



# Code-Enforcement Procedures

## Contents

Preamble .....	1
Summary Actions .....	2
Release of Case Information .....	3
Intake and Routing of a Notice by the Ethics Department .....	3
Code-Enforcement Systems .....	5
Possible Disciplinary Consequences .....	5
Appeal Process .....	6
Release of Documentation .....	7
Amendment to Procedures .....	7

## Preamble

The Behavior Analyst Certification Board® (BACB®) is responsible for establishing 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 [Ethics Code for Behavior Analysts](#) (Code) and the [RBT Ethics Code \(2.0\)](#) (RBT Code). The BACB protects the public, applicants, and certificants by enforcing these ethics standards through the procedures described in this document. In this document, the *Notifier* is the individual who has submitted a Notice of Alleged Violation (Notice), and the *Subject* is the individual alleged to have violated ethics standards. The BACB reserves the right to generate a Notice (i.e., be the Notifier) against a certificant or applicant if there is evidence of noncompliance with any BACB standard, rule, ethics requirement, or procedure. These procedures will not result in awarding Notifiers relief or damages as in a court of law. The Code-Enforcement Procedures are not official legal proceedings but are binding on applicants, certificants, and Notifiers, as stated in the Application Processing Agreement and the Signature and Attestation section of the Notice.

The BACB provides due process to Subjects by giving them notice of the allegation(s) and an opportunity to respond, having a neutral party determine the outcome of the Notice, and providing an opportunity to appeal. The BACB will notify certificants and applicants of action being taken against their certification or eligibility using the email address that is on file in their BACB account. It is important that all contact information in a BACB account is accurate and up-to-date. Notices are reviewed and processed by Ethics Department staff trained in code-enforcement procedures. On occasion, BACB staff (including staff outside of the Ethics Department) may determine that immediate summary action or interim action is warranted. As the BACB is not an investigatory body, the BACB reserves the right to gather additional information about any applicant, certificant, Subject, related party, or professional associate via a background check or third-party inquiry.

## Summary Actions

In certain instances when BACB requirements are violated or an imminent risk of harm is identified, the BACB is authorized to take action against an applicant or certificant based on a staff determination. These actions are referred to as summary actions. To the extent possible, the BACB will expedite the processing of summary-action matters.

Summary actions taken by departments other than the Ethics Department will include an opportunity for appeal, during which the applicant or certificant may provide their response to the summary action notice. The appeal procedures provided in this document are applicable to summary actions taken by other BACB departments.

**Summary Invalidation or Ineligibility Based on Fraud or Deceit:** The BACB reserves the right to cancel any authorization to test or otherwise 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 or cheated on a BACB examination. The BACB reserves this right regardless of when the BACB becomes aware of the falsified, forged, or untrue information. In the event of fraud or deceit by or on behalf of an applicant the BACB will revoke the individual's eligibility to apply to sit for any BACB examination for a minimum of 5 years, after which the individual must meet the requirements applicable at the time they reapply. In the event of fraud or deceit by or on behalf of a certificant, the BACB will invalidate the certification and revoke the individual's eligibility to apply to sit for any other BACB examination for a minimum of 5 years. After the revocation or ineligibility period ends, the individual must meet the requirements in place at the time they reenter including completing new experience/fieldwork hours (as applicable), additional ethics coursework, and submitting to a full audit of experience/fieldwork hours (as applicable) at the time of application. Those sanctioned under this provision are not permitted to qualify for examination via past certification. Any invalidation or revocation of eligibility will be published in the individual's [Certificant Registry](#) record on the BACB website for the maximum duration permitted by law. Summary actions do not prevent the BACB from taking further disciplinary or other actions. Summary actions may be appealed immediately.

**Summary Suspension of Eligibility or Certification for Failure to Respond:** The BACB reserves the right to summarily suspend an applicant or certificant (a) for failure to respond to requests from the BACB by the date indicated in the correspondence after multiple communication attempts using the email address in the individual's BACB account or (b) for failure to comply with required actions from the Ethics Department. An automatic suspension of certification, application eligibility, or other status with the BACB is published in the individual's Certificant Registry record on the BACB website. During the period of suspension, the individual may not represent themselves as an active BACB certificant, practice or bill under a BACB certification, provide BACB-required supervision, sign off on RBT Competency Assessments, or carry out Authorized Continuing Education (ACE) Provider/Coordinator activities. An otherwise qualified individual may be reinstated during the suspension period if they:

1. request reinstatement in writing by identifying the reason for the nonresponse and an action plan to ensure timely responding moving forward,
2. comply with all requirements communicated by the BACB, and
3. demonstrate appropriate reporting to and from third parties and licensure/regulatory board(s) when applicable.

*Note:* Reinstatement, if approved, does not occur until the individual meets the conditions outlined above, the individual 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 BACB issues a determination clearing the suspension. If the applicant or certificant is already suspended and fails to respond or comply with additional documentation or sanction/education requirements the BACB may submit the matter to a review committee for consideration of whether eligibility/certification status should be revoked.

