

FELDENKRAIS GUILD® of North America

ETHICS AND GRIEVANCE PROTOCOL

Purpose

These Ethics and Grievance Procedures have been established by FGNA in order to regulate the professional practices and behavior of its Members, as set forth in the Code of Professional Conduct and Standards of Practice. The following are the procedures that will be used for the investigation and hearing of any claims that involve violations of the Code of Professional Conduct or Standards of Practice.

General Guidelines

Members are encouraged to talk directly to those with whom they have issues, to facilitate resolution without recourse to these procedures whenever possible.

Rather than punishment, the intention of the Procedures is *course correction*. It is our hope that the punitive machinery established here will seldom, if ever, be used.

Innocence will be presumed.

Confidentiality will be respected. Information about a complaint or its status within the Ethics/Grievance process will not be discussed outside of the working of the Ethics or Grievance Committees, nor published, until and unless the Board of Directors makes a final decision to suspend or revoke a practitioner's certification and/or terminate his/her membership in FGNA.

ETHICS AND GRIEVANCE COMMITTEE COMPOSITION

The Ethics Committee is a standing committee of the Board and is composed of at least three members, including a Chairperson, who are appointed by the Board. At least one member of the Ethics Committee shall be a member of the Board of Directors and shall be the liaison between the Board and the Ethics Committee.

The Grievance Committee shall consist of five (5) members, two (2) of whom are members of the Ethics Committee and three (3) of whom are elected by the membership at large for a one (1) year term. Elected Grievance Committee members whose terms expire before the final decision on a specific complaint that they have heard will nevertheless continue to serve until the final decisions on such complaints are made. Anytime a Grievance Committee is convened to hear a complaint, their first order of business shall be to elect a Chairperson to provide leadership throughout the process for that complaint.

Any member of the Ethics or Grievance Committees who has a current or former personal or professional relationship with a practitioner against whom a bona fide complaint has been made shall declare that they have a conflict of interest and shall not take part in any part of these procedures relating to that complaint.

Decisions of the Ethics Committee and the Grievance Committee shall be by majority vote of those present and voting. Three members of either the Ethics or the Grievance Committee, including the Chairperson or his/her designee, shall constitute a quorum.

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1. Initiation of Complaint

A complaint alleging that a *Guild Certified Feldenkrais Practitioner*^{cm} (hereinafter “Respondent”) has acted in violation of the Code of Professional Conduct or the Standards of Practice of the FGNA shall be made in writing to the Chair of the Ethics Committee. It is not necessary that the Complainant be a member of FGNA nor that specific sections of the Code or Standards be cited in the complaint. Complaints received by the office or by any other FGNA members should be forwarded to the Ethics Committee Chair and persons who may have received such complaints shall treat them confidentially.

1.1 Bona Fide Complaint

If the complaint identifies the Complainant, provides a means of contacting the Complainant and contains a statement of facts which, if proven, would constitute unethical conduct, it shall be accepted as a bona fide complaint by the Chair of the Ethics Committee. It shall be assigned a case manager, who shall be chosen by and be a member of the Ethics Committee. The case manager shall be responsible for tracking the complaint, keeping up with timelines and next steps, throughout these procedures.

Within thirty (30) days the Ethics Chair or his/her designee shall acknowledge in writing to the Complainant receipt of the complaint and shall enclose in such letter a copy of the Code of Professional Conduct, the Standards of Practice and these Ethics/Grievance Procedures. The Complainant’s attention shall be directed to Section 2 of these procedures, which provides that a copy of the complaint shall be forwarded to the Respondent in order for Respondent to answer the complaint. If Complainant does not wish his/her complaint to be forwarded to the Respondent, Complainant has the choice of withdrawing the complaint or having the complaint dealt with as an anonymous complaint. If Complainant so chooses, he/she must notify the Case Manager or Ethics Chair in writing within fourteen days (14) days of receiving the acknowledgment letter. Unless the Case Manager or Ethics Chair hear differently from the Complainant, the ethics/grievance process will go forward.

In situations where the Ethics Chair becomes aware through public records of circumstances which appear to support the filing of a bona fide ethical complaint (including a reason to believe that some state or federal law has been violated, or where a state licensing authority has already taken action against a *Guild Certified Feldenkrais Practitioner*) the Ethics Chair is authorized to initiate the Ethics/Grievance Process.

If a bona fide complaint has been filed and the situation arises where the Complainant no longer participates in the process, the Ethics and Grievance Committee may continue the process. Likewise, if during the process a Respondent does not renew his/her membership in FGNA and/or renew his/her certification, the Ethics Committee may still complete the collection of all available information in order to facilitate a later reopening of the case if the Respondent at any time reapplies for membership or for certification.

