

COMPLAINTS

1. Scope

The goal of the American Board of Criminalistics is to have all complaints, including those alleging professional negligence or misconduct, resolved in a timely manner. All time frames listed in this procedure may be extended, if necessary, by the ABC President. Complaints will be handled confidentially. *See Personnel Agreement 04-0001F.*

2. Complaints Other Than Ethics

- 2.1 All complaints must be addressed in writing to the Registrar's Office. The complainant must provide enough information for the ABC to adequately investigate the complaint.
- 2.2 Complaints against personnel should be addressed per the policy on *Personnel (06-00)*.
- 2.3 Complaints against the quality system should be addressed per the procedure for Nonconforming Work and *Corrective Actions (10-02)*.
- 2.4 Complaints against examinations should be addressed to the relevant Examination Coordinator and the Examination Committee Chair. The Examination Coordinator and the Examination Committee Chair will determine if the complaint warrants a Quality Reporting Form as identified in *Nonconforming Work and Corrective Actions (10-02)*.
- 2.5 The Registrar will acknowledge the receipt of the complaint within 14 days. The acknowledgement will be in writing, via certified mail or via e-mail with read receipt, to the Complainant.
- 2.6 Within 14 days, the Registrar will forward the complaint to the personnel responsible for reviewing the complaint. The responsible personnel will track the complaint and ensure the complaint is resolved fairly and in a timely manner.
- 2.7 The responsible personnel will review the complaint to ensure the complaint relates to ABC certification activities. A complaint review panel may be created to discuss the complaint and to determine a plan of action. Minimally, the responsible personnel will address the complaint. The review will occur within 30 days of receipt of the complaint.
 - 2.7.1 The responsible personnel will gather and verify the information to validate the complaint.
- 2.8 Upon resolution of the complaint, the responsible party will communicate the decision on the complaint to the Registrar, who will notify the complainant of the resolution.
 - 2.8.1 If the resolution is a personnel matter, the complainant will only be notified that a resolution has been reached, however the specifics of the resolution will not be outlined.

3. General Considerations for an Ethics Complaint

- 3.1 The Secretary of the organization will review all decisions prior to dissemination. The review will ensure the complaint is being handled according to organization policies and procedures. Additionally, the Secretary will be the primary correspondent with the Complainant and Respondent, therefore the Secretary may not participate in any complaint panel or hearing other than to record minutes.

- 3.2 The Ethics Chair will serve as an *ex officio* member of the complaint review panel. The duties of the Chair include:
- being responsible for ensuring that the procedure is followed and that deadlines are met;
 - provides guidance to the complaint review panel;
 - ensures that complaints are managed fairly;
 - has the final say on all panel recommendations; and
 - casts a vote in the event of a tie
- 3.3 This process may be suspended at any time at the discretion of the Ethics Chair if it becomes known that the circumstances surrounding the complaint are being dealt with by a court or any other competent body, pending its resolution or if the respondent relinquishes his/her certification upon notification of the complaint. The Complainant and the President of the ABC will be notified (09-0101T). The Respondent will only be notified if the Complaint Review Panel has recommended further investigation of the complaint.
- 3.4 Complaints may be made anonymously, however an anonymous complaint could hinder the investigation if further information is needed. If adequate information is not provided and the ABC does not have a means to contact the Complainant or other resources to obtain the information, the Ethics Chair may suspend the investigation.
- 3.4.1 Complainant copies of communications will not be made in anonymous complaints.
- 3.5 The ABC will investigate complaints as thoroughly as possible. If, during the course of the investigation, all investigative leads have been exhausted, the Ethics Chair may suspend the investigation.
- 3.6 The Complainant and Respondent will be kept abreast of the progress of the complaint as set forth in this procedure. Copies of correspondence between the ABC and the Complainant or Respondent will be maintained in the files of both the Complainant and Respondent. If the Complainant is not a certificate holder, the Complainant's copy of correspondence will be maintained in the Respondent's file.
- 3.7 If during the course of the complaints investigation or resolution the Ethics Chair or Ethics Review Panel feels that corrections or corrective actions may be necessary, a Quality Report will be generated. *See 10-02 Quality Concerns.*
- 4. Processing an Ethics Complaint**
- 4.1 All complaints, including those alleging professional negligence or misconduct, regarding a Certificant or Affiliate of the ABC must be submitted in writing to the ABC Registrar.