**Involuntary Inactivation:** The BACB reserves the right to apply inactive status to any applicant or certificant for whom the BACB has information indicating that the individual:

- is incarcerated,
- is undergoing inpatient treatment that would hinder their ability to competently deliver services,
- is unable to completely and competently provide client services, or
- poses an immediate risk of harm to a client or other relevant individual (e.g., trainee, supervisee).

*Note:* During a period of involuntary inactive status, an individual may not represent themselves as an active BACB certificant, practice or bill under a BACB certification, provide BACB-required supervision, sign off on RBT Competency Assessments, or carry out ACE-Provider/Coordinator activities. The BACB will make every reasonable attempt to expedite the deadlines listed below in order to minimize the duration of the inactive status period.

**Documentation Audit or Review:** The BACB reserves the right to audit, reconsider, or decline any documentation submitted to the BACB by any individual should the BACB have reason to question the accuracy of the person signing the document, no matter when the documentation was submitted. In particular, the following matters may warrant heightened scrutiny and/or denial of documentation submitted to the BACB, regardless of when the documentation was submitted or accepted:

- The documentation was signed by an individual convicted of or sanctioned by the BACB for fraudulent/dishonest actions.
- The documentation was signed by an individual who owns/owned or operates/operated an organization found to have engaged in fraudulent or unethical conduct, particularly, but not limited to, fraudulent or unethical conduct in the delivery, management, or billing of behavior-analytic services.

## Release of Case Information

Information about summary actions and any other actions taken by the Ethics Department will be shared with all supervisors (e.g., application, ongoing, sanction imposed, mentors or consultants) on record in accordance with the BACB's [Privacy Policy](#) and [Application Processing Agreement](#). Other documentation may be shared if determined necessary for consumer protection.

## Intake and Routing of a Notice by the Ethics Department

**Jurisdiction of a Notice:** The BACB has jurisdiction over any individual applying for certification as or already 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®), as well as prior applicants and certificants who are on inactive status or whose eligibility or certification has been suspended or revoked, or individuals whose certification expired during the course of the BACB's review. The BACB does not have jurisdiction over noncertified individuals, trainees, or organizations/agencies.

## Intake and Routing of a Notice:

1. **Evaluating a Notice:** Upon receipt, the BACB evaluates each Notice to ensure that it:
  - is submitted against an individual over whom the BACB has jurisdiction;
  - is submitted within 6 months of the alleged violation(s) or of the Notifier becoming aware of the alleged violation(s) (BACB staff have the discretion to extend this deadline in exceptional circumstances);
  - is not submitted by the Subject of an active Notice against those involved in the original submission (e.g., the Notifier) unless 60 days from the closure of the original Notice (e.g., Notice is formally declined, activities required by the Education Review system are completed, Disciplinary or Appeal Determination is received) have passed;
  - is not arising from a commercial dispute beyond the scope of the ethics codes;
  - is not against a regulator who was acting in their official capacity with state immunity;
  - has a valid e-signature; and
  - includes clear documentation supporting the allegation(s). 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 standards by an individual over whom the BACB has jurisdiction.

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

*Note:* Notices submitted against an RBT may be declined if the alleged violation(s) do not relate to one of the following requirement violations: (a) the abuse/neglect of a client, (b) the Subject being charged/convicted of a violation of law, or (c) a violation of obligations to the BACB or requirement 1.03, 1.05, 3.01, 3.02, 3.03, 3.04, or 3.05 in the RBT Code. If a Notice is declined, the Notifier may be directed to take appropriate actions (e.g., address the issue directly, address the issue with the appropriate RBT Requirements Coordinator or Supervisor).

3. **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/regulatory board, third-party payer), the BACB may, but is not required to, postpone the processing of 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. In determining to defer a Notice the BACB may defer all or only part of the Notice submitted in the discretion of the BACB.
4. **Processing a Notice:** Once a Notice is accepted (except as otherwise provided herein for certain summary actions), the Subject is provided with an opportunity to review the Notice and supporting documentation and submit a response. Inaccurate or misleading response(s) is grounds for additional allegations of Code violations whenever discovered. The Subject is also notified of any summary or interim actions. If the Subject is required to be supervised in order to practice (i.e., RBT, BCaBA, sanctioned certificants) or is required to have a consulting supervisor or mentor, the supervisor, consultant, or mentor on record with the BACB will receive a copy of the Notice and supporting documentation.
5. **Routing of a Notice:** Upon receipt of the response, the Notice may be declined, deferred, or routed to one of the following systems: Disciplinary Review or Educational Review. If a response is not received, the individual will be summarily suspended.

See the [Summary Actions](#) section 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.

## Code-Enforcement Systems

Accepted Notices are routed to one of the following systems:

**Educational Review:** This system focuses on providing the Subject with guidance and support related to the alleged violation(s). This system is used when it is determined that the allegations are best addressed through nondisciplinary actions (e.g., feedback, professional-development tasks, coaching), and in inconclusive cases. Actions within this system may include sending the Subject an Educational Memorandum or Notice of Required Action or offering voluntary coaching (an educational- and professional-development process).