If the situation arises where a Respondent’s certification and/or membership is up for renewal, and the Ethics Committee or Grievance Committee, whichever is appropriate, determines that the seriousness of the charges against the Respondent so merit, they may recommend to the Board of Directors that the certification and/or membership of the Respondent be withheld pending the outcome of the Ethics/Grievance process.

At any time during the process, these Ethics/Grievance procedures and time limits may be temporarily stayed by a majority vote of the Ethics or Grievance committee members, whichever

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is appropriate, if the incident that gave rise to the proceeding is the subject of a civil action or of investigation or action by federal, state or local authorities.

1.2 Anonymous and Hearsay Complaints

A complaint that states an ethics violation but is unsigned or clearly pseudonymous, or fails to provide a way to contact the Complainant will not be considered a bona fide complaint. It will be held by the Ethics Committee Chair for a period of one year. If during that year the Complainant is willing to identify himself/herself, the complaint shall be assigned a case manager and proceed through the Ethics/Grievance Process.

The Ethics Committee may at their discretion contact the practitioner who is the subject of an unsigned complaint to inform the practitioner of the nature of the allegations of the unsigned complaint, gather a response or other additional information for the file and make any recommendations that would be appropriate in the situation.

If a bona fide complaint alleging similar ethics violations by the same *Guild Certified Feldenkrais Practitioner* who was the subject of the anonymous complaint is received during that year, the anonymous complaint may be considered as evidence in the investigation of the bona fide complaint, keeping in mind that anonymous complaints merit less credibility.

A complaint that is based on hearsay (i.e. about a practitioner's behavior, but not directly from the person who experienced the unethical behavior or a person who witnessed the unethical behavior) shall be treated the same as an anonymous complaint.

1.3 Initial Complaint Dismissal

If the complaint is determined not to be a bona fide complaint, the Ethics Chair, upon consultation with the Ethics Committee, shall dismiss the complaint and so advise the Complainant by letter within thirty (30) days of the decision. In such case, the Ethics Chair shall keep a copy of the complaint and letter for a period of one year, after which the complaint and letter shall be destroyed. The procedures provided for bona fide complaints shall not be invoked.

1.4 Complaint Based on Criminal Conviction; Effect

If the written complaint received or initiated by the Ethics Chair indicates conviction of a crime which is by its nature a violation of the Code of Professional Conduct and Standards of Practice (i.e. crimes involving physical or emotional injury to a person), then such conviction is conclusive evidence of a breach of ethics by the convicted practitioner. Upon receipt of documented information of such conviction, whether following a guilty plea or verdict after trial and including a plea of nolo contendere, the Ethics Committee shall suspend the certification of the Respondent, effective thirty (30) days after the date of the notice to the Respondent. Such notice shall be sent by certified mail, return receipt requested. The Ethics Committee shall gather whatever additional information is appropriate and make recommendations to the Board of Directors.

At the next meeting of the Board of Directors, the criminal conviction of the Respondent and whatever additional information the Ethics Committee has gathered shall be reviewed. The suspended Respondent shall be notified in advance of the Board's review and shall be afforded the opportunity to appear before the Board (via participation in the teleconference call) or to submit a written statement.

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The Board of Directors shall determine based on all the information available to it: (1) whether the Respondent's status shall remain as suspended and what conditions shall apply; or, (2) whether the Respondent's certification shall be revoked; and, (3) where applicable, whether Respondent's membership in FGNA shall be terminated. Any application for recertification or reentry into FGNA shall be in accordance with the conditions established by the Board of Directors. Revocation of certification and/or termination of FGNA membership require an affirmative vote by two thirds (2/3) of the Board of Directors.

Notice of the Board's decision shall be sent to the Respondent by certified mail, return receipt requested, within fifteen (15) days following the decision.

2. Notice to Respondent

Within sixty (60) days after the receipt of a bona fide complaint, the Ethics Committee Chair, or his/her designee, shall notify the Respondent of the complaint. Notification to the Respondent shall be by certified mail, return receipt requested. Such notice shall include a copy of the complaint describing the alleged unethical conduct, a copy of the Code of Professional Conduct and a copy of the Ethics/Grievance Procedures.