- 4.2 The Registrar will acknowledge the receipt of the complaint within 14 days. The acknowledgement will be in writing, via certified mail or via e-mail with read receipt, to the Complainant.
- The Complainant is defined as the individual or organization who made the complaint. At minimum, the letter to the Complainant will cite the ABC website where information regarding the complaint process is located. The letter will also outline any additional supporting information necessary for the investigation (09-0102T).
 - The Respondent is defined as the Certificant or Affiliate of the ABC who is the subject of the complaint.
- 4.3 Within 14 days after the receipt of the complaint, the Registrar will submit copies of the letter of complaint to the Secretary and President and include a copy in the Respondent's file.
- 4.4 Within 30 days of the initial receipt of the complaint by the Registrar, the President will appoint at least three members of the Board of Directors and / or Examination Committee to a "Complaint Review Panel." One member will be appointed as the panel lead. Additionally, the Ethics Chair will be the *ex officio* member of the panel. This panel will also serve as the investigation panel if warranted.
- 4.4.1 The President will ensure that there is no conflict of interest between any member of the panel, including the Ethics Chair, and the Complainant or Respondent. If a conflict of interest is identified, the President will assign a new member to the panel or will appoint a temporary Ethics Chair.
- 4.4.2 If either the Complainant or Respondent is a Board or EC member, at least one of three members of the panel will be from outside of the ABC and may be a former board or EC member.
- 4.4.3 The Complaint Review Panel will treat all information gathered confidentially. Members of the Complaint Review Panel will be required to sign a confidentiality agreement if they have not already done so as a member of the Board or EC.
- 4.5 Records associated with an ethics complaint, including copies of correspondence between the ABC and the Complainant or Respondent, will be uploaded into the Ethics Committee Folder in PowerDMS. The folder access will be limited to the Accreditation Manager, Registrar, Ethics Chair, and Complaint Review Panel.
- 4.6 It is the responsibility of the Complaint Review Panel to perform a cursory review of the complaint documentation provided and determine if any of the "Rules of Professional Conduct of the American Board of Criminalistics" may have been violated and if the ABC has jurisdiction.
- 4.7 The panel will report the results of the cursory review and the recommended course of action to the Ethics Chair within 21 days of the appointment of the panel. The recommendation of the Complaint Review Panel can be one of the following:
- 4.7.1 Dismissal: The complaint should be dismissed. No further action will be taken.

- 4.7.2 Further Investigation: The complaint should be further investigated.
- 4.8 The final decision on all panel recommendations shall rest with the Ethics Chair.
- 4.8.1 In the event the Ethics Chair does not agree with the committee decisions, the chair will return the decision to the committee for further discussion.
- 4.8.2 If the Ethics Chair and committee do not come to an agreement, the Ethics Chair will attach an additional report to the committee report. Both will be retained in the records and submitted to the Secretary.
- 4.9 The Ethics Chair will notify the Secretary of the cursory review outcome. The Secretary will notify the Registrar, the President, and Complainant (09-0103T).
- 4.9.1 Notification will be provided to the Respondent only in the event the recommendation is for further investigation (09-0103T). The date of postmark of the notification will be the start date of the investigation.
- 4.9.2 This notification will include the text of the complaint, however the name of the Complainant(s) will not be provided to the Respondent. The notification will cite the ABC website where information regarding the complaint process is located.
- 4.9.3 The Respondent may provide rebuttal information. Rebuttal information must be postmarked within 30 days of the postmark of the notification.
- 5. Ethics Complaint Review Panel Investigation**
- 5.1 Additional members or a subject matter expert(s) may be added to the Complaint Review Panel at the request of the Complaint Review Panel Lead. Subject matter experts do not vote.
- 5.2 The Complaint Review Panel will be responsible for gathering and verifying all necessary information to validate the complaint.
- 5.3 The Ethics Chair may reach out to the Complainant or Respondent for clarifying information if requested by the Complaint Review Panel.
- 5.4 Any expenses related to a complaint investigation must be approved by the Board of Directors.
- 5.5 The Complaint Review Panel report will be submitted to the Ethics Chair within 6 months of the beginning of the investigation. If more time is needed for the investigation, the Ethics Chair and Complaint Review Panel Lead will determine an appropriate time frame. The Ethics Chair will notify the President of the adjusted due date for approval.
- 5.6 At the conclusion of the Complaint Review Panel investigation, the Ethics Chair will issue a report of the preliminary findings to the President.
- 5.7 All findings and recommendations of the Complaint Review Panel will be communicated in writing, by the Ethics Chair, to the Secretary. The Secretary is then responsible for notifying the President, Registrar, Complainant and Respondent.

5.8 The Complaint Review Panel members will evaluate the complaint to determine if the complaint is accepted or rejected for a hearing.

