



Association for the Study of Higher Education
Ethics Committee Policies and Procedures:
Structure, Investigation, Resolution, and Consequences
Approved by the ASHE Board of Directors on June 17, 2021

1. Introduction

The Ethics Committee was proposed by the ASHE Ethics Working Group and established by the ASHE Board of Directors in 2020 to advance ethical professional and interpersonal conduct by higher education scholars and students.¹ The primary role and responsibility of the Committee is to consider and adjudicate concerns or complaints about alleged misconduct by those participating in or executing the programs of ASHE.

The *Policies and Procedures* of the ASHE Ethics Committee apply only to responsibilities within the scope of the Committee's authority. This document sets forth and makes accessible how the Committee shall undertake its work when it is examining ethical concerns or complaints. It describes the scope of authority and responsibilities of the ASHE Ethics Committee, the operating rules of the Committee, and the process for filing and handling complaints within the jurisdiction of the Committee. These rules and procedures are intended to allow for fairness and confidentiality in addressing ethical complaints. Through these procedures, ASHE seeks to create a transparent process and a climate conducive to sound ethical

¹ The ASHE Ethics Committee and its Policies and Procedures has drawn on and greatly benefited from Ethics Committee Policies and Procedures of the American Educational Research Association (AERA) and the Investigation, Resolution and Consequences model policy distributed by the American Association for the Advancement of Science for the benefit of and sponsored by the Societies Consortium on Sexual Harassment In STEMM that was original created by EducationCounsel LLC. Language from the AERA Ethics Committee Policies and Procedures and Consortium model policy used with permission.



practices.

2. Training

All members of the Ethics Committee, Appeals Committee, the Ethics Officer, and Executive Director shall have an annual training. This training shall cover, but not be limited to, the *ASHE Ethics Policies* and these *Policies and Procedures*. The ASHE Board of Directors shall annually budget for this training.

3. Definitions

As used in this document, unless the context otherwise makes clear, the term:

a. Complainant

Refers to one or more initiators of a complaint. A complainant need not have been directly involved in or affected by the matter complained about. Persons acting in an ASHE official capacity and entities of the Association (that is, ASHE committees, ASHE publication editorial boards, or other ASHE constituted bodies) may also initiate a complaint.

b. Person Directly Involved

Refers to a complainant who alleges that they has been harmed or wronged or impeded by the person(s) who is/are the respondent(s).

c. Respondent(s)

Refers to one or more persons who are subjects of the complaint.

d. Violation of the Ethics Code

Refers to a violation of the ethical standards specified in the *Code* and not to the more general principles expressed therein, although in resolving matters reference may be made to the principles where they aid in determining the meaning of particular standards.



4. RESPONSIBILITIES AND SCOPE OF AUTHORITY OF COMMITTEE

a. Responsibilities

The ASHE Ethics Committee exists to promote ethical conduct at the highest level by ASHE members. The ASHE Board of Director's charge to the Ethics Committee includes providing guidance and advice, along with the ASHE Ombudsperson, to members confronted with or pondering ethical dilemmas, periodically reviewing and recommending revisions to the *Code of Ethics* to ensure its provisions meet contemporary needs, and, when needed, considering complaints regarding violations of the *Code* or any other ASHE ethics policy on matters related to the activities or programs of the Association.

b. Scope of Authority

The Ethics Committee is authorized to:

- i. Conduct periodic reviews of the *Code of Ethics* and other ASHE ethics policies and propose to the ASHE Board of Directors changes in the *Code*, ethics policies, and in these *Policies and Procedures*.
- ii. Between periodic reviews, recommend to the ASHE Board changes in the *Code of Ethics*, other ASHE ethics policies, and these *Policies and Procedures* based on the Committee's experience in responding to inquiries and dealing with alleged violations of the *Code* and policies.
- iii. Provide advice to ASHE members, committees, Board, or other ASHE entities seeking clarification from an expert body on ethical issues.
- iv. Provide advice on ethical issues to the ASHE Executive Director or ASHE officers upon request.
- v. Examine and act upon allegations of unethical conduct on matters relating to the activities and programs of the Association, as provided for in Part III, Section 1, below.
- vi. Initiate the complaint process where information on an apparent ethical violation comes to its attention.
- vii. Refer, at its discretion, to Board of Directors allegations of unethical



conduct that fall beyond the scope of the *Code of Ethics*, ethics policies, or the authority of the Ethics Committee.

5. Responsibilities of the ASHE Office

The ASHE Office of the Executive Director shall:

- a. Work with the Ethics Committee in the administration of Part I, Section 2(a)-(g).
- b. Provide the Ethics Committee with timely information on inquiries, pending complaints and allegations, or issues that relate to the professional responsibility and conduct of ASHE members that may involve the Association either directly or indirectly and cooperate with the Committee to produce an annual report on such matters.
- c. The Executive Director shall serve as the Ethics Officer or may designate an ASHE staff member to serve or substitute in this role. The Ethics Officer is staff liaison to the Ethics Committee. The Executive Director or the designated Ethics Officer may fill any of the functions assigned to the Executive Director below. Designation of an Ethics Officer is not meant to limit the supervisory responsibility of the Executive Director or to affect functions assigned specifically to the Executive Director in these *Policies and Procedures*.

6. OPERATING RULES

a. Committee Membership

The Ethics Committee shall consist of a chair, two general members, one Graduate Student Member, and one board member. The Graduate Student Member and board member shall serve a one-year term. The committee shall also consist of at least 3 ad hoc members to serve when conflicts of interests or other instances that prevent a committee member from serving.

The Ethics Appeals Committee shall consist of two at large board members and one graduate student board member, with each serving a one-year term.



The Legal Counsel shall serve as the ex officio, non-voting chair of this committee.

Notwithstanding the expiration of their term of office, a member of the Ethics Committee may continue to participate in the investigation of a matter to which they was previously assigned, including activities leading to the final findings and recommendation with respect to that matter and any reports relating to those findings and recommendations.

i. Appointment Term and Responsibility of the Chair

A Chair-elect shall be appointed every other year to serve a one-year term on the Ethics Committee followed by a two-year term as Ethics Committee Chair. Upon the recommendation of an ad hoc search committee named by the president, the board, upon a two-thirds vote, shall appoint the chair-elect.

ii. Staff Liaisons to the Committee

The Executive Director shall serve as staff liaison unless an Ethics Officer is designated by the Executive Director to perform this function as set forth in Part I, Section 3(c).

iii. Meetings

The Ethics Committee shall meet at least once annually in connection with the ASHE Annual Conference. The Chair may call additional meetings as needed for the Ethics Committee to transact its business. Meetings may take place in person or through conference telephone or other media that allow all members participating in the meeting to speak to and hear each other at the same time, as set forth for committees in the ASHE Bylaws.

iv. Ad Hoc Membership



If for any reason, including but not limited to conflicts of interest as set forth in Part II, Section 7, four members of the Ethics Committee are not available to consider a complaint, a prior member(s) of the Committee shall be asked by the Chair to serve as an ad hoc member. If no prior member is available, the Executive Director shall advise the ASHE President of the need to appoint an alternate, providing only such information as is relevant to averting an appointment that would create a potential conflict of interest.

i. Quorum and Decision-making

With the exception of determinations on a complaint, the Ethics Committee may, without calling a meeting, reach decisions by mail, electronic mail, fax, or other means provided a majority of its members participate in the decisions.

ii. Conflicts of Interest

Members with a perceived or actual Conflict of Interest shall make the conflict known to the committee. Members shall not participate in the discussions or decisions of the Committee regarding any matter with which they have a conflict of interest as set forth in the Standards of the Code of Ethics or the ASHE Conflicts of Interest Policy. Members who believe they cannot be impartial judges in a matter may recuse themselves for reasons beyond those set out in the Code of Ethics or the ASHE Conflicts of Interest Policy.

iii. Complaints Involving the Executive Director or Ethics Committee Chair

Should a complaint involve the Executive Director and/or Ethics Chair, complaints should be made to any member of the Ethics Committee or ASHE President. In these cases, the president will appoint an Ethics Officer take on the roles and responsibilities of the Executive Director as delineated in these policies and/or an interim-Ethics Committee Chair.



b. Summary Suspension

The Executive Director and/or ASHE President may impose an immediate suspension of an ASHE volunteer's committee- or leadership-role if a preponderance of the evidence contained in an ethical complaint supports emergency action while the case is being investigated.

c. Jurisdiction

- i. The Ethics Committee shall have jurisdiction to consider complaints or allegations of a violation of the *Code of Ethics* or any other ASHE ethics policy if and only if they pertain to the conduct of the programs and activities of the Association. This jurisdiction includes complaints or allegations regarding the conduct of (1) a member of ASHE executing official duties of the Association or (2) a member or non-member of ASHE who is participating in or is benefiting or has benefited from the programs, activities, or services of ASHE or who is seeking to participate in or to benefit from such activities. In other words, for example, Association Affiliates include, but are not limited to, ASHE volunteer fiduciary leaders; other volunteers; officers; employees in all roles; all categories of members; event, meeting and other activity organizers, attendees, speakers, and exhibitors; event contractors and service providers; guests; peer reviewers; and honors and awards nominators, candidates, and recipients, and officers and other employees in all roles. The Committee may proceed with the examination of a complaint filed against an ASHE member notwithstanding that person's withdrawal from ASHE membership. In resolving complaints, the Ethics Committee shall apply relevant provisions of the *Code of Ethics* or any other ASHE ethics policy in effect at the time the behavior complained of allegedly occurred.
- ii. Activities of ASHE Affiliates That are Covered by This Policy: This Policy



applies to all ASHE Affiliates, in connection with their “ASHE-associated activities.” A “ASHE-associated activity” means:

1. all activities and events sponsored, funded, or conducted in whole or in part by, or otherwise involving, ASHE, wherever located; and
 2. performance of, or holding, any ASHE role, responsibility, privilege, function, contract or other affiliation.
- iii. This Policy also applies to certain other professional activities and roles, and acts of violence or dishonesty, of ASHE Affiliates and others that ASHE’s Ethics/Conduct-Harassment Policy covers. Such activities, roles, and acts are described in Part D of that Policy.
- iv. In the event that a complaint alleges misconduct related to the programs and activities of ASHE which is, or appears likely to be, the subject of other legal or institutional proceedings, the Ethics Committee may, in its discretion, defer further proceedings with respect to the complaint until the conclusion of the other legal or institutional proceedings.
- v. Complaints or allegations of a violation of the *Code of Ethics* or any other ASHE ethics policy in matters pertaining to the conduct of ASHE employees, including the ASHE Executive Director, consultants, contractors, and the like, in executing the programs and activities of the Association are outside the jurisdiction of the Ethics Committee. Such complaints or allegations are handled by the ASHE Executive Director according to the employee and business guidelines of the Association. If the complaints or allegations pertain to the conduct of the Executive Director, the ASHE Board of Directors has direct authority and oversight. Nothing in this statement of jurisdiction shall preclude the Executive Director or the Board of Directors from seeking the confidential advice of the Ethics Committee related to the *Code of Ethics* or any other ASHE ethics

policy as it may be germane to such complaints or allegations.

- vi. Questions on the Jurisdiction of the Committee or Regarding a Complaint
 - i. Questions regarding the jurisdiction of the Ethics Committee or a possible complaint can be directed to the Chair of the Ethics Committee or the Executive Director.
 - ii. The Chair of the Ethics Committee or the Executive Director shall encourage problem solving and other forms of mediated resolution where appropriate. They may refer the matter to an ASHE committee or individual (e.g., ASHE publications editor, Annual Conference Program Chair) with responsibility for relevant ASHE programs or activities to reach a resolution of the matter.
 - iii. The Committee Chair or the Executive Director shall provide a potential complainant with a copy of the *Code of Ethics* or any other ASHE ethics policy and a Committee complaint form upon request. A complaint using the complaint form may also be filed without any initial inquiry if the complainant so desires.

7. Filing of a Complaint

- a. Any person, whether directly involved or not, may bring a complaint about the ethical conduct of a person or persons if the matter in question falls within the jurisdiction of the Ethics Committee as specified in Part III, Section 1(a). A person shall not file a complaint entirely anonymously. Such persons include individuals acting in an ASHE official capacity.

- b. Under circumstances in which any person feels as though their identity needs to be protected to prevent retribution or other negative consequences, a person or persons can request that they make their complaint semi-



anonymously. In these cases, only the ASHE Executive Director and Ethics Committee Chair will know the identity of the person or persons making the complaint. Should a person wish to make a semi-anonymous complaint, the ASHE Executive Director and Ethics Committee Chair will review the complaint and the person's rationale for remaining anonymous in the rest of the process.

- c. Complaints to the Ethics Committee may be filed with the Committee Chair or the ASHE Executive Director using a Committee complaint form. Complaints should be filed no more than 12 months after the alleged conduct either occurred or could reasonably have been discovered. Complaints that do not meet this deadline may be heard if the Ethics Committee determines that there is good cause for the failure to file the complaint within the 12-month limit. A full description of any such circumstances shall accompany the submission of a late complaint.

- d. The information and supporting materials requested in the complaint form shall include the name and contact information of the complainant; the name and contact information of the respondent; the provisions of the *Code of Ethics* or any other ASHE ethics policy alleged to have been violated; a statement that other legal or institutional proceedings involving the alleged conduct have not, to the complainant's knowledge, been initiated or, if initiated, the status of such proceedings, if known; a full statement of the conduct alleged to violate the *Code of Ethics* or any other ASHE ethics policy, including the sources of all information on which the allegations are based; information about the salient date or dates of any behavior complained of; copies of any documents supporting the allegations; and, if necessary, a request that the 12-month time limit in paragraph (b) of this section be waived. The above information, if



known, including the identity of the complainant, is required.

Complainants must be notified that all materials that they submit as part of the complaint maybe provided to the respondent. Complainants should acknowledge this possibility through the complaint form.

- e. Complaints arising from persons acting in an ASHE official capacity, the ASHE Ethics Committee, another committee of the Association, or other ASHE entity shall be treated in the same manner as a complaint filed by a private complainant, except as follows:
 - i. An ASHE committee, other than the Ethics Committee, or entity bringing a complaint shall be responsible for filling out the complaint form. Ordinarily, the Chair of the committee or entity shall complete and sign the complaint form, and serve as representative. The representative shall assume all of the responsibilities of the complainant at any stage of the complaint process where an individual complainant would be entitled to or required to participate. The Chair of the committee or entity may at any time choose to designate another member of the committee or entity as its representative as long as the Executive Director is informed in writing.
 - ii. The procedures specified in Part III, Section 5(a)-(d) and 6(a)-(c) do not apply when the Ethics Committee is the entity bringing a complaint. The Ethics Committee, with the concurrence of the Executive Director where required in Part III, Section 5, shall make determinations consistent with those required by Part III, Section 5 before deciding to file a complaint. If the complaint it brings relates to behavior that occurred more than 6 months before the complaint filing



date, the Ethics Committee shall make a determination of good cause. The Committee shall give the respondent the material specified in Part III, Section 6(a) once it has decided to proceed.

f. Multiple Parties

- i. In an action involving two or more complainants, any party may request that each complainant’s case be treated as a separate matter. In an action involving two or more respondents any respondent may request that the complaint(s) pertaining to their actions be treated separately from the complaint(s) pertaining to the actions of another. This request shall be determined by the committee in its sole discretion.

- ii. Where a complainant or a respondent seeks to have the action involving them treated as a separate matter, a timely request for severability, in whole or in part, shall be directed to the Chair of the Ethics Committee, who shall act upon this request. To be timely, a request for separate attention must be made before the inquiry has begun.

- iii. The Ethics Committee shall have discretion at any time to require that the case or portions of it be heard with only one complainant and/or one respondent if the Chair believes that separate proceedings are needed to guarantee confidentiality, protect privacy interests or facilitate the decision in the case.

8. Preliminary Screening of a Complaint

- a. Upon electronic or physical receipt of a completed complaint form and supporting materials, the Executive Director shall determine whether the



- complaint includes all of the information required by Part III, Section 3(c). If the form is incomplete, the Executive Director shall so inform the complainant, who will be given the opportunity to provide additional information within 30 days. If all required information is not received within 30 days, the matter will be closed and the complainant so notified. No complaint closed in this way may be refiled without an explanation for the delay in providing this information and the permission of the Committee Chair and Executive Director.
- b. Upon receipt of a complete complaint form and supporting materials, the Committee Chair and Executive Director shall initially assess the complaint and allegations to determine if the Committee has jurisdiction. If based on this assessment it is determined that the Committee does not have jurisdiction, the complainant shall be so informed. The Committee Chair and/or Executive Director, at their discretion, may provide information, recommend resources, or offer strategies that may be helpful in attempting to address or resolve the matter. If the Committee Chair and Executive Director determine that the Committee has jurisdiction, they shall take appropriate steps to evaluate cause for action as set forth in Part III, Section 5(c).
- c. If the Chair of the Ethics Committee and the Executive Director determine that the Committee has jurisdiction, they shall evaluate whether there is cause for action by the Ethics Committee. Cause for action shall exist when actions and/or omissions alleged in the complaint, if proved, would in the judgment of the Chair of the Ethics Committee and the Executive Director constitute a violation of the *Code of Ethics* or any other ASHE ethics policy within the jurisdiction of the Committee. For purposes of determining

whether cause for action exists, the complaint must allege specific facts that, if proved, would be sufficient to constitute a violation of the *Code of Ethics* or any other ASHE ethics policy. Statements that are merely conclusory cannot be a basis for action. Speculative and/or internally inconsistent allegations and information from entirely anonymous sources shall be disregarded. If a cause for action exists, a formal case is initiated, as set forth in 6(a). If a cause for action does not exist, the complaint will be dismissed at this stage and the complainant so notified.

- d. A complaint that otherwise qualifies for consideration by the Ethics Committee shall not be accepted if it is received more than 12 months after the alleged conduct was discovered unless the Chair of the Ethics Committee together with the Executive Director determines that there is good cause for the failure to file the complaint within the 12-month time limit.

9. Notice of Formal Complaint and Mediated Resolution

If cause for action is found, the Committee Chair or Executive Director shall provide a copy of the complaint form and all supporting materials, and a copy of the *Code of Ethics* and these *Policies and Procedures*, to the respondent.

If the complaint is filed by a person directly involved, the Executive Director shall encourage a settlement through mediated means, including offering advice or recommendations to facilitate a mediated resolution of the matter or by offering to appoint a mediator to promote an agreed upon solution.

Upon initiation of the mediated resolution process, the timeline with regards to the 12-month time limit shall pause until the mediated resolution process is

completed. In the event that the parties decline the mediation resolution process or fail to reach an agreement, the timeline shall then resume.

a. A “**mediated resolution**” is one that focuses on community building, not punishment—elevating understanding of why a conduct concern arose, enhancing understanding of community standards established by the Ethics/Conduct-Harassment Policy or any Other Policies repairing relationships, and seeking to satisfy the individuals most directly involved and the Ethics Committee that recurrence of the concern is unlikely. It is likely that many conduct concerns can be addressed informally.

i. Criteria.

A mediated resolution is sufficient to resolve conduct concerns where the Ethics Committee determines, and any identified target and the accused agree, that it is unnecessary to determine that ASHE’s Ethics/Conduct-Harassment Policy or any Other Policies has been violated (although there may be an indication of that likelihood). In addition,

1. the dominant need is to elevate understanding that harm was experienced and what conduct caused it, and to avoid recurrence, build community and ownership of the Community Standards, repair relationships, and, where implicated, restore safety and inclusion;
2. the concern arises largely from misunderstandings that have been corrected or lessons that needed to be learned and have been learned;
3. there is not already a recurring issue;
4. there has been an authentic commitment to avoid a repetition of the cause of the concern and there is no reason to believe



recurrence is likely; and

5. considering all of this and the nature/severity of the conduct concern, safety and inclusion can be restored without the need for further action.

Alternatively, a mediated resolution is sufficient when any identified target and the accused agree that a restorative or community-building practice is desirable as the sole means of resolution and the Ethics Committee determines that a mediated resolution is likely to stem continuing harm to the individuals most directly involved and other ASHE Affiliates and:

1. there is an acknowledgement by the accused that harm that the Ethics/Conduct-Harassment Policy or any Other Policies seeks to prevent was experienced;
2. the mediated resolution is likely to elevate understanding of why conduct caused harm and enhance ownership of Community Standards;
3. there has been an authentic commitment to avoid a repetition of the cause of the concern—and based on specified facts, there is reason to believe that the mediated resolution (as opposed to a formal resolution) is most likely to prevent recurrence without increasing harm to any identified target (and others in a similar position)— whether or not the current conduct is a repetition of prior conduct; and
4. considering all of this and the nature/severity of the conduct concern, safety and inclusion can be restored without the need for further action.

- ii. No fixed stages. With flexibility in steps that are not explicitly required, the mediated resolution process:
 1. typically involves the Ethics Committee conducting a review—
i.e., limited fact-finding to understand the basics of the situation—and informally documenting the facts;
 2. requires the Ethics Committee Chair or Executive Director to engage with any target and the accused informally in some manner to inform them of the nature of the conduct concern, gain their respective perspectives, and gather any relevant facts about the situation (with flexibility of means and sensitivity to any desire of a target not to engage directly with the accused);
 3. may (but need not) involve the Ethics Committee engaging with other individuals most directly involved and/or the Ethics Committee Chair or Executive Director, engaging with any individuals;
 4. also, typically involves the Ethics Committee Chair or Executive Director recommending a mediated resolution to the Ethics Committee, applying the criteria in Part III Section 6.A.1(a), above;
 5. requires the Ethics Committee to—
 - a. determine whether the fact-finding and its mediated documentation are adequate;
 - b. determine whether a mediated resolution will suffice, and decide whether to adopt such a resolution under the criteria in Part III Section 6.A.1(a), above; and
 - c. notify the accused, any identified target, and any other individual who reported the concern, of the Ethics

Committee's decision;

- d. may involve the Ethics Committee Chair or Executive Director also notifying other individuals most directly involved; and
- e. requires agreement (without coercion) among the Ethics Committee, any identified target, the accused, and any other individual most directly involved whom the Ethics Committee identifies as needed for a resolution to
 - i. participate in a restorative or community-building practice; and
 - ii. that an informal resolution is preferred to a formal resolution.
- ii. **Timing.** Mediated resolutions should be pursued diligently by the Ethics Committee and individuals most directly involved with a goal of completing the process in 90-120 days from the date of submission of a concern to a completion of the mediated resolution. However, the timing for a mediated resolution must be flexible, e.g., to provide an opportunity for any identified target or the accused to decide whether they want a mediated resolution, without being pressured.
- iii. If mediated dispute resolution is declined, members of the Ethics Committee shall not be informed which party declined.
 - a. No mediator shall be appointed, unless that person agrees to maintain the confidentiality of the proceedings as set forth in the *Code of Ethics* and these *Policies and Procedures*.
 - b. If a resolution reached through mediation requires



action by ASHE or its agents or officers (e.g., editor of an ASHE publication), the mediator, before finalizing the resolution, shall consult with the Executive Director on whether it is feasible for ASHE to engage in the mediated outcome.

c. The mediator shall a written report to the Executive Director whether or not a matter has been resolved to the satisfaction of the parties, and, if there is a resolution, what this resolution is and any actions on the part of ASHE that need to be taken. No other information as to the character or proceedings of the mediation or of the positions taken by the parties shall be recorded.

b. If the person bringing an alleged ethical violation to the Committee's attention is not a person directly involved, the Chair or Executive Director shall, bring the matter to the attention of the Ethics Committee. The Committee may authorize the Executive Director to attempt a mediated resolution, including the involvement of other persons who might contribute to resolving the matter. If such a resolution is authorized, any resolution reached by the Executive Director shall be final and the result reported to the Ethics Committee. If mediated dispute resolution is declined, members of the Ethics Committee shall not be informed which party declined

c. If an ASHE committee or entity, including the Ethics Committee, is bringing an alleged ethical violation for consideration, the Ethics Committee may also



authorize the Executive Director to attempt a mediated resolution according to the procedures set forth in Part III, Section 6(b).

10. Response to the Complaint

- a. If either the complainant or respondent decline mediated dispute resolution or if mediated dispute resolution fails to resolve the complaint, or if there is no directly involved complainant and the Ethics Committee has not authorized an attempt at mediated resolution, or if an authorized effort to informally resolve the matter has not succeeded, the Committee Chair or Executive Director shall notify the respondent that the case will go forward in accordance with these *Policies and Procedures*. The respondent shall have thirty (30) days after receipt of this notice to respond in writing to the complaint. All notices will be given through electronic communications to the email on file with the ASHE Office. An extension of up to 90 days beyond this deadline may be granted by the Committee Chair for good cause shown.
- b. The Committee Chair or Executive Director may request additional information from the complainant and/or any other appropriate source; however, the Chair shall not rely on such additional information unless it has been shared with the respondent and the respondent has been afforded an opportunity to respond. Unless an extension has been granted by the Committee Chair in consultation with the Executive Director, this opportunity to respond shall be deemed waived if no response is received by the Committee within 30 days of the date when the respondent received the additional information. Extensions may be granted only upon a showing of good cause and shall be for a set period of time not to exceed 120 days after the original notice.
- c. Upon receipt of all additional information, the Committee Chair and Executive Director shall consult to determine whether there is sufficient evidence of an ethical



violation to allow (but not necessarily require) a reasonable person to assess that an alleged violation has more likely than not occurred. If the Chair of the Ethics Committee determines that there is insufficient evidence to proceed with the complaint, the matter shall be closed and the complainant and respondent notified of this outcome in writing.

11. Investigation

- a. If the Ethics Officer determines that there is sufficient evidence to proceed with the complaint, they shall convene the Ethics Committee to investigate and make a decision regarding the disposition of the complaint.

- b. The Ethics Committee, in its discretion, may interview the parties, witnesses, and others with information that may help in resolving the matter. Interviews may be conducted by one or more members of the Committee. If the interviewee is an ASHE member, they should be reminded that Standard 22.06 of the *Code of Ethics* creates a duty to cooperate in ethics investigations and proceedings.
 - i. The Committee shall inform interviewees that any information they receive during the interview about the complainant, the respondent, witnesses, the nature of the complaint or the interviews, or that there is an ongoing investigation into an ethics complaint, shall be treated as confidential, except as provided in Part III, Section 8(e). Interviewees shall be reminded that, while they will not be under oath, untruthful or inaccurate statements may in themselves constitute a violation of the *Code of Ethics*.
 - ii. The Committee shall ask witnesses and other third-party interviewees about their relationships, if any, to the complainant and respondent and to the subject matter of the alleged complaint. The Committee shall consider the influence of potential conflicts of interest in weighing information provided by witnesses.

- iii. Statements and other information provided by interviewees should generally be based on that person's own knowledge. Where a person reports or relies on a statement or other information provided by another individual or individuals, the member(s) conducting the interview shall seek to identify the source of the information and indicate to the interviewee that information from entirely anonymous sources cannot be considered by the Committee. Where necessary to ensure the accuracy and fairness of its investigation, the Committee shall attempt to interview those named as information providers.

Interviews may be recorded. If an interview is not recorded, one member of the Committee shall prepare a summary of each interview, which shall be reviewed for accuracy by any other member(s) who participated in the interview. A copy of an interview summary may be provided to the interviewee, who may provide any corrections or additions as they believe necessary to ensure the accuracy and completeness of the interview.

An interviewee may be requested to submit a written statement to the Committee in lieu of, or in addition to, an oral interview, in which case, the Committee may dispense with the preparation of an interview summary with respect to such statements.

Copies of interview recordings, interview summaries, or witness statements shall be provided to the complainant and respondent, unless the complaint is dismissed as forth in subparagraph (e).

- iv. The complainant, respondent, or other witness, may, at their own expense, be accompanied by an attorney or other advisor, provided that all statements shall be the statements of the individual and, provided further, that, in the judgment of the Committee member(s) conducting the interview, the presence of such attorney or other advisor is not disruptive of the proceedings or otherwise likely to call into question what has transpired at the interview. Complainant, respondent, or other witness must give notice to the ASHE Executive Director of them bringing an attorney or other advisor. Notice must be given 14 calendar days in advance.

- c. The Committee, at its discretion, may convene an informal hearing (“hearing”) for the purpose of receiving the statements of the complainant, respondent, and/or witnesses. If a participant or invitee is an ASHE member, they should be reminded that Standard 22.06 of the *Code of Ethics* creates a duty to cooperate in ethics investigations or proceedings.
 - i. Individuals may be invited to make statements or to make written submissions. Those who make statements or written submissions shall be reminded that, while they will not be under oath, untruthful, inaccurate, or otherwise misleading statements may in themselves constitute a violation of the *Code of Ethics*. Committee members may freely question witnesses or pose questions to those who have made written submissions.

 - ii. In inviting witnesses, the Committee shall ask about their relationship, if any, to the complainant, respondent, and to the



subject matter of the complaint. The Committee shall consider the influence of potential conflicts of interest in weighing information provided by witnesses.

- iii. During a hearing with witnesses only one witness may be present in the hearing room at a time.
- iv. The complainant and the respondent may be allowed to submit written questions for the Committee to pose, at its discretion, to a witness in the hearing.
- v. If the complainant or the respondent refuses to participate in, or withdraws from, an informal hearing, the Committee may, in its discretion, go forward with the hearing.
- vi. The complainant and/or the respondent may be accompanied, at their own expense, by an attorney or other advisor. In addition, the Committee, at its discretion, may allow either party to be accompanied by an additional person(s) if a timely request is made and good cause is shown. Counsel or other approved additional person(s) may not participate in any of the Committee's proceedings unless the Chair for good cause shown allows participation.
- vii. Each individual attending a hearing, including any attorney, other advisor, or approved additional person(s), shall be



advised of the confidential nature of the complaint and the Committee's investigation and be requested to keep the complaint and the fact of the investigation confidential.

Attendees shall also be asked to agree to keep confidential any statements made or other information they may acquire in the course of the hearing except for disclosure made in a later stage of this process. Any individual who refuses to comply with this requirement regarding statements made in the hearing shall not be permitted to be present at the hearing.

- viii. A hearing may, but need not, be recorded in whole or in part.
- ix. At the conclusion of the hearing, the Committee may, in its discretion, provide the complainant and respondent with an opportunity to submit written responses, within 15 days, to the testimony presented at the hearing and any supplementary statements that may have been submitted. The Committee's investigation shall not be regarded as completed until the deadline for submitting responses has passed.

d. If two-thirds of the Committee concur that there is insufficient evidence to support a finding that the *Code of Ethics* has been violated, the Committee shall dismiss the complaint. In such cases, the Committee and the Executive Director summarizing the basis for the decision to dismiss the complaint.

12. Review and Determination by the Committee

- a. Except where a complaint has been dismissed by the Committee under Part III, Section 8(e), a finding that an *Ethics Code* or any other ASHE ethics policy

violation has occurred may be made only at a Committee meeting with at least three members present and shall require the affirmative votes of at least two of those members (who may include any ad hoc member appointed by the Chair pursuant to Part II, Section 5). In the absence of four affirmative votes that a violation has occurred, the complaint shall be dismissed.

- b. When a violation has been found, the sanction shall be determined by a two-thirds of the members present.
- c. When the Committee fails to determine by the requisite vote that a violation has occurred, a member or members of the Committee may, for educative purposes, be delegated by the Chair to communicate privately with the complainant and/or respondent concerning the behaviors charged or other matters raised in the complaint.
- d. The Committee shall issue a written decision which includes the basis for its determination that a violation has or has not occurred. If a violation has been found, the decision shall also set forth the sanctions the respondent faces. The Committee shall issue its decision within ninety (90) days, unless an extension of this deadline is allowed by the ASHE Executive Director.

13.

14. Responsibilities of Complainant, Respondent, or Witness Counsel

The complainant, respondent, or any witness may receive the assistance of an attorney or other advisor, at their own expense, in preparing any submission to the Committee under Part III of these *Policies and Procedures*, including written responses submitted under Sections 8 and 9. Any such submission by an attorney or other advisor shall include a certification by the person on whose behalf the submission has been made that they has read the submission and that any factual



statements made in such submission are true and complete to the best of their knowledge.

15. Education and Sanctions

In any case in which it is determined that a violation of the *Code of Ethics* or any other ASHE ethics policy has occurred, the Ethics Committee may take one or more of the following actions, as appropriate. In the case of any sanction listed in (c)-(j) below, the Committee action may be reported to employers, granting agencies, the ASHE membership, or other parties that in the determination of the Ethics Committee and Executive Director should be informed.

Decisions to impose sanctions (d)-(j), where privileges or membership is revoked, either temporarily or permanently, must be ratified by the ASHE Board of Directors with a two-thirds vote at a meeting.

- a. *Private Educative Letter.* When the Ethics Committee finds a violation of the *Code of Ethics* or any other ASHE ethics policy that is minor, but more than technical, and concludes based on the findings that the violation resulted from a lack of understanding or good judgment, an educative letter may be issued to the respondent. The complainant may be informed of the fact of the educative letter, with the understanding that the fact of a letter being issued will be held confidential.
- b. *Private Reprimand.* In cases where there has been a violation of the *Code of Ethics* or any other ASHE ethics policy but the violation did not cause personal and/or professional harm to others or to the Association, a private reprimand concerning the violation, including any stipulated conditions of redress, may be sent to the respondent. Failure to comply with stipulated conditions of redress in a private reprimand shall result in the imposition of a more severe sanction. The



complainant may be informed of the fact of the private reprimand, with the understanding that this fact will be held confidential and that knowing dissemination of this information will itself constitute an ethical violation.

- c. *Fixed-Term Denial of Privileges and Participation.* The Ethics Committee may determine that the seriousness of a violation of the *Code of Ethics* or any other ASHE ethics policy warrants more than a public reprimand. Under such circumstances, the respondent shall be denied for a period not to exceed three years, one or more of the privileges of ASHE membership and/or the opportunity to participate in ASHE programs, activities, or services, regardless of whether the respondent is an ASHE member or non-member. Privileges and benefits that may be denied include but are not limited to appointment to the editorial boards of any ASHE publications, election or appointment to any ASHE offices and committees, receipt of any ASHE awards or honors, publishing in or serving as an editor of an ASHE-sponsored journals, presenting a paper, or otherwise participating at one or more meetings or events sponsored by ASHE, or receiving research or scholarship assistance or other support from any program sponsored by the ASHE.
- d. *Cancellation, Suspension, or Withdrawal of Privileges or Participation.* The Ethics Committee may determine that the seriousness of a violation of the *Code of Ethics* or any other ASHE ethics policy warrants more than a fixed-term denial of privileges and participation. Under such circumstances, the respondent shall have the privileges and/or benefits of ASHE membership or, in the case of non-members, eligibility to participate in ASHE sponsored activities or programs or to receive ASHE services canceled, suspended, or withdrawn, including but not limited to those privileges, benefits and services set forth in Part III, Section 11(d).

- e. *Removal or suspension from a volunteer position.*
- f. *Removal or suspension from a leadership position*
- g. *Denial or revocation of honors or awards as set forth in the ASHE Honors and Awards Policy*
- h. *Temporary or fixed-term no-contact requirements for the accused and identified target*
- i. *Termination of Membership.* In cases where there has been a violation that caused serious personal and/or professional harm to another person or to the higher education research profession or is otherwise of significant gravity, the Ethics Committee may terminate the ASHE membership of the respondent for a period of time to be determined by the Committee. A ruling to terminate membership may provide that eligibility to renew membership will be automatically restored at the end of a fixed period or that membership restoration will be conditioned on a petition by the party and a future determination by the Ethics Committee that eligibility is appropriate.²

16. Considerations and Proportionality

Consequences imposed will be proportional to the severity of the violation, and the corresponding harm caused or threatened to individuals (any identified target and/or others), ASHE, the Field, or society-at-large. Considerations to determine severity of the harm include, but are not limited to:

- a. the nature of the violation;
- b. whether the violation is repetitive;
- c. the frequency of the violation;

² The Termination of Membership must be consistent with Nevada Code. The current code is NRS 82.251 Expulsion of member; suspension or termination of membership.

- d. whether the violation reinforces longstanding barriers or creates barriers to inclusion of all talent in the Field;
- e. the other actual effects or threatened effects of the violation (harm or threatened harm to individuals, ASHE and/or Field, including, e.g., regarding reputation, operations, legal exposure, finances or other resources);
- f. whether the violations implicate safety interests;
- g. the stage of career and role of the accused; and
- h. whether the accused, in a first-time violation situation, has taken responsibility, demonstrated an appreciation of the severity of the violation, and taken or committed to action to remedy the adverse effects.

While all facts and circumstances are considered, a violation perpetuated by an accused who is in a senior stage of career, or in a leadership role, is generally considered more severe than the same violation perpetuated by an accused who is in a junior stage of career and is not in a leadership role. However, some violations, by nature, are severe in any event.

17. Notice of Determination

The Chair of the Ethics Committee shall notify the complainant and respondent of the Committee's decision and the voting outcome. If a sanction is imposed, the Ethics Committee shall instruct the Executive Director to take the actions called for in the Committee's determination once the time for appeal has lapsed. When the Ethics Committee has found a violation that it regards as serious and severe, it may request that the Executive Director withdraw a benefit that otherwise would be fully enjoyed before the time for an appeal has lapsed.

18. Appeal of Decision

If the Ethics Committee determines that a respondent has violated the *Code of Ethics* or any other ASHE ethics policy and a sanction is imposed under 11(b)-(e), the respondent may file an appeal contesting the determination and/or sanction within 30



days after receipt of the Ethics Committee's Notice of Determination. An appeal should set forth a statement of reasons and respond to the Committee's determination. If an appeal is filed, Ethics Appeals Committee shall review the information considered by the Ethics Committee in making its determination. The Ethics Appeals Committee shall also consider any statement made by the respondent in support of the appeal and any statement which the Chair of the Ethics Committee and/or the complainant wishes to make in response to the appeal. If newly discovered information not available at the time of the initial review is presented on appeal which in the view of the Ethics Appeals Committee might have changed the determination of the Ethics Committee, the Appeal Panel shall return the matter to the Ethics Committee for reconsideration under the procedures set forth in Section 9 above. Otherwise, the Appeal Panel by majority vote shall, within 90 days, decide to uphold or reverse the original determination or to impose a less severe sanction. The decision of the Ethics Appeals Committee is final and shall be transmitted to the ASHE President and the Executive Director. The Executive Director shall notify the Chair and members of the Ethics Committee as well as the complainant and respondent of the outcome of the appeal.

19. Dissemination of Committee Action

When the final determination of a complaint involves the imposition of public sanctions or notifications, the Ethics Committee and ASHE Board of Directors may take steps to make public such decisions and the basis for them. Otherwise the Committee will reference the matter only in an annual summary of complaints considered by the Committee and their disposition without identifying the parties involved. The summary reports are intended to support and discharge the educative functions of the Committee to make known to ASHE members the kinds of ethical allegations and disputes that arise or create conflicts in professional activities governed by the *Code of Ethics* or any other ASHE ethics policy.

20. Confidentiality

The following confidentiality provisions will be observed, unless resolution of a formal complaint involves a public action in 11(c)-(j):

- a. The fact of the filing of a complaint against an ASHE member or non-member and all proceedings shall be kept confidential by the Ethics Committee, the Appeal Panel, and the ASHE President prior to a final determination of the matter, except that information regarding complaints may be shared with the Executive Director, any staff designated by the Executive Director to assist the Ethics Committee, and ASHE legal counsel. Determinations of violations of the *Code of Ethics* or any other ASHE ethics policy by the Ethics Committee or by an Appeal Panel shall be kept confidential, except that the name of each individual whose membership is terminated and a brief statement of the reason for termination shall be reported immediately to the ASHE Board of Directors.
- b. The Executive Director and the ASHE President may disclose any information it has received as well as any conclusions it has reached when compelled by a valid subpoena, by a court order, or in response to publicity given the matter by or with the cooperation of the respondent.
- c. Notwithstanding the foregoing, the Ethics Committee may publish reports of its determinations in order to educate the membership about the requirements of the *Code of Ethics* or any other ASHE ethics policy so long as it does not make the identity of the parties public unless otherwise provided for in Part III, section 15.
- d. Initiation of legal action against ASHE or against the complainant or others providing information to the Ethics Committee, or ASHE or efforts to publicize or disseminate information regarding the complaint or findings regarding the



complaint may be treated by ASHE as a waiver of confidentiality by the person initiating or cooperating in such action.

- e. Disclosure of information related to the investigation of complaints, whether intentional or inadvertent, may form the basis of a complaint and investigation by the Ethics Committee.

- f. Records relating to the investigation of complaints of violations of the *Code of Ethics* or any other ASHE ethics policy, whether or not the Ethics Committee had determined that a violation occurred, shall be maintained in a secure place and in accord with the ASHE policies regarding document retention for a minimum of three years after final adjudication. These records should always remain confidential, unless otherwise provided for in 16(b) and 16(d).

21. Additional Responsibilities

a. General Responsibilities

The Ethics Committee and the Executive Director will be responsible for the following:

- i. Human concern. Attend to the human aspects of conduct concerns; lend an empathetic ear to anyone who is in distress and refer them to resources for assistance if needed. Respect choices made by any identified target regarding the target's participation to the extent possible without violating applicable legal requirements. Avoid pressuring targets and those accused about choices. Prioritize safety, as well as inclusion, while also satisfying Baseline Requirements.

- ii. Confidentiality obligations of ASHE. To the extent feasible and not at odds with Baseline Requirements, maintain confidentiality about any conduct concern raised and the individuals most directly involved, while carrying out the resolution process, to enable a fair review and meaningful resolution of the concern.

- iii. Confidentiality instructions to ASHE Affiliates/Others. To the extent not at odds with Baseline Requirements, instruct those with whom they need to communicate in the course of reviewing, investigating and resolving a conduct concern to maintain confidentiality, and that a failure to do so is a violation of the Ethics/Conduct-Harassment Policy and Investigation Policy.

- iv. Record of review/investigations. Document a record of steps taken, sources and substance of information and documents obtained, and communications with individuals as part of review, investigation and resolution of a conduct concern. Include in the record names, relevant affiliations and titles, dates and times.

- v. Internal Reporting. Report to ASHE Board of Directors on the conduct concerns raised and how they were resolved on at least an annual basis.

- vi. Reporting-out. Provide data to the appropriate ASHE officials for purposes of reporting-out to ASHE Membership and posting on ASHE website at least annually about the options for raising and resolving conduct concerns; the types and frequency of conduct concerns raised; and the status and manner of resolution, without revealing the identities of individuals most directly involved.