**Disciplinary Review:** This system focuses on determining whether the submitted documentation substantiates the alleged violation(s) and, if so, what consequences should be assigned to the Subject. Subjects may be represented by counsel at any stage in the Disciplinary Review. 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(s) occurred. The Disciplinary Review meeting is designed to facilitate independent review of the evidence. There are two possible outcomes of a Disciplinary Review: 1) no further action; 2) prescribed consequences. 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 and any mitigating or exacerbating factors.

Typically, within 30 days of the review committee's decision, BACB staff notify the Subject of the outcome of the Disciplinary Review. The Subject has 30 days to notify the BACB Ethics Department that they accept the Disciplinary Determination (i.e., intend to comply with the indicated consequences) or to request an appeal. If the Subject 1) accepts the Disciplinary Determination, 2) fails to accept the Disciplinary Determination, 3) fails to request an appeal within 30 days, or 4) is not successful upon appeal, the BACB informs the Notifier, supervisor, consultant, or mentor, and relevant licensure/regulatory board(s) of the Disciplinary Determination.

## Possible Disciplinary Consequences

There are two categories of consequences that may be applied in a Disciplinary Determination: corrective actions and sanctions. Corrective actions include steps the Subject must take to address the violation(s) and reduce the likelihood that future issues occur. Sanctions include actions that place a restriction on the Subject's ability to practice under their certification.

**Corrective Actions:** The following consequences are not published on the BACB website. This list is not exhaustive, as other relevant actions may be determined during the Disciplinary Review process:

- **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[s], obtain additional training).
- **Mentorship:** The Subject is required to receive mentorship from an approved individual for the indicated duration to address professional development related to the specific violation(s) and any other areas identified.
- **Verification of Competence:** This may be requested when evidence suggests, or when the Subject has disclosed a condition that may impact their ability to practice or when documentation warrants verification. 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 or impact work, and conditions or actions that may impede the safe delivery of behavior-analytic services and that raise questions about the Subject's safe and competent practice.
- **Paper or Product Submission:** The Subject must read one or more relevant articles and submit a paper related to the relevant code violation(s) and/or create and submit other related products (e.g., policies, procedures, tracking systems, handbooks).

**Sanctions:** These consequences are published on the BACB website in the Subject's Certificant Registry record and on the BACB Disciplinary Actions webpage until the sanction requirements are completed, with the exceptions of revocation and invalidation, which remain in the individual's record for the maximum duration permitted by law. Individuals with published sanctions who change their name will be listed under the former and current name.

- **Certification or Eligibility Invalidation:** The Subject's certification or eligibility is invalidated because the eligibility requirements were not met or falsified information was provided to the BACB. The Subject whose certification is invalidated was, in effect, never legitimately certified.
- **Certification or Eligibility Revocation:** The Subject's certification or eligibility is terminated. After the duration of the revocation period, the Subject must apply for post-revocation reentry to be reviewed by a committee that will make a decision to approve or deny. They are not permitted to qualify for examination via past certification. In instances of extreme risk, an individual's eligibility or certification may be revoked indefinitely. In such instances, the individual is permitted to submit a request for reconsideration of the revocation every 10 years. Unless otherwise specified by a review committee, permanent revocations related to examination theft may only be reconsidered after a minimum of 20 years and submission of a request for reentry under the then-current standards.
- **Certification or Eligibility Suspension (including summary suspension):** The Subject's certification may not be used for a specified period of time or the Subject is not eligible to apply for a period of time.
- **Practice Restriction:** The Subject's ability to practice behavior analysis under BACB certification is limited.
- **Mandatory Disciplinary Supervision:** The Subject is required to receive supervision from an approved individual for the indicated duration to address concerns related to the specific violation(s) and any other areas identified.

*Note:* Violating the terms of a consequence issued in a Disciplinary or Appeal Determination will result in immediate suspension of certification or eligibility. Failure to comply with Disciplinary Sanctions may result in additional sanctions as determined by a review committee. See the [Summary Actions](#) section 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. The BACB expects applicants and certificants to cooperate with these Code-Enforcement Procedures. On occasion, if an applicant or certificant appears to be establishing a pattern of reluctant compliance (e.g., missed deadlines, obtuse and disruptive questions, procedural deviations not otherwise addressed in the Code-Enforcement Procedures), the BACB may add to the Notice an alleged violation of standard 1.02 of the Ethics Code for Behavior Analysts or 1.01 of the RBT Ethics Code (2.0).

## Appeal Process

**Procedures for Appeal Process:** If the Subject is issued consequences as a part of a Disciplinary Review or summary action, they have 30 days to submit a written request for an appeal. The Notifier does not have the right to request an appeal. In accordance with BACB bylaws, the Disciplinary Appeal Committee determines the outcome of the appeal.

**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, however, may not cross-examine the Notifier or their witnesses, as the appeal is not a formal legal proceeding. The Subject is welcome to draw into question the veracity of information provