



Code-Enforcement Procedures

SECTION A. Preamble

The Behavior Analyst Certification Board is charged with promoting and maintaining standards of professional conduct in the practice of behavior analysis. To protect the public from practitioners who do not meet these standards, the BACB has adopted the [Professional and Ethical Compliance Code for Behavior Analysts](#) (Code) and the [RBT Code of Ethics](#) (RBT Code). The term “ethics requirements” is used to refer to the content in both documents. The purpose of the BACB’s ethics standards and Code-Enforcement System is to protect the public by accepting and processing a Notice of Alleged Violation (Notice) submitted against an applicant or certificant.

The BACB provides due process to applicants and certificants who have allegedly violated one or more ethics requirements. Due process includes the BACB giving the Subject notice of the allegation(s) and an opportunity to respond, having the case decided by a neutral party, and providing an opportunity to appeal. BACB Ethics Department staff who are trained in code-enforcement review and process each Notice received.

SECTION B. Procedural Actions

- 1. Revocation of Eligibility or Invalidation of Certification:** The BACB reserves the right to bar any individual from sitting for any BACB examination, or to invalidate any certification (immediately making the certification null and void), in the event the BACB finds that the individual submitted falsified, forged, or untrue information to the BACB. The BACB reserves this right regardless of when the BACB becomes aware of the falsified, forged, or untrue information. The BACB will revoke an individual’s eligibility to apply to sit for any BACB examination for a minimum of 5 years, after which time the individual must meet the requirements applicable at the time they reapply. For individuals already certified, the BACB will invalidate the certification and revoke the individual’s eligibility to apply to sit for any other BACB certification for a minimum of 5 years. After the revocation or ineligibility period ends, the individual must recomplete all experience hours (as applicable), meet the requirements applicable at the time they reapply, complete appropriate additional coursework in ethics, and submit to a full audit of experience hours (as applicable) at the time of application. Any invalidation or revocation of eligibility will be published in the individual’s Registry record on the BACB website. Any eligibility revocation or certification invalidation may be applied prior to additional future sanctions that may be imposed on the individual’s eligibility for BACB certification. An individual retains the right to appeal the hold or invalidation if they can submit evidence demonstrating that the information in question was submitted accurately and truthfully.
- 2. Procedural Inactivation:** The BACB reserves the right to apply a preliminary inactive status to any applicant or certificant for whom the BACB has information indicating that the individual:
 - a) is incarcerated or in any form of inpatient care;
 - b) is unable to completely and competently provide client services; or
 - c) poses an immediate risk of harm to a client or other relevant individual (e.g., trainee, supervisee).

Note: During a period of preliminary inactive status, the BACB will make every reasonable attempt to expedite the deadlines identified in the Code-Enforcement Procedures in order to minimize the duration of the preliminary inactive status period.

3. Summary Suspension of Eligibility or Certification: The BACB reserves the right to summarily suspend an applicant or certificant for failure to respond to requests from the BACB Ethics Department by the date indicated in the correspondence, or for failure to comply with the consequences in a Disciplinary or Appeal Determination. This is an automatic suspension of certification, application eligibility, or other status with the BACB that is published in the individual's Registry record on the BACB website. During the period of suspension, the individual may not represent themselves as certified by the BACB and may not practice or bill under a BACB certification. Certificants suspended under this provision may include their relevant certification designation in communications, but they must accurately identify their status as suspended or inactive (e.g., John Doe, BCBA (inactive) or Jane Doe, BCBA (suspended)). Failure to respond to the BACB during the suspension period may result in revocation. The individual may be reinstated during the suspension period if they:

- a) request reinstatement in writing by identifying the reason for the nonresponse and an action plan to ensure timely responding moving forward;
- b) complete any recertification requirements (BCBA, BCaBA, RBT) or renewal requirements (ACE);
- c) comply with all requirements during the educational or disciplinary process, including response to the Notice; and
- d) demonstrate appropriate reporting to, and from, third parties and licensure board(s), if applicable.

Note: Reinstatement, if approved, does not occur until the individual meets the conditions outlined in subsections a-d, complies with any other indicated actions (e.g., consequences in a Disciplinary or Appeal Determination or some other required action, such as providing documentation or other information), and the Ethics Department makes the determination to clear the suspension. If the suspension is converted to a revocation for continued failure to respond, the individual will be required to apply for consideration for re-entry.

SECTION C. Basis for Action

An accepted Notice serves as the basis for processing within the Code-Enforcement System. The individual submitting the Notice is referred to as the Notifier, and the individual alleged to have violated ethics requirements is referred to as the Subject. Because RBTs and BCaBAs are required to practice under the supervision of a BACB authorized supervisor, the BACB reserves the right to correspond and share information directly with their supervisors of record. Notices of Alleged Violation and supporting documentation, Disciplinary Determinations, and Appeal Determinations will be shared directly with supervisors of record; other documentation maybe shared if determined necessary for consumer protection.

