applicant or certified professional will not engage in sexual misconduct with any family member or guardian of a client during the time when services are being rendered to the client.
- 3.3 An applicant or certified professional will not engage in sexual misconduct with a supervisee during the time the supervisory relationship exists.

## 4. Fraud-Related Conduct

- 4.1 An applicant or certified professional will not present fraudulent documents when applying for certification, certification upgrades, or certification renewal.
- 4.2 An applicant or certified professional will not prepare fraudulent certification documents for other certification applicants.
- 4.3 An applicant or certified professional will not use a title designation, credential or license, firm name, letterhead, publication, term, title, or document that states or implies an ability, relationship, or qualification that does not exist.



- 4.4 An applicant or certified professional will not practice under a false name or under a name other than the name under which their certification is held.
- 4.5 An applicant or certified professional will not prepare, present, or participate in activities related to fraudulent billing or benefit claims under any reimbursement program, benefits program, or insurance policy/program.
- 4.6 An applicant or certified professional will not produce, publish, create, or partake in the creation of any false, fraudulent, deceptive, or misleading advertisement.

## 5. Exploitation of Clients

- 5.1 An applicant or certified professional will not develop, implement, or maintain exploitative relationships with current or past clients.

*Discussion of Rule 5.1: Ethical problems often arise when an applicant or certified professional blends their professional relationship with a client with another kind of relationship. The nature of the client-professional relationship is such that the client remains vulnerable to the real or perceived influences of the applicant or certified professional. An applicant or certified professional who is in a position to influence a client's behavior may not impose his or her own desires upon the client.*

- 5.2 An applicant or certified professional will not misappropriate property from a client.

*Discussion of Rule 5.2: The term misappropriate means dishonestly or unfairly take something, such as money or property, belonging to another for one's own use. Misappropriation typically occurs when an applicant or certified professional is granted lawful access to a client's money and takes or spends the money for personal gain rather than for direct client care. Additionally, documents or reports created with false or misleading information, specifically designed to sidestep regulations concerning client property is considered misappropriation.*

- 5.3 An applicant or certified professional will not enter into a relationship with a client that involves financial gain to the certified professional or a third party because of the promotion or sale of services unrelated to treatment.

- 5.4 An applicant or certified professional will not recommend to a client any unnecessary, ineffective or unsafe device, treatment, procedure, product, or service.

- 5.5 An applicant or certified professional will not solicit gifts or favors from clients.

*Discussion of Rule 5.5: When an applicant or certified professional "plays" or "preys upon" the client's gratitude for counseling services, or covertly or overtly implies or states that the client remains indebted and should "repay" the applicant or certified professional through gifts or other favors, the applicant's or certified professional's unique position of trust and responsibility with the client becomes jeopardized.*

- 5.6 An applicant or certified professional will not offer, give, or receive commissions, rebates, or any other forms of remuneration for a client referral.

*Discussion of Rule 5.6: This standard refers to activities related to patient brokering.*





## 6. Safety & Welfare

- 6.1 When a condition of clear and imminent danger exists that a client may inflict serious bodily harm on another person or persons, an applicant, or certified professional will, consistent with federal and state confidentiality laws, take reasonable steps to warn any likely victims of the client's potential behavior.
- 6.2 When a client poses a threat of clear and imminent danger involving serious bodily self-harm, an applicant or certified professional will, consistent with federal and state confidentiality laws, take reasonable steps to protect the client from self-harm.

*Discussion of Rules 6.1 and 6.2: The applicant or certified professional should be aware that state and federal regulations exist concerning the confidentiality of communication between applicants and clients, or certified professionals and clients, as well as the confidentiality of client records and other identifying information.*

*When there is a threat that a client may commit a crime on agency premises or against agency personnel, applicants or certified professionals may directly disclose to law enforcement officers the circumstances of the threatened crime and identity of the client.*

*In other instances, before such information can be disclosed, it may be necessary for the applicant, certified professional, or relevant agency to make an emergency application to the court for an order permitting disclosure of information concerning the client or communications from the client.*

## 7. Records Management

- 7.1 An applicant or certified professional will not falsify, amend, knowingly make incorrect entries, or fail to make timely essential entries into the client record.
- 7.2 An applicant or certified professional will follow all federal and state regulations regarding client records.
- 7.3 An applicant or certified professional will comply with all federal and state confidentiality laws.

*Discussion Rule 7.3: Except as otherwise indicated in the Code, applicants and certified professionals are expected to refrain from revealing confidential information unless authorized by the client or required or by law. Applicants and certified professionals are expected to be familiar with and act in accordance with federal and state regulations concerning the confidentiality of client records and identifying information.*

## 8. Cooperation with the Board

- 8.1 An applicant or certified professional will report any violation of the Rules of Ethical and Professional Conduct by filing a formal Complaint with the FCB.