5.8.1 If the complaint is rejected:

If the Complaint Review Panel rejects the complaint, the Ethics Chair will notify the Secretary who will submit the appropriate notifications to the President, Registrar, Complainant and Respondent (09-0103T).

5.8.2 If the complaint is accepted:

If the Complaint Review Panel accepts the complaint, the Complaint Review Panel Lead will select a date and time for a hearing where the complaint will be considered. Sections 6 through 9 shall be followed when the Complaint Review Panel accepts the complaint.

6 Scheduling the Ethics Complaint Hearing

6.1 Once the Complaint Review Panel accepts the complaint, the Secretary will notify the President, Registrar, Complainant and Respondent of the Complaint Review Panel hearing at least 30 days prior to the scheduled hearing date.

6.2 The hearing may be held in-person, via web conferencing, via teleconferencing, or other means as determined by the Complaint Review Panel.

6.3 Notification shall include the following information regarding the nature and particulars of the complaint (09-0104T):

- The date and time set for the hearing
- Location information such as physical location of hearing, web address, phone number, etc.
- The rights of the parties involved to submit written statements for consideration
- The rights of the parties involved to be present at the hearing
- The rights of the parties involved to have legal representation at the hearing
- The rights of the parties involved to call witnesses on their behalf
- Information regarding the grounds for the complaint
- Copies of the Complaint Review Panel Report
- Copy of this procedure

6.4 All written submissions from the Complainant and the Respondent (or their representatives) must be received by the Secretary at least 14 days prior to the hearing at which the complaint is to be discussed.

6.5 The Complainant, Respondent, (or their representatives), and any witnesses they wish to call, must give written notice to the Secretary at least 14 days prior to the hearing if they intend to appear in

person before the Complaint Review Panel. These individuals will be responsible for any expenses incurred by them or their witnesses to attend the meeting.

- 6.6 Copies of any documents to be used at the hearing must be provided to the Secretary at least 14 days prior to the hearing.
- 6.7 Any notification or documentation received less than 14 days prior to the hearing date will not be considered by the Complaint Review Panel.
- 6.8 The Secretary is responsible for disseminating all of the received information to the Complaint Review Panel.

7 Ethics Complaint Hearing Procedure

- 7.1 The Complaint Review Panel including the Ethics Chair will hold a hearing on a complaint. The Complaint Review Panel will hear the complaint and make the final determination on the complaint.
- 7.2 The Ethics Chair will preside over the hearing with ABC legal counsel, if required, and shall give rulings on the admission of evidence and on any question of procedure or points of order that may arise.
- 7.3 The hearing will be conducted with the following rules:
 - 7.3.1 Questions may be asked by the Respondent or their counsel, but not both. At the beginning of the hearing the Respondent will determine who will ask the questions. If the Respondent wishes to make a change during the hearing, the Ethics Chair will hear the request and will make a determination.
 - 7.3.2 The Complaint Review Panel Lead will present the evidence developed during the investigation.
 - 7.3.3 The Respondent may present evidence on their own behalf after the Complaint Panel Lead concludes their presentation. Only evidence that had been previously provided to the panel will be allowed.
 - 7.3.4 The Ethics Chair will cooperate with the Respondent in arranging for the appearance at the hearing of any witness which it is practical to do so and creates no extreme hardship on any other person.
 - 7.3.5 Evidence considered by the Complaint Review Panel must be relevant. Evidence may be in the form of testimony, documents, written declarations, etc.
 - 7.3.5.1 Any testimony provided, either written or oral will be given under oath.
 - 7.3.5.2 If real evidence or documents are provided, they must be authenticated.
 - 7.3.6 The admissibility of evidence will be determined by the Ethics Chair. The Ethics Chair may exclude relevant evidence or prevent questioning, which is cumulative, unduly prejudicial to the Respondent, misleading, or late.

- 7.3.7 Both the Complaint Review Panel Lead and the Respondent, or representative, have the right to examine and cross-examine the evidence of the other.
- 7.3.8 The Complaint Review Panel Lead may call the Respondent as a witness, provided that the Respondent has not already testified orally in their own behalf and further provided that the Respondent has concluded their presentation of evidence.
- 7.3.9 Both the Complaint Review Panel Lead and the Respondent, in that order, have the right to present a closing argument for a reasonable length of time which will be specified in advance by the Ethics Chair.
- 7.3.9.1 The Complaint Review Panel Lead can present a rebuttal argument for a length of time no greater than one half of the time of the Respondent's summation.
- 7.3.10 The Ethics Chair will determine the format and conduct of the hearing, including, but not limited to, number and duration of recesses, presence of spectators and witnesses, decorum, times of adjournment, marking of exhibits, ruling on objections, etc. However, the Ethics Chair shall not adjourn the proceedings during normal business hours except to accommodate Sunday and legal holidays or for such period as that to which both the Complaint Review Panel Lead and the Respondent agree.
- 7.3.11 Witnesses called to testify on behalf of the Complaint Review Panel Lead and/or the Respondent may be excluded by the Ethics Chair from attending the hearing prior to and after their testimony.
- 7.3.12 All members of the Complaint Review Panel will remain present during the entirety of the hearing.
- 7.3.13 A Complaint Review Panel member or a Board member may only be called as a witness if approved by the Ethics Chair. If a Complaint Review Panel or Board member are called as a witness, they will recuse themselves from voting on the outcome of the hearing and/or any appeals that result from the hearing.
- 7.3.14 The Ethics Chair may elect to have legal counsel present throughout any stage of the hearing.
- 7.3.15 The Ethics Chair may allow the Complaint Review Panel Lead to have one or more individuals at the hearing to assist with organization of documents, witnesses, displays, etc.
- 7.4 The Secretary will keep confidential minutes of the hearing.
- 7.5 At the conclusion of the hearing, the Complaint Review Panel will deliberate in private until it has reached a decision. The decision will be by simple majority, with the Ethics Chair voting only in the event of a tie.
- 7.6 The recommendation of the Complaint Review Panel can be one of the following:
- 7.6.1 The complaint should be dismissed. No further action will be taken. There is no appeal.

7.6.2 The complaint should be upheld but no further action is required. The complaint has been dealt with in a constructive manner. There is no appeal.

7.6.3 The complaint should be upheld and action is required by the Complaint Review Panel.

8 Ethics Complaint Review Panel Action

8.1 At the conclusion of the hearing, the Complaint Review Panel will decide by simple majority vote what action should be taken with regards to the complaint. The action of the Complaint Review Panel will be one of the following:

8.1.1 Issue a letter of reprimand.

8.1.2 Temporarily suspend certification for a specified time period.

8.1.3 Revoke certification and bar from reapplying for a specified time period.

8.1.4 Revoke certification and bar from reapplying.

8.2 If the Complaint Review Panel is not going to decide the actions directly after the hearing, the Secretary will notify the Respondent of the meeting date and time 30 days prior to the meeting. No new evidence will be presented at this meeting.

8.3 After the actions have been determined, the Ethics Chair will provide a written report of the decision to the President and Secretary within 7 days (09-0105F). The Secretary will provide a final report to the Registrar, Board of Directors, Complainant and Respondent within 14 days (09-0106T).

8.4 Reports will be nonjudgmental and will present a concise summary of the facts for both parties.

8.5 Reports and their contents shall be treated as confidential and not publicized.

9 Appeals of the Ethics Complaint Review Hearing

9.1 The Respondent may file an appeal in writing to the ABC Registrar within 21 days from date the final Complaint Review Panel report is mailed by the Secretary.

9.2 The Registrar will notify the President and the Secretary of the appeal within 14 days. The Respondent may choose to provide a detailed letter outlining the basis for the appeal.

9.3 The appeal will be considered and voted on at the next Board of Directors meeting. The Ethics Chair will provide a summary of the process and the findings to the Board of Directors.

9.4 The Board of Directors will vote to uphold, modify, or overturn the finding. The members of the Complaint Review Panel may not vote. The vote of the Board of Directors is final.

9.5 The Secretary will notify the Complainant, Respondent, and Registrar, within 21 days (09-0107T).

10 Records Retention

10.1 In the event an individual's certification is revoked and the individual is barred from reapplying for certification, the records will be retained for the duration of the sanctions plus 5 years. If the

certificate holder is allowed to reapply for and attains certification, the records will continue to be maintained in the certificate holder's file until 5 years after the certificate holder's status becomes inactive.

- 10.2** All records are confidential and will be securely destroyed on a schedule amenable to the Registrar, but no earlier than the defined schedule.

Record	Retention	Location
09-0101T (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
09-0102T (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
09-0103T (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
09-0104T (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
09-0105F (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
09-0106T (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
09-0107T (copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
Original letter of complaint and associated documentation	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
Copies of reports generated during the review/investigation	5 years after an applicant's or certificant's status becomes inactive	PowerDMS
Other communications or records the Complaint Review Panel or Board deems necessary to retain (original or copy)	5 years after an applicant's or certificant's status becomes inactive	PowerDMS