SECTION D. Intake and Routing of a Notice

Jurisdiction of a Notice: The BACB has jurisdiction over any individual certified as a Board Certified Behavior Analyst-Doctoral (BCBA-D), Board Certified Behavior Analyst (BCBA), Board Certified Assistant Behavior Analyst (BCaBA), or Registered Behavior Technician (RBT), those with a complete application for examination, as well as prior applicants and certificants who are on inactive status, suspended, or revoked. The BACB also has jurisdiction over those who have applied to be, or are, Authorized Continuing Education (ACE) providers. The BACB does not have jurisdiction over non-certified individuals, trainees, or organizations/agencies.

1. Intake of a Notice

- a) *Evaluating a Notice:* The BACB evaluates each Notice upon receipt to ensure that it:
 - i. is submitted against an individual over whom the BACB has jurisdiction;
 - ii. is submitted within 6 months of the alleged violation or of the Notifier becoming aware of the alleged violation (BACB staff have the discretion to extend this deadline in exceptional circumstances);

- iii. does not appear to be retaliatory in nature. Complaints by certificants that appear to be submitted in bad faith or in retaliation may be viewed as an abuse of process and a potential violation of the Code;
- iv. has a valid signature; and
- v. includes clear documentation supporting each alleged violation of a specific ethics requirement (i.e., a specific element in the Code or RBT Code). Supporting documentation should not be speculative or composed of unsubstantiated suspicions. All supporting documentation must be properly redacted (confidential identifying information removed or covered) and must not exceed 20 pages. If the supporting documentation is not properly redacted or exceeds the page-limit, the BACB may return it to the Notifier with a request to correct and resubmit.

Note: For Notices of Publicly-Documented Alleged Violation the documentation must be freely and currently available (i.e., not behind a paywall or login requirement) and must substantiate an alleged violation of the ethics requirements by an individual over whom the BACB has jurisdiction.

- b) *Declining a Notice:* When a Notice does not meet the criteria above (or it is otherwise not actionable as determined by the BACB), the BACB declines the Notice and informs the Notifier.

Note: For Notices against an RBT: When the alleged violation does not relate to one of the following requirements: 1) abuse/neglect of a client, 2) charged/convicted of violation of law, or 3) violation of obligations to BACB or 1.10, 1.11, 1.12, or 3.01 of the RBT Code, the Notice may be declined and the Notifier is directed to take appropriate actions (e.g., address the issue directly, address the issue with the RBT Requirements Coordinator or Supervisor).

- c) *Deferring a Notice:* When a Notice is related to a complaint that has been submitted to an agency with investigative powers (e.g., law enforcement, licensure board, third-party payer), the BACB may, but is not required to, postpone processing the Notice until a final determination has been issued by the investigatory agency. In such cases, the BACB informs the Notifier of the next steps regarding the notice submitted.
- d) *Accepting a Notice:* After accepting a Notice for processing, the BACB informs the Notifier. The BACB then informs the Subject of the Notice by sending 1) the Notice document, 2) the supporting documentation, and 3) a response form with instructions for submitting the form and any supporting documentation. If the Subject is an RBT they will also receive a BACB Required Supervisor Acknowledgment of Notice form that must be completed and returned.

2. Routing of a Notice: At least two BACB staff collaborate to make an appropriate routing decision for each accepted Notice. The Notice may be declined, deferred, or routed to one of the following systems: 1) Disciplinary Review or 2) Educational Review.

3. Failure to Respond to a Notice: Failure to respond to the BACB by the date indicated in the correspondence results in automatic suspension of certification, application eligibility, or other status with the BACB, which is published on the BACB website in the individual's Registry record. See section B, subsection 3 of this document for more information about summary suspensions and the required steps for initiating reinstatement of certification, application eligibility, or other status with the BACB.

SECTION E. Code-Enforcement Systems

Accepted Notices are routed to one of the following systems:

- 1. Educational:** This system focuses on providing the Subject with guidance and support to reduce the likelihood that future violations may occur. Activities within this system may include sending an educational memorandum or notice of required action or offering voluntary coaching (an educational and professional development process) to the Subject.

2. Disciplinary Review: This system focuses on determining whether the submitted documentation substantiates the alleged violation and, if so, what consequences should be applied to the case. The BACB takes disciplinary action against a Subject when a preponderance of the documentation supports the alleged violation(s). In other words, the documentation must support a finding that it is more likely than not that the violation occurred. Neither the Subject nor the Notifier are allowed to be present at, or to participate in, the Disciplinary Review meeting. There are two possible outcomes of a Disciplinary Review: 1) no further action or 2) consequences are prescribed. The review committee considers the submitted documentation for a case, makes a decision regarding the alleged violation(s), and, if applicable, issues one or more consequences based on precedent.

Typically, within 30 days of the review committee's decision the BACB staff notifies the Subject of the Disciplinary Determination. The Subject has 30 days to notify the BACB Ethics Department whether they accept the Disciplinary Determination (i.e., intend to comply with the indicated consequences) or request an appeal.