*Discussion Rule 8.1: An applicant or certified professional should file a Complaint within no more than 30 calendar days after becoming aware of a violation of the Code by an FCB applicant or certified professional. However, there is no statute of limitations for a violation of the Code, and the FCB will accept Complaints of a violation at any time.*



- 8.2 An applicant or certified professional will not provide the FCB with false or misleading information or file a false or misleading Ethics Complaint with the FCB.
- 8.3 An applicant or certified professional will comply with all federal and state confidentiality requirements when submitting complaints of ethical misconduct to the FCB.
- 8.4 An applicant or certified professional will cooperate with every part of the investigatory process that follows a Complaint, including any investigation or related proceeding conducted by the FCB.
- 8.5 An applicant or certified professional will not attempt to prevent or interfere with the filing of a Complaint or with any investigation or related proceeding conducted by the FCB.

*Discussion Rule 8.5: Interference attempts may include but are not limited to: (1) the use of threats or harassment against, or an inducement to, any individual in an effort to prevent a complaint from being filed, prosecuted, or completed; (2) the use of threats or harassment against, or an inducement to, any client or witness in an effort to prevent them from providing evidence in an investigation, disciplinary proceeding, or any other legal action, or (3) the willful misrepresentation of facts before the disciplining authority or its authorized representative.*



## COMPLAINT, INVESTIGATION, AND DISCIPLINE PROCESS

The FCB accepts allegations of violations by FCB applicants and certified professionals of the FCB Rules of Ethical and Professional Conduct. Complaints that meet eligibility criteria will be followed by an investigation and potentially result in disciplinary action. The policies and procedures in this section guide the Complaint, Investigation, and Discipline process. If a complaint results in disciplinary action, the Respondent may appeal the decision under certain circumstances, as described in the section on Appeal Policies and Procedures.

### 9. Confidentiality of Proceedings

- 9.1 Except as otherwise provided in this section, all information, notes, reports, transcripts, and documentation of any kind that is generated or received during the course of an ethics complaint, investigation, discipline, appeal, as well as all associated Committee and Board meetings, shall be kept confidential by the FCB. Confidential materials will be released only as required by law or directed by valid subpoena.
- 9.2 Complaints that are denied for investigation are confidential unless the Complainant appears to be using the FCB to harass or otherwise interfere with an FCB applicant's or certified professional's right to work.
- 9.3 If the FCB accepts a Complaint and initiates an Investigation, the Respondent is entitled to and will be given a full and complete copy of the Complaint, including the Complainant's name and supporting documentation. This Notice of Investigation will be sent to the Respondent by both email and certified U.S. mail. The FCB will decide whether to open an investigation based on the information in the Notice of Investigation. If the Complainant or another source supplies any additional information in support of the Complaint, this information will be classified as confidential investigative findings and will not be provided to the Respondent.
- 9.4 At the conclusion of the investigation, the Respondent may request and is entitled to a full and complete copy of the Investigative Summary Report. At no time is the Respondent permitted access to FCB electronic or physical records associated with the Complaint, Investigation, and Discipline processes.
- 9.5 At the conclusion of the investigation, the Complainant may request and is entitled to a full and complete copy of the Ethics Committee Recommendation for Action or the Hearing Panel Recommendation for Action.

### 10. Due Process and Need to Maintain Current Contact Information

- 10.1 The FCB is committed to assuring all FCB applicants and certified professionals are afforded due process. When a Complaint is accepted for investigation, due process requires that the FCB give to the subject of a Complaint accepted for investigation: (1) official and timely notice, (2) an opportunity to present their response to the Complaint, and (3) a decision by neutral decision



makers. The policies and procedures detailed herein are established to afford due process to all FCB applicants and certified professionals alleged to have violated the Code.

- 10.2 FCB applicants and certified professionals must maintain current primary email and physical mailing addresses with the FCB in order to ensure that the FCB has the ability to notify them of complaints, investigations, findings, discipline, appeal opportunities, and other activities.
  - 10.2.1. Unless otherwise specified, the FCB will send a maximum of two email notices and two certified letter notices to the addresses on file to ensure due process.
  - 10.2.2. Failure of the Respondent to receive notice due to one or more incorrect addresses is not a valid reason to request an appeal under the due process standard.
  - 10.2.3. Failure of the Respondent to reply to a notice or otherwise participate in the investigation is not a valid reason to request an appeal under the due process standard.
- 10.3 The Respondent is afforded the right to be heard through their submission of an official, written Response to the Complaint, which will be provided to the Ethics committee. The Respondent is not permitted to attend committee meetings. In the event of an appeal, the Respondent will participate in a virtual, web-based meeting and will present their case directly to the Appeal Hearing Panel.

## 11. Oversight and Conflict of Interest

- 11.1 The FCB Director of Certification oversees the enforcement of the Code of Ethical and Professional Conduct and supervises the FCB's Ethics Investigators and team members.
- 11.2 The FCB President & CEO supervises the FCB Director of Certification and approves all final recommendations for action prior to implementation, as described herein.
- 11.3 FCB ethics Investigators are trained and/or nationally certified to conduct effective and valid investigations into allegations of violation of the Code. Ethics investigators are the primary point of contact between the Complainant and the FCB, the Respondent and the FCB, and any others involved in the investigation. They are also charged with preparing the results of the investigation for review by the Ethics committee.
- 11.4 Ethics Committees are charged with receiving complete investigations, reviewing all investigative reports, and making recommendations for action. Ethics committees are staffed with odd numbers of members; each member holds certification or is an FCB-approved subject matter expert in the suite of credentials held by the Respondent. The FCB Director of Certification is a non-voting member of the Ethics committees.
- 11.5 Should any party to the Complaint process, including FCB staff, members of Ethics committees, or the Board of Directors, have a conflict of interest with any party to the case, the duties of said individual shall be delegated and that person shall be recused from any involvement in the case, including investigation, disciplinary, and appeals processes.



## 12. Reporting Complaints of Ethical or Professional Misconduct

- 12.1 The FCB accepts Complaints from any person who, in good faith, has suspected or verified knowledge of an FCB applicant or certified professional violating the Code. All applicants and certified professionals have an ethical obligation, as stated in the Code, to report any violation of the Rules by filing a formal ethics complaint with the FCB.
  - 12.1.1. The FCB may initiate a Complaint for cause.
  - 12.1.2. The FCB does not accept anonymous Complaints.
- 12.2 All Complainants are encouraged to submit Complaints within no more than 30 calendar days of becoming aware of the allegation; however, the FCB will accept Complaints after the recommended 30-day reporting timeframe.
- 12.3 Complaints are reported to the FCB by submitting a complete, legible *FCB Ethics Complaint Form* (maintained on the FCB website), and supporting documentation. Complaints must include the name and contact information of the Complainant, the name of the individual alleged to have violated the Code, and a clear description of the alleged violation(s).
- 12.4 Complaints may be submitted to the FCB via email or U.S. mail. Contact information and additional guidance on submitting a Complaint is provided on the *FCB Ethics Complaint Form*.
- 12.5 A Complainant may ask to revoke a submitted Complaint; however, the FCB may choose to pursue the investigation under its own authority.

## 13. Reviewing Complaints, Determining Appropriate Action, Noticing Parties

- 13.1 Within 10 business days of receipt of a complete Complaint, the FCB Director of Certification will evaluate the Complaint, including all supporting documentation, and make one of the following determinations:
  - 13.2.1. Accept the Complaint, update credentials to “Certified – Open Ethics Investigation” status, and conduct the investigation.
  - 13.2.2. Accept the Complaint, issue an immediate Summary Suspension, update credentials to “Summary Suspension” status, and conduct the investigation.
  - 13.2.3. Deny the Complaint for lack of jurisdiction, lack of alignment with an ethical or professional practice standard, lack of supporting documentation, or other specified cause.
- 13.2 The Complainant and, if appropriate, the Respondent, will be notified within five business days of determination to deny or accept the Complaint for investigation.
  - 13.2.1. If a Complaint is denied, a formal email notice will be sent to the Complainant detailing the rationale supporting the denial and any next steps for follow-up, if appropriate. This is the final official communication between the Complainant and the FCB regarding the Complaint. The Respondent will not be notified of a denied Complaint.



- 13.2.2. If the Complaint is accepted for investigation, formal action will be taken and notices will be sent to the Complainant and Respondent as follows:
- a. Update of Credentialing Records: The FCB will update the Respondent's credential(s) to "Certified – Open Ethics Investigation" or "Summary Suspension" status.
  - b. Notice to Complainant: An email notice will be sent to the Complainant detailing the FCB's decision to open a case, actions taken to notify the Respondent, and next steps.
  - c. Notice to Respondent: An email notice and a hard copy certified U.S. mail *Notice of Investigation* will be sent to the Respondent. The Notice will include a full and complete copy of the Complaint with all supporting documentation, credentialing status changes, instructions for requesting a Consent Order, and the due date for the Official Response to the Complaint.

## 14. Timely Response to Notice of Investigation

- 14.1. The FCB will not discuss the Complaint with the Respondent, verbally or in writing, until the Respondent has submitted an *Official Response to the Complaint*. After submitting an initial response, the Respondent may submit additional information until the case is prepared for review by the Ethics committee. Further, while the Respondent may talk with FCB Investigators about the investigative process after submitting an initial official response to the Complaint, Investigators are not able to share with the Respondent any information gathered as part of the Investigation or any speculation about the potential outcomes.
- 14.2. The due date for the Official Response to the Complaint shall be no less than 20 and no more than 30 calendar days from the date the FCB emails *Notice of Investigation* to the Respondent. The Respondent may request additional time to submit a response. The final decision to grant or deny a request for additional time is at the sole discretion of the FCB Director of Certification.
- 14.3. : A Respondent may take any of the following actions in response to the Notice of Investigation:
- 14.3.1. Provide a timely *Official Response to the Complaint*.
  - 14.3.2. Request a Consent Order.
  - 14.3.3. Not respond. The FCB views the Respondent's failure to respond to the Notice of Investigation within established timeframes as an admission of guilt and will proceed with an investigation accordingly. Further, failure to respond is not grounds to request an appeal under the due process standard.
- 14.4. The FCB expects the Respondent to prepare an *Official Response to the Complaint* with the following information, at a minimum:
- 14.3.1. The Respondent's name, employment status at the time of their response (to include position and employer), employment status at the time of the alleged conduct (to include position and employer), specific response to each allegation contained in the Complaint; and supporting detail and/or documentation to support the response.



- 14.3.2. The Respondent may also identify other individuals the FCB may contact as part of the investigation. If others are identified, the Respondent must provide their name and contact information, explain their relationship to the Complainant, and summarize their involvement and/or knowledge of the events or situation that led to the allegation(s) and Complaint.

## 15. Consent Order

- 15.1. A Consent Order is a voluntary agreement between the FCB and the Respondent that carries the same weight as a final determination of sanctions approved by the FCB's President and CEO, as detailed herein. A finalized Consent Order will result in a waiver of the Respondent's right to appeal the outcome with the FCB or other related authority.
- 15.2. A Respondent may agree to a Consent Order as their initial response to the Notice of Investigation or a Respondent may request a consent order during the course of an active investigation. The Respondent's request to transfer to a Consent Order rather than continue the investigation is due, in writing, to the FCB investigator assigned to their case no less than 10 business days prior to the scheduled Ethics committee review of the case. The determination to accept or reject the request will be made by the FCB Director of Certification within two (2) business days of receipt of the request.
- 15.2.1. Consent Order Accepted: Within 10 business days of approving a request to enter into a Consent Order, regardless of request pathway, the FCB will prepare an official Consent Order for signature by the Respondent. The order will be sent to the email address of the Respondent, who must return the signed order to the FCB investigator assigned to their case within five (5) days of receipt from the FCB. Failure to return the signed order within these timeframes will result in revocation of the offered Consent Order and the reinstatement of the investigative process as detailed herein.
- 15.2.2. Consent Order Rejected: Within two (2) business days of denial of the request to enter into a Consent Order, the FCB investigator assigned to the case will notify the Respondent of the determination by email. The investigative process will continue as detailed herein.
- 15.3. Executed Consent Orders are reported to the Ethics committee and the FCB Board of Directors at their next regularly scheduled meetings.

## 16. Investigation Process, Management Review, Recommendation

- 16.1. Investigations are conducted by nationally certified investigators under the supervision of the FCB Director of Certification. Investigators are tasked with gathering documentation and other evidence from the Complainant, the Respondent, and others who have information relevant to the investigation, as well as compiling and analyzing evidence against the allegations and preparing an investigative impression of findings.
- 16.2. Within no more than five (5) business days of receipt of the *Official Response to the Complaint*, the investigator will present preliminary investigative findings and a recommendation to the



FCB Director of Certification to either continue the investigative period or prepare the case for supervisory review and direction.

- 16.2.1. If the investigation is continued, official notice of such will be provided to the Complainant and the Respondent by email. This will occur every 30 days until the case is prepared for supervisory review and direction.
- 16.2.2. If the investigation is accepted for supervisory review, the Investigator will prepare an initial written Investigative Summary Report for the FCB Director of Certification to review for one of the following actions:
  - a. Dismiss the case without further investigation. The Complainant and Respondent will receive official notification of the dismissal. The dismissal will be reported to the Ethics committee at its next regularly scheduled meeting.
  - b. Continue the investigation. In this instance, notice will be emailed to the Complainant and the Respondent. This will occur every 30 days until the case is dismissed or approved for formal committee review.
- 16.3. Close the investigation, write an Investigative Summary Report, and prepare the case for review and action by the Ethics committee at its next regularly scheduled meeting. In this instance, notice will be emailed to the Complainant and Respondent, to include the anticipated date the case will be presented to the Ethics committee for review and action.

## 17. Investigative Summary Report

- 17.1. The Investigator assigned to the case will develop a written Investigative Summary Report (or ISR) for members of the Ethics committee. Reports are provided to committee members a minimum of 10 days before the scheduled meeting.
- 17.2. The Investigative Summary Report includes, at a minimum, five sections:
  - 17.2.1. Complaint: A summary of the Complaint, including any additional allegations that may have been determined because of the Investigation and a complete copy of the original Complaint submitted by the Complainant.
  - 17.2.2. Timely Response to Complaint: A list of all email and certified U.S. mail attempts to notice the Respondent of the investigation, including the required response date and the actual response date, if any.
  - 17.2.3. Complaint Response: A summary of the Response to the Complaint, as submitted by the Respondent, and a complete copy of the written Response submitted by the Respondent.
  - 17.2.4. Investigative Findings: A summary of the investigation conducted, including all individuals contacted, information collected/documentation received, and formulated investigative impressions. Original investigative documents are not included in the ISR.





- 17.2.5. FCB Recommendation for Action: A supported recommendation to the Ethics committee to either dismiss the case, recommend sanctions, or engage in further discussion to determine appropriate actions.

## 18. Disciplinary Sanctions

- 18.1. FCB strives to apply discipline equally to similar violations; however, all recommendations will reflect the appropriate level of discipline and accompanying sanctions given the case circumstances.
- 18.2. The possible sanctions for violation of ethical or professional standards of conduct may be applied in any order or combination and include Denial of Eligibility to Apply for Certification, Official Reprimand, Suspension, Revocation, Fines, Training Requirements, and/or Evidence of Rehabilitation. If fines are assessed, they may not exceed \$500 for a first offense, \$750 for a second offense, and \$1,000 for a third offense.
- 18.3. The Committee may consider the Respondent's history concerning ethical allegations, sanctions, or other discipline when determining the appropriate sanctions for the current case.
- 18.3.1. A Respondent may have had a maximum of only two prior written reprimands. If additional discipline is necessary, the sanction must include a minimum 90-day suspension.
- 18.3.2. If a Respondent has been sanctioned twice at any level in the two (2) years prior to the current case and additional discipline is necessary, the sanction must include a minimum 12-month suspension or revocation, depending on the case circumstances.
- 18.4. Sanctions that are imposed on the Respondent apply to all their FCB applications and/or credentials.
- 18.5. Credentials will be revoked for individuals who have committed any of the following actions: (a) Sexual misconduct of any kind, (b) Intentional falsification of official client records, (c) Accessing official client records and other databases for non-work-related purposes.
- 18.6. Credential revocation lasts for a minimum of three (3) years. The Respondent may submit a Request for Eligibility Reinstatement after Revocation once the three-year timeframe has elapsed.
- 18.7. Timelines and specific requirements to satisfy credential suspensions are established on a case-by-case basis. All requirements must be met before an individual may submit a *Request for Reinstatement after Discipline*.

## 19. Ethics Committee Meetings, Recommendations for Action, Noticing Parties

- 19.1. The FCB maintains two different Advisory Councils, one for Behavioral Health and one for Child Welfare. Each Advisory Council has its own Ethics Committee.
- 19.2. The FCB schedules Ethics committee meetings as necessary consistent with the workload of the Investigations unit and the availability of committee members.



- 19.2.1. Committee members are provided with a full and complete copy of the Investigative Summary Report and all supporting investigative documents a minimum of 10 business days before the scheduled meeting.
  - 19.2.2. Committee meetings are conducted by the FCB senior investigative staff or their designee approved by the FCB Director of Certification. The FCB Director of Certification or their designee must attend all Ethics committee meetings.
  - 19.2.3. For each case reviewed, each committee member will cast one of the following votes: dismiss the case without further investigation; return the case for additional investigation; or sanction the Respondent, to include the recommended sanction(s). A unanimous vote is not required. Absent compelling circumstances, the sanction with the highest number of votes will be recommended for action
- 19.3. Within five (5) business days of the committee meeting, the Senior Ethics Investigator will prepare a written Ethics Committee Recommendations for Action for review and approval by the FCB President and CEO. The report will include a summary of the Complaint, a summary of the investigative findings, and the Ethics committee's recommended action. Within five (5) business days of receipt, the FCB President and CEO will review the report and make one of the following determinations:
- 19.3.1. Accept the Ethics Committee Recommendation for Action as presented.
  - 19.3.2. Deny the Ethics Committee Recommendation for Action and impose different sanctions. This action requires approval by the FCB Board of Directors.
  - 19.3.3. Deny the Ethics Committee Recommendation for Action and return the case for further investigation.
- 19.4. The FCB will send the Respondent an email and certified U.S. mail Notice of Investigation Outcome within five (5) business days of the final determination by the FCB President and CEO. The notice will detail the outcome of the investigation, any recommended sanctions, and actions taken as a result, and appeal instructions. Notice to the Complainant is dependent on the Respondent's decision to seek an Appeal Hearing. If a timely appeal request is not received by the FCB, the Notice of Investigation Outcome will be emailed to the Complainant and the sanctions will be implemented.



## APPEAL PROCESS

The Appeal Process enables a Respondent to appeal a disciplinary outcome that results from the investigation of a Complaint of an ethical violation. The Appeal Process policies and procedures ensure that the appeal is conducted in a fair and timely manner.

### 20. Appeal Period and Requirements

- 20.1. Within 10 calendar days of the date the Notice of Investigation Outcome and appeal instructions are sent to the Respondent, the Respondent may submit an official written Appeal of Disciplinary Sanctions. This appeal request must identify the standard under which the appeal is based and provide sufficient detail and documentation to support the request. Valid appeal requests must meet at least one of the following standards:
  - 20.1.1. Due Process Failure Standard: The appeal must detail the basis for the claim of lack of due process, including any failure by the FCB to follow the policies, procedures, and/or timelines as detailed herein in a manner that abrogates Respondent's due process rights. A Respondent's failure to maintain current primary email and physical U.S. mail contact information in their FCB account, thus precluding the FCB's ability to contact the Respondent and the Respondent's ability to respond, is not a valid reason for appeal under the due process failure standard.
  - 20.1.2. Additional Information Standard: The appeal must describe new or additional information that was not presented or considered at the original determination of recommended sanctions and the reason(s) the information was not available to the FCB or the Ethics Committee. A Respondent's failure to respond to the official Notice of Investigation is not a valid reason for appeal under the additional information standard.

### 21. Reviewing Appeal Requests, Determining Appropriate Action, and Noticing Parties

- 21.1. Within five (5) business days of receipt of an *Appeal of Disciplinary Sanctions*, the FCB Director of Certification will evaluate the request, including all supporting documentation.
- 21.2. Following the review of the appeal request, the FCB Director of Certification will make one of the following recommendations to the President & CEO: (1) accept the request and initiate the Appeal Hearing process or (2) deny the request and implement sanctions.
- 21.3. The Respondent will be notified within three (3) business days of the FCB's decision to accept or deny the Appeal request.
  - 21.3.1. If the appeal request is denied, the Respondent will be notified by email of the decision and the intent to implement the recommended sanctions, and, if applicable, will be given information on statutory appeal protocols. No notice of the decision will be provided to the Complainant.



- 21.3.2. If the appeal request is accepted, the case will remain open while an Appeal Hearing is scheduled and an Appeal Hearing Panel is assembled. Appeal Hearings will be held using online virtual meeting technologies. The Respondent and Complainant will be notified by email that the Appeal Hearing will be scheduled within 90 days of the date of this notice.
- 21.3.3. The FCB will report the outcome of all appeal requests to the Ethics Committee at its next regularly scheduled meeting.

## 22. Appeal Hearing and Appeal Hearing Panel Members

- 22.1. Within 90 days of the FCB's decision to accept the appeal, an Appeal Hearing Panel will be assembled.
- 22.2. The Appeal Hearing Panel will consist of a Chair and three (3) Members, as described below.
  - 22.2.1. There will be one Appeal Hearing Chair, who is a non-voting member of the Appeal Hearing Panel. The Appeal Hearing Chair will be a member of the FCB Executive Board of Directors with no conflict of interest as an Appeal Hearing Panel member. The President & CEO will select the Appeal Hearing Chair.

Members: The FCB Director of Certification will submit for approval by the FCB President and CEO a recommendation of three (3) individuals to serve as members of the Appeal Hearing Panel. All Appeal Hearing Panel members are voting members and will have held the same credential as the Respondent for a minimum of three consecutive years. Appeal Hearing Panel members will have no conflict of interest with the Respondent or anyone associated with the case, such as the respondent's employer or family member.

## 23. Appeal Hearing Date and Notice of Scheduled Appeal Hearing

- 23.1. The Appeal Hearing date must be set within five (5) business days of the establishment of the full Appeal Hearing Panel. The date will be no less than 20 and no more than 90 days from the date the FCB sent emails of the *Notice of Scheduled Appeal Hearing* to the Respondent and Complainant.
- 23.2. The Notice of Scheduled Appeal Hearing will be sent to the Respondent and Complainant as described above. The Respondent will receive an email and a certified U.S. mail notification. The Complainant will receive an email notification only.
- 23.3. The Notice of Scheduled Appeal Hearing will include the date and time of the meeting and a link to join the meeting online as well as the name of the Appeal Hearing Panel members and a description of the following policies:
  - 23.3.1. Appeal Hearings will be conducted using online virtual meeting technologies, to be selected and hosted by the FCB. It is the responsibility of the Respondent to ensure they are able to access and use the selected technology in order to participate in the Appeal Hearing.



- 23.3.2. Prior to the Appeal Hearing there will be no contact between the Respondent and any of the following persons: (1) the Complainant, (2) subjects of the Complaint, (3) members of the Appeal Hearing Panel, (4) FCB staff involved in any way with the Complaint and Appeal processes (from the acceptance of the Complaint through the determination to hold an Appeal Hearing), or (5) other relevant individuals.
- 23.3.3. Any request from the Respondent to reschedule the Appeal Hearing must be sent in writing to the FCB Director of Certification at least five (5) business days prior to the scheduled hearing date. Barring emergencies or requests to reschedule that are received less than five (5) days before the scheduled hearing date will be denied. The final decision to grant or deny the request to reschedule will be the sole decision of the FCB President & CEO.
- 23.3.4. Failure to attend the Appeal Hearing will be deemed a waiver of the appeal. In this instance, the FCB will dismiss the Appeal Request and the sanction recommended by the Ethics Committee will stand.

## 24. Appeal Hearing Rules

- 24.1. The Appeal Hearing is closed to the public.
- 24.2. Should any party to the Appeal Hearing hire a court reporter, a copy of the final report must be provided to the FCB without charge or redaction.
- 24.3. The Appeal Hearing will be led by the Appeal Hearing Officer. The Respondent will first present their case to the Appeal Hearing Panel members, and then the FCB will present its case.
- 24.4. Respondents have the burden of proof and may represent themselves or, at their own expense, may be represented by counsel at the Appeal Hearing.
- 24.5. FCB Director of Certification will represent the FCB.
- 24.6. Both sides may present evidence and cross-examine witnesses.
- 24.7. The Respondent is not permitted discovery or access to FCB files.
- 24.8. The Appeal Hearing Officer will resolve objections concerning evidence.
- 24.9. The Appeal Hearing Panel is not bound by common law or statutory rules of evidence, and may consider all facts having reasonable probative value. Members may base their decision on any information collected or generated by the FCB in relation to the case, including written files and reports specific to the case, physical evidence, and testimony presented by the Respondent and the FCB at the Appeal Hearing.
- 24.10. The Appeal Hearing Panel will not make an immediate determination at the conclusion of the Appeal Hearing.



## 25. Appeal Hearing Outcome and Noticing Parties

- 25.1. Within no more than 20 days from the date of the Appeal Hearing, the Appeal Hearing Panel members and the Appeal Hearing Officer will convene the Appeal Hearing Panel to make a final determination of recommended action to either dismiss or sanction the case.
- 25.2. If discipline is appropriate, the Appeal Hearing Panel is not limited to the original sanctions recommended by the Ethics Committee and may impose additional sanctions as deemed appropriate.
- 25.3. The Appeal Hearing Officer will submit to the FCB President & CEO a written *Appeal Hearing Panel Recommendation for Action* to dismiss the case against the Respondent or implement sanctions.
- 25.4. At the conclusion of the Appeal, the Respondent may request and is entitled to a full and complete copy of the *Appeal Hearing Panel Recommendation for Action*.
- 25.5. The determination of the Appeal Hearing Panel is final and not subject to further appeal under FCB authority. The Respondent may be eligible to petition the Department of Children and Families under Florida Statutes (s. 397.321(15), F. S.) for further appeal, however. The FCB will provide Respondents with the instructions for pursuing this option as part of their official *Notice of Appeal Hearing Outcome*.
- 25.6. Noticing Parties:
  - 25.6.1. If the Appeal Hearing Panel determination is to dismiss the case, the Respondent and Complainant will receive an email notification. The FCB will update the Respondent's credential records appropriately. The Ethics Committee and the FCB Board of Directors will be notified of the outcome at their next regularly scheduled meetings.
  - 25.6.2. If the Appeal Hearing Panel determination is to implement sanctions, the Respondent and Reporter will be notified of the decision and the specific sanctions recommended. The Respondent will receive an email and a certified U.S. mail notification and the Reporter will receive an email notification.

## 26. Reinstatement of Suspended Credentials Following Disciplinary Action

- 26.1. Respondents whose credentials are in summary suspension or suspension status may not use these credentials for any professional or personal purpose. Respondents whose credentials are in suspended status are not eligible to apply for other FCB credentials until the sanctions are satisfied and the credential has been reinstated or eligibility to apply has been granted.
- 26.2. The FCB will not reinstate credentials in summary suspension status unless the Ethics Committee or Appeal Hearing Panel votes to dismiss the case without sanctions. In this instance, the reinstatement process will occur automatically and does not require a specific request from the Respondent.



- 26.3. The FCB will not reinstate credentials in suspension status until the sanctioned Respondent has submitted a Request for Reinstatement after Discipline and supporting documentation of compliance with sanctions to the FCB Director of Certification for review and action.
- 26.3.1. If the request for reinstatement is approved, the FCB will reinstate the record to “certified” status. The effective date will be the date the reinstatement is approved. The schedule for expiration and renewal of this reinstated credential will be the same as that specified for a new credential.
- 26.3.2. If the request is denied, the FCB will notice the individual by email and include the rationale for the denial as well as any necessary directions for satisfying the sanctions.
- 26.3.3. The FCB will report to the Ethics Committee at their next regularly scheduled meeting the outcome of any Request for Reinstatement after Discipline application.