3. Investigation

Either the case manager or someone else, as decided by the Ethics Committee, shall be appointed as investigator. If a member of the Ethics Committee, the investigator may not participate in the proceedings in any role other than that of investigator. The investigator need not be a Guild member. The investigation shall be an appropriately comprehensive review of the circumstances under which the alleged unethical activity took place. The investigator shall prepare an investigative file which includes information and documents acquired during the investigation. As a part of the investigation, the Complainant and the Respondent will be offered an opportunity to submit a statement of position or evidence with respect to the allegations. The investigator shall collect and organize information without bias or recommendations concerning the complaint and shall, within ninety (90) days of appointment, submit the investigative file to the Ethics Committee. Due precautions should be maintained during the investigation to assure continued confidentiality.

If a witness wishes to remain anonymous, the investigator shall prepare a summary of the information provided by that witness. The Ethics or Grievance Committee shall consider such anonymous information as having less credibility than information from a named witness.

Upon completion of the investigation and review of the investigative file, the Ethics Committee shall either dismiss the complaint, effect resolution of the complaint, or forward the complaint to the Grievance Committee.

If the Ethics Committee decides to dismiss the case, the case manager shall so notify the Complainant and the Respondent with an accompanying rationale stating why the complaint has not been substantiated.

The Ethics Committee may also effect a resolution of the complaint. A resolution would consist of a specified course of action that is acceptable to and signed by both the Respondent and the Complainant. The Ethics Committee shall supervise and ensure the completion of the course of action, at which time the Ethics/Grievance process would be concluded. In the event the resolution is not carried out, the complaint and the additional information on the failed resolution shall be forwarded to the Grievance Committee for review and a hearing.

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If the complaint is not dismissed or resolved by the Ethics Committee, it shall be forwarded to the Grievance Committee for review and a formal hearing. The investigator shall be available to be called at the hearing to clarify the contents of investigative file.

4. Hearing

4.1 Prior to Hearing

After forwarding the investigative file to the Grievance Committee, the Case Manager shall notify the Respondent by certified mail, return receipt requested, that the investigation is complete and shall advise the Respondent in writing of his/her right to a hearing before the Grievance Committee.

The Respondent must request a hearing in writing within fifteen (15) days of receiving notice. If the Respondent declines the opportunity to have a hearing or if the Respondent fails to respond within fifteen (15) days, the Grievance Committee has the prerogative to call and convene a hearing. If no hearing is held, the Grievance Committee shall issue conclusions and recommendations as set forth in Section 5.

If a hearing is to be held, the Respondent will be notified in writing of the date and time of the teleconference hearing at least thirty (30) days before the date of the hearing and shall be given a copy of the investigative file, including any statements from the Complainant and statements from any witnesses. If any witness has asked to remain anonymous, only a summary of that witness' information will be provided.

Complainant shall also receive a copy of the investigative file, including any statements from the Respondent and statements from witnesses, or summaries of information from any anonymous witnesses.

The hearing shall be held within ninety (90) days of the receipt by the Grievance Committee of the investigative file.

4.2 Hearing

The Grievance Committee shall conduct the hearing to review the pertinent facts, and review pertinent documents, including written statements of any witnesses. The right to log onto the teleconference call and to speak at the hearing is limited to members of the Grievance Committee, the Respondent and the Complainant. Questioning of the Respondent and the Complainant shall be done only by members of the Grievance Committee. Rules of evidence shall not be applied strictly, but the Grievance Committee shall exclude irrelevant or unduly repetitious evidence. An oral affirmation of truthfulness will be requested from the Complainant and the Respondent. The hearing shall be recorded by audiocassette or otherwise. All documents accepted by the Grievance Committee, including the investigative file, shall be made a part of the record of the hearing. Neither Complainant nor Respondent shall be present when the Grievance Committee deliberates and makes its decision.

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5. Conclusions and Recommendations

The Grievance Committee shall issue its conclusions based on evidence contained in the investigative file and obtained at a hearing, if one was held. The Grievance Committee's actions shall be limited to either dismissal of the complaint or a recommendation to the Board of Directors of one of the following disciplinary actions:

reprimand—a statement of recognition of behavior contrary to the Code of Professional Conduct or Standards of Practice that the Respondent shall correct immediately. Ongoing conditions may not be added to a reprimand.

probation—a stronger reprimand with conditions for corrective action that the Respondent must complete within a given time period, not less than six (6) months nor more than two (2) years. The Ethics Committee shall monitor compliance with the conditions of probation. Failure to comply with the conditions of probation shall result in review and further conclusions and recommendations for sanctions by the Grievance Committee.

suspension—a temporary removal for a specified time period of not less than one (1) year of the rights of certification and/or membership with or without conditions for corrective action that the Respondent must complete within a given time period, which shall be monitored by the Ethics Committee. At the end of the specified time of suspension, provided there has been compliance with the established conditions, the Code of Professional Conduct and Standards of Practice and other requirements for certification during the suspension, the suspended rights shall be automatically restored.

revocation/expulsion—a removal of certification and/or membership which is subject to reinstatement only through future application to the Board of Directors.