- a) If the Subject declines an appeal, they may begin fulfilling the requirements of the Disciplinary Determination on that date. The BACB informs the Notifier of the Disciplinary Determination.
- b) The Disciplinary Determination becomes final and unappealable if the Subject fails to accept the Disciplinary Determination OR request an appeal within 30 days. The BACB informs the Notifier of the Disciplinary Determination.

SECTION F. Possible Consequences

There are two categories of consequences that may be applied in a Disciplinary Determination: 1) corrective actions and 2) sanctions. Corrective actions include steps the Subject must take to address the violation and reduce the likelihood that future violations may occur. Sanctions include actions that place a restriction on the Subject.

- 1. Corrective Actions:** These consequences are not published on the website. This list is not exhaustive, as other relevant actions may be determined during the Disciplinary Review process.
 - a) *Professional Development:* The Subject must engage in relevant professional development activities (e.g., earn continuing education credits or University course credits on a topic relevant to the violation).
 - b) *Mentorship:* The Subject is required to receive mentorship from an approved individual for the indicated duration to address professional development related to the specific violations and any other areas identified.
 - c) *Verification of Competency:* This may be requested when the Subject has disclosed a condition that may impact their ability to practice or when evidence has been submitted which suggests this circumstance. Examples include, but are not limited to: reports of a mental health condition (or treatment for a condition) that prevents or significantly impacts work for a period of time, physical injuries that prevent work, or criminal offenses like repeated instances of drinking and driving that raise questions about the Subject's competency to practice.
 - d) *Paper or Product Submission:* The Subject must read one or more relevant articles and submit a paper related to the relevant code violation, and/or create and submit other related products (e.g., policies, procedures, tracking systems, handbooks).
- 2. Sanctions:** These consequences are published on the BACB website in the Subject's Registry record until the sanction requirements are completed, with the exceptions of revocation and invalidation, which remain in the individual's Registry record permanently.
 - a) *Certification Invalidation:* The Subject's certification is invalidated because the eligibility requirements were not met. The Subject whose certification is invalidated was, in effect, never legitimately certified.
 - b) *Revocation:* The Subject's certification is terminated. After the duration of the revocation period the Subject must apply for post-revocation re-entry to be reviewed by a committee that will make a decision to approve or deny.
 - c) *Certification Suspension:* The Subject's certification may not be used for a specified period of time.

- d) *Eligibility Suspension*: The Subject is not eligible to apply for BACB certification for a specified period of time.
- e) *Practice Restriction*: The Subject's ability to practice behavior analysis using BACB certification is limited.
- f) *Mandatory Supervision*: The Subject is required to receive supervision from an approved individual for the indicated duration to address concerns related to the specific violations and any other areas identified.

Note: Violating the terms of a consequence issued in a Disciplinary or Appeal Determination will result in immediate certification or eligibility suspension or revocation. See section B, subsection 3 of this document for more information about summary actions and the required steps for initiating reinstatement of certification, application eligibility, or other status with the BACB.

SECTION G. Appeal Process

Procedures for Appeal Process: If the Subject is issued consequences as a part of Disciplinary Review, the Subject has 30 days to submit a written request for appeal. Once the subject requests an appeal they will receive instructions and information about the appeal process. The Notifier does not have the right to request an appeal. The Disciplinary Appeal Committee—consisting of a minimum of three current or former members of the BACB Board of Directors—hears the appeal. Members of the Review Committee that issued the Disciplinary Determination in the matter may not serve on the Appeal Committee. Formal rules of evidence do not apply to BACB appeal processes.

- 1. Cases with Sanctions (i.e., Published Consequences):** In addition to submitting the required appeal document, the Subject has the right to be present during the appeal, via video conference. The Subject may submit written or verbal documentation in support of their appeal, may choose to be represented by counsel, and may have witnesses present during the video conference. The Subject must submit all additional documentation and a list of all individuals who will be present at the meeting to the BACB Ethics Department by the date required.
- 2. Cases with Corrective Actions (i.e., Non-published Consequences):** In cases that only include Corrective Actions, the Subject must submit a written appeal document and may not be present during the appeal. The Subject may include additional documentation in support of their appeal, statements from witnesses, and appeal documents prepared by an attorney by the date required by the BACB Ethics Department.
- 3. Disciplinary Appeal Committee Decision:** The Committee may issue one of three outcomes in the Appeal Determination, in part or in whole: 1) uphold, 2) modify (but not in a manner more adverse to the Subject), or 3) overturn.
- 4. Notification of Outcome:** Typically, BACB staff send the Subject the Appeal Determination within 15 days of the Committee's decision. Any additional documentation the Subject submits after the conclusion of the appeal will not be considered. The BACB also sends the Appeal Determination to the Notifier.

SECTION H. Release of Documentation

Upon formal request (e.g., subpoena or court order) by a governmental agency or court of law, or at the discretion of the Chief Executive Officer, the BACB may release all documentation (i.e., Notice, documents relevant to violation, Subject's response and related documents, and relevant correspondence) to the requesting party.

SECTION I. Amendment to Procedures

The BACB reserves the right to amend these procedures at any time.