## 27. Reinstatement of Eligibility to Apply for Certification Following Revocation and Noticing Parties

- 27.1. Revoked credentials cannot be reinstated, but after the three-year revocation period has expired, individuals may submit to the FCB Director of Certification a *Request for Eligibility Reinstatement after Revocation* for review and action.
- 27.1.1. If the request is complete, the Ethics Committee will prepare it for review and action at its next regularly scheduled meeting.
- 27.1.2. If the request is incomplete or otherwise ineligible, the FCB will notify the Respondent by email. The notice will explain the reason for the denial and provide directions for next steps.
- 27.2. The complete *Request for Eligibility following Disciplinary Action* will be given to the Ethics Committee for review and action at its next regularly scheduled meeting.
- 27.3. Ethics Committee members will review the request and all supporting documentation and vote to approve or deny the request.
- 27.4. If the Ethics Committee denies the request, the FCB will notify the Respondent by email and include the rationale for the denial as well as any directions for next steps, if applicable.
- 27.5. If the Ethics Committee approves the request, the FCB will present the committee-approved Request for Eligibility following *Disciplinary Action* to the FCB Executive Board of Directors during its next regularly scheduled meeting for action. The Board may vote to approve or deny the request.
- 27.5.1. If the Board approves the request, the Respondent is eligible to apply for any credential for which they are eligible. No documents, transcripts, test scores, or other demonstration of competency submitted to the FCB in support of a credential that has been revoked will be transferred to a new application. As a new applicant, the Respondent must meet all current requirements and standards for new applications.



- 27.5.2. The revoked credential will remain in the individual’s credentialing history and will show in any credential verification results. Any associated notes will reflect compliance with the revocation period and current eligibility.
- 27.6. The FCB will send the Respondent an email Notice of Outcome within five (5) business days of its final determination. The notice will detail the outcome of the request, next steps, and, if applicable, directions for appealing the FCB decision.

## 28. Reports to Others and Public Notice of Discipline

- 28.1. When a credential is placed in summary suspension, suspension, or revocation status, the FCB will notify the Respondent's current employer of record of the action taken against the Respondent's credentials.
- 28.2. When made necessary by the information revealed by a Complaint or corresponding Investigation, a report will be made to an appropriate agency, as follows:
  - 28.2.1. If it appears the Respondent has engaged in criminal misconduct, the FCB will report the concern to the appropriate law enforcement agency.
  - 28.2.2. If it appears the Respondent has violated state statutes, administrative codes, or other official requirements, the FCB will report this concern to the appropriate state agency, inspector general, office of internal affairs, or other authority.
  - 28.2.3. If it appears that an individual with non-FCB certification or state licensure has violated professional codes of ethical and professional conduct, the FCB will report this concern to the appropriate credentialing authority.
- 28.3. The FCB provides public notice of open investigations, summary suspensions, and disciplinary sanctions, with the sole exception of a Written Reprimand. Public notices are permanent and will not be removed from the FCB’s credential verification database. Respondents involved in open investigations and Respondents who are sanctioned can expect the following public notices:
  - 28.3.1. Complaint accepted for investigation: When a Complaint is accepted for investigation, the FCB will immediately update the Respondent's credential records to reflect either “certified – open ethics investigation” or “summary suspension” status. The purpose of this notice is to indicate to employers that the Respondent is the subject of an ethics case that is open and under investigation.
    - a. "Summary Suspension" status means the individual holding the credential is the Respondent in an active FCB ethics investigation; a preponderance of the evidence contained in the ethical Complaint supports emergency action while the case is being investigated; the credential is not valid and may not be used for employment purposes.
    - b. “Certified – Open Ethics Investigation” status means the credential is valid for employment purposes and the individual holding the credential is the Respondent in an active FCB ethics investigation.





- 28.3.2. When sanctions are applied, the following information will be made public: the individual's name and credential(s), the status of the credential (certified, suspended, revoked), the number and brief description of the violated standard, the sanction imposed, the date discipline took effect, and the status of the discipline imposed. The date sanctions are applied depends on whether the Respondent requests an Appeal Hearing with the FCB or, for eligible individuals, petitions the Department of Children and Families for a hearing as per Florida Statutes (s. 397.321 (15), F.S.). The process for each action is as follows:
- a. FCB Appeal Hearing not requested: Disciplinary sanctions will be applied and credential statuses and public notes will be updated 10 days after the Respondent was notified of the investigative outcome.
  - b. FCB Appeal Hearing requested and denied: Disciplinary sanctions will be applied and credentials will be updated to reflect Suspension or Revocation status. This status will remain unless the individual submits documentation that the Department of Children and Families will grant a hearing as per Florida Statutes (s. 397.321 (15), F.S.). If this occurs, the credential status will remain “certified – open ethics investigation” until the 120 procedure is concluded.
  - c. FCB Appeal Hearing requested and approved: When an Appeal Hearing request is granted, the credential status will remain “certified – open ethics investigation” until the Appeal Hearing is concluded. If the Appeal Hearing results in sanctions, credentials will be updated to reflect Suspension or Revocation status. This status will remain unless the individual submits documentation that the Department of Children and Families will grant a hearing as per Florida Statutes (s. 397.321 (15), F.S.). If this occurs, the credential status will remain “certified – open ethics investigation” until the 120 procedure is concluded.