The Grievance Committee shall mail a copy of its decision to dismiss or its recommendation for disciplinary action to the Respondent by certified mail, return receipt requested, within thirty (30) days of the hearing, or if no hearing is held, within sixty (60) days of the completion of the investigation. The Grievance Committee shall not determine the effective dates of recommended disciplinary action. The case manager shall forward the entire original of the record, including all transcripts, the investigative file and record of hearing, if any, to the Board of Directors. The Chair of the Ethics Committee shall keep a duplicate file.

6. Decision of Board of Directors

A recommendation by the Grievance Committee of disciplinary action must be reviewed and acted upon by the Board of Directors at its next regularly scheduled meeting, provided the recommendation has been mailed to the Respondent and to the Board at least forty-five (45) days prior to the scheduled date of the Board meeting. If that timeline is not met, the Board shall act upon the recommendation at its next regularly scheduled meeting, or at a special meeting called for that purpose.

If the recommendation is for revocation/expulsion, then within twenty (20) days of receipt of the recommendation the Respondent may request to be heard before the Board at the time of its review of the Grievance Committee's recommended disciplinary action; or, in lieu of a hearing, the Respondent may submit written testimony to be considered by the Board. If the Respondent neither requests a hearing nor submits written testimony within the twenty (20) day period, he or she waives the right to be heard at the Board meeting.

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If a hearing is requested, notice of the date and time shall be mailed to the Respondent at least ten (10) days prior to the hearing. If a hearing is held, the hearing shall be limited to one hour. The Respondent's presentation shall be limited to matters relevant to the complaint.

The decision of the Board shall be based on the record received from the Grievance Committee and on any oral or written testimony presented by the Respondent and on any other information that fairness requires to be heard. The Board will not set aside the conclusions of the Grievance Committee unless they are not supported by substantial evidence or they resulted from a misinterpretation of the procedures. The final decision of the Board shall be to:

- approve and enact the recommendation of the Grievance Committee;
- modify the recommendation by dismissing the complaint or by imposing less severe disciplinary action; or,
- remand to the Grievance Committee with appropriate directives for a rehearing.

If a rehearing is ordered, the procedures in Section 4 shall apply. If a rehearing is not ordered, the decision of the Board of Directors shall be final.

Expulsion from FGNA and/or revocation of certification requires an affirmative vote by two-thirds (2/3) of the Board of Directors.

Within thirty (30) days after the Board has considered the Grievance Committee's recommendations and any oral or written testimony, the Board shall notify the Respondent of its final decision by certified mail, return receipt requested, with a copy by regular mail to the Grievance Committee. The Board shall establish the effective date of any imposed sanctions, which date shall be not less than ten (10) days from the date of mailing.

All records of the complaint shall be kept by FGNA for seven (7) years.

If the final decision of the Board involves disciplinary action other than reprimand or probation, the Grievance Committee shall publish the name of the Respondent, the disciplinary action taken and effective dates of such action in The Feldenkrais Guild's newsletter, *In Touch*, and made appropriate communications regarding the matter wherever the public welfare requires.

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7. Failure to Comply

The Ethics Committee shall monitor compliance with the conditions of any probation or suspension. In the event the Respondent fails to comply with the conditions, the Grievance Committee, upon report from the Ethics Committee of Respondent's failure to comply, shall review the case. The Respondent shall be notified thirty (30) days in advance of the Grievance Committee review and shall be afforded the opportunity to submit a written statement or explanation. The Respondent does not have a right to be heard or present at the meeting. The Grievance Committee, based on the information available to it, shall recommend to the Board of Directors the terms of the appropriate disciplinary action and notice shall be mailed to the Respondent, certified mail, return receipt requested, within fifteen (15) days following the decision. The Grievance Committee's recommendations shall be limited to:

- a finding that the Respondent has complied or is complying with the conditions;
- a grant of additional time for the Respondent to comply with the original conditions that were imposed in probation or suspension or with further conditions as may be appropriate;
- suspension with appropriate conditions if the Respondent failed to comply with the conditions in a probation; or,
- revocation/expulsion if the Respondent failed to comply with the conditions in a suspension or a probation.

The Board shall make the final decision as described in Section 6.

Adopted by The FELDENKRAIS GUILD® 1995

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