



REDC Grievance Process

(November 2018)

The Residential Eating Disorders Consortium is a national professional association that represents approximately 80 percent of residential/inpatient eating disorders treatment programs in America. In addition to offering 24-hour care, all of REDC's members also offer day treatment, and many offer intensive outpatient and outpatient treatment, underscoring REDC's position as a key voice representing the entire spectrum of eating disorders care.

REDC has used its significant leadership presence to push for higher standards across the eating disorders treatment industry, including creating a "Center of Excellence" document that outlines best practices in eating disorders care. To codify the principles in that document, REDC created and adopted a "Code of Ethics" for its member organizations to outline specific behaviors that it expects all REDC member organizations to uphold. This "Grievance Process" document lays out a clear procedure for handling alleged violations of the REDC Code of Ethics.

- 1) **Establishment of Jurisdiction:** REDC's Ethics Committee — whose members are appointed by the REDC Board of Directors to serve three-year terms — has jurisdiction to review complaints. The chair of the committee also is appointed by REDC's Board of Directors. According to the committee's mission statement: "The REDC Ethics Committee recognizes that ethical dilemmas which are complex in nature may arise in the course of the important work of treating people with eating disorders. If the Ethics Committee agrees to review a matter, the committee's focus is on reaching a fair and equitable resolution. While the committee reserves the right to impose sanctions for violations of the Code of Ethics, its intent is to use the grievance process to clarify the norms of ethical conduct, to help all parties understand and adhere to best practices, and to be informative rather than punitive in nature."
- 2) **Complaint Eligibility:** The REDC Grievance Process is an open process. Anyone is eligible to submit a complaint, including the public, patients, families, payers, other health care professionals, accrediting bodies, REDC member organizations, the Ethics Committee itself, and any other appropriate parties.
- 3) **Duty to Inform:** REDC member organizations that witness or are made aware of a potential violation of REDC's Code of Ethics have a duty to inform the Ethics Committee.
- 4) **Submission of Complaint:** Those who wish to ask the Ethics Committee to review a matter must file a formal complaint using a form provided by the committee. The committee will respond within thirty (30) days to acknowledge receipt of the complaint and alert the complainant of next steps. Complaints must be filed within thirty-six (36) months of the alleged violation unless it can be demonstrated that the alleged wrongdoer took steps to hide the acts or omissions giving rise to the violation, in which case the complaint must be filed within twelve (12) months of discovery of the alleged violation. Complaints must be accompanied by reasonable documentation of the alleged violation. The committee first determines whether the complaint is adequately substantiated and, if so, whether it actually states facts that, if true, constitute an ethical violation. Those not meeting this standard are rejected and the charged party is not advised of the complaint.

Unless the committee, with the advice of legal counsel, determines that there are special circumstances that justify proceeding without a named complainant, the complaining party must agree in writing to have its identity disclosed to the accused wrongdoer and also must agree to cooperate with the Ethics Committee throughout the investigation, including, but not limited to, providing testimony if a hearing is necessary. If evidence of a potential violation is in the public domain, such as false advertising, then there is no need to identify the complainant. It is unethical for any person to report information that is not true. REDC member organizations can be sanctioned for knowingly filing a false report.

Whenever possible, complainants should attempt to address matters informally before filing a formal complaint. That said, if an amicable resolution cannot be reached, or if the complainant does not wish to approach the other party, a complaint may be filed. In addition, if any person wishes to ask the Ethics Committee for a clarification about an ethical issue, this can be



done without filing a formal complaint — by simply contacting the chair of the Ethics Committee or his/her appointee in the case of a conflict of interest. Any advice should state that it is expressly conditioned on the accuracy and truthfulness of the representations made by the person making the inquiry and that the advice will not be considered to provide immunity from legal challenge by others.

- 5) **Deliberations Process:** The following deliberations process will be used each time the full Ethics Committee and/or any of its subcommittees are presented with a question and must make a determination — as in steps 6, 8, and 9.
- i.* **Scheduling:** The committee or subcommittee will set a date to deliberate the question at hand. For deliberations of the full Ethics Committee to take place, a quorum of five (5) members must be present. For deliberations of a three-person subcommittee, all three (3) members must be present. In setting a date, the committee or subcommittee also considers whether any involved parties and/or witnesses will be permitted/invited to submit written information and/or to speak to the committee.
 - ii.* **Provision of Materials:** In advance of the deliberation date, the chair of the committee or subcommittee will provide copies of all relevant documents to the committee or subcommittee members via a secure method. At least ninety (90) days prior to a hearing, the respondent shall be provided with all evidence to be considered by the committee or subcommittee and the identity of all witnesses it intends to call at the hearing and a brief description of their anticipated testimony. If the respondent intends to offer additional evidence or call its own witnesses, it shall submit all such evidence to the committee or subcommittee and shall identify its witnesses and provide a brief description of their anticipated testimony at least forty-five (45) days prior to the hearing.
 - iii.* **Hearing:** At the appointed date and hour, the committee or subcommittee will convene. The chair will summarize the information contained in relevant documents and call for discussion from the group. Any testifying parties and/or witnesses also will be heard from at this time, and may be questioned by the committee or subcommittee and by the respondent. A transcript or audio recording will be made of all hearings, and all evidence admitted into evidence shall be made a part of the record.
 - iv.* **Deliberation and Vote:** After the conclusion of the evidentiary portion of the hearing, the committee or subcommittee shall conduct its confidential deliberations, which shall not be recorded or transcribed. At the end of deliberations, the chair will take a roll call vote. The chair casts a vote. A majority vote wins. In cases where the number of Ethics Committee members voting is an even number, a tie vote results in closing the matter with no finding of a violation.
 - v.* **Minutes:** Appropriate minutes of the deliberations will be created and maintained.
 - vi.* **Notifications & Next Steps:** All relevant parties — which may include the complainant, respondent, REDC Board of Directors, any relevant/required external organizations and/or licensing bodies, etc. — are notified of the committee's or subcommittee's decision and next steps.



- 6) **Preliminary Review of Complaint:** The Ethics Committee chair — or his/her appointee in the case of a conflict of interest — will appoint a three-person subcommittee made up of a subset of members of the Ethics Committee on a case-by-case basis. The Ethics Committee chair cannot appoint himself or herself to sit on the subcommittee. The Ethics Committee chair will also appoint a chair of the subcommittee. The subcommittee will use the following decision tree to conduct an initial review of the complaint to determine: ***Are there any immediately disqualifying circumstances?***
- i. Is the entity against which the complaint has been lodged a REDC member organization?***
 - If yes, proceed to the next step.
 - If not, notify the complainant that no REDC member organization is involved. Close the case.
 - ii. Are there any pending lawsuits of which the Ethics Committee is aware?***
 - If yes, and the subcommittee believes that it should allow pending lawsuits to resolve before taking up the matter, notify the complainant of that position.
 - If yes, but the subcommittee determines that a REDC investigation could and ought to be managed contemporaneously, proceed to the next step.
 - If not, proceed to the next step.
 - iii. If true, would the allegations constitute a violation of the Code of Ethics?***
 - If yes, proceed to the next step.
 - If not, notify the complainant that even if true, the matter would not constitute a violation of the Code of Ethics. Close the case.
 - iv. Does this matter fall within the Ethics Committee's jurisdiction, or is it better handled by CARF International, The Joint Commission, state licensing bodies, and/or other bodies?***
 - If within the committee's jurisdiction, proceed to the next step.
 - If not, notify the complainant that this matter is outside of the committee's jurisdiction. If appropriate, suggest other bodies that may be better suited to handle the matter. Close the case.
 - If potentially within REDC's jurisdiction, but other entities should be notified prior to REDC considering the matter, ask the complainant to notify other bodies first. Place the case on hold.
 - v. At this time, will the Ethics Committee invite the organization against which the complaint has been lodged to file a formal response?***
 - If yes, the committee will ask the organization to file a formal response form per section 7, "Submission of Response," within thirty (30) days and will establish a timeline by which the committee will conduct its business.
 - If the committee is not ready to invite the organization to submit a formal response for any reason, does the committee at least need to inform the organization that a complaint against it has been filed? If the committee is not asking the organization to file a formal response, what are next steps?
 - vi. At this time, does the Ethics Committee need to alert any internal entities (complainant, REDC Board of Directors, etc.) of the status of the case?***
 - If yes, alert these entities and proceed to the next step.
 - If not, proceed to the next step.
 - vii. At this time, is the Ethics Committee required to notify any external/third parties (e.g., licensing and/or accrediting bodies) that it has received a complaint?***
 - If yes, any notice should clearly state that REDC has only just commenced its review, and that it is not making any judgment as to the validity of the complaint. Proceed to the next step.
 - If notification is not required by law, then REDC should seek legal advice before making a voluntary report. Proceed to the next step.



- 7) **Submission of Response:** When a formal complaint has been filed and the three-person subcommittee has completed its initial review of the complaint and found no immediate reasons why the complaint cannot or should not continue moving through the process, the subcommittee may invite the organization against which the complaint has been lodged to file a formal response within thirty (30) days using a form that will be provided by the committee. The committee will respond within thirty (30) days of receiving the response to acknowledge receipt of the response and alert the respondent of next steps.
- 8) **Determination of Reasonable Grounds to Investigate:** Upon receiving a formal response from the respondent organization, the three-person subcommittee will review the complaint and response together to determine: ***Are there reasonable grounds to launch a formal investigation?*** This step does not imply guilt or involve a determination of guilt — only whether there are reasonable grounds and sufficient evidence to investigate the matter in a formal way.

The committee may decide to investigate, but only after a complaint has passed three hurdles — a preliminary review of the complaint, a preliminary review of the response, and a determination that there are reasonable grounds to investigate. Only after all three of these have been satisfied does the committee move forward with a formal investigation.

- 9) **Formal Investigation:** If the three-person subcommittee finds that there exist reasonable grounds to investigate a matter, the full Ethics Committee will conduct an investigation to determine: ***Did the respondent organization violate REDC's Code of Ethics, according to a preponderance of the evidence?*** The respondent may be represented by counsel at each step of the process.
- 10) **Sanctions:** The Ethics Committee has the right to recommend sanctions if it finds that a violation of the Code of Ethics has occurred. These could include: a warning, a corrective action plan, a letter of assurance, admonishment, censure, probation, removal of the organization's name from a "Members in Good Standing" list on REDC's website, suspension, expulsion, etc.
- 11) **Ratification of Ethics Committee Recommendations by the REDC Board of Directors:** Once the Ethics Committee has concluded its investigation and considered appropriate sanctions, it makes a recommendation to the REDC Board of Directors and notifies the complainant and respondent organization that it is doing so. At this time, a complainant or respondent organization who/that wishes to dispute the Ethics Committee's recommendations may file an appeal directly to the REDC Board of Directors. All appeals are by written submission only; no party has a right to appear personally before the REDC Board of Directors. After reviewing any appeals, the REDC Board of Directors votes on whether to ratify, modify, or reject the Ethics Committee's investigation results and any sanctions, or whether to remand the matter back to the Ethics Committee for further proceedings. A majority vote wins. Any recusals to avoid conflicts of interest or potential conflicts of interest should be noted in the minutes and the individual should leave the meeting.
- 12) **Announcement of Investigation Results and Sanctions:** If the recommendations of the Ethics Committee are ratified in whole or in part by the REDC Board of Directors, the Ethics Committee chair on behalf of the REDC Board of Directors will notify the complainant and respondent organization of its investigation findings and any sanctions to be imposed. In addition, based on the facts of any specific matter, the committee will determine whether it is appropriate to inform other parties, potentially to include REDC members, CARF International, The Joint Commission, state licensing boards, accrediting bodies, etc.



Principles Governing How the Ethics Committee Will Conduct Its Business

- **Confidentiality:** The Ethics Committee will adhere to strict norms of confidentiality in the conduct of its work except to the extent that it is required to report the conduct at the issue of the complaint to regulatory bodies. No member of the Ethics Committee shall release negative or potentially damaging information about respondents for competitive purposes not related to official notifications made by the Ethics Committee in its role as an investigating body. When committee business is conducted by phone, Ethics Committee members are expected to refrain from taking committee conference calls in public places or when anyone else but the Ethics Committee member is in the room. Any Ethics Committee member who violates these confidentiality requirements will be subject to immediate sanctions — potentially to include expulsion from the committee, an investigation, etc.
- **Conflicts of Interest:** If a matter comes before the Ethics Committee that presents a conflict of interest for one or more members of the committee, such members will recuse themselves from the matter and a suitable stand-in will be chosen for the duration of the committee's work on that matter. Any recusals should be noted in the minutes and the individual should leave the meeting. Many steps are taken throughout the grievance process to mitigate conflicts of interest and ensure that no single person or committee has undue decision-making power. These steps include delegating initial review of a complaint to a three-person subcommittee that is appointed by the Ethics Committee chair but does not include the chair. In addition, all Ethics Committee recommendations must be ratified by the REDC Board of Directors before they can take effect.

All Ethics Committee members should file complete written conflict disclosures on an annual basis, and then disclose any updates that arise during the year. All meeting minutes (including for conference calls) should reflect that Ethics Committee members were asked to confirm at the start of the meeting that there are no new conflicts that arise from the items on the agenda.

- **Record Keeping:** The Ethics Committee will retain records of its deliberations for a period of seven (7) years.
- **Antitrust Compliance:** It is the intention of REDC that all investigations of alleged Code of Ethics violations and all decisions of the Ethics Committee and Board of Directors hereunder shall be conducted consistently with REDC's Antitrust Compliance Policy, which may be adopted and amended from time to time, and with REDC's obligations under applicable antitrust laws.
- **Release of REDC:** REDC member organizations acknowledge that they and their representatives may become involved in an investigation under REDC's Grievance Process alleging a violation of the REDC Code of Ethics. Continued membership in REDC after adoption of this Grievance Process and the Code of Ethics constitutes acceptance and ratification of the following release: Each REDC member organization, on behalf of the REDC member organization and its representatives, hereby forever releases and covenants not to sue REDC, members of the REDC Ethics Committee and members of the REDC Board of Directors ("Releasees") from any and all claims, known or unknown, that they or any of them may have against Releasees or any of them in connection with any investigation or proceeding under REDC's Grievance Process.
- **Indemnification and Insurance:** All Ethics Committee members, staff, and other individuals engaged in investigations at the written request of the chair are indemnified and defended by REDC against liability arising from committee-related activities to the extent provided by the bylaws of REDC for directors, officers, committee members, employees, and agents. REDC maintains indemnification insurance against such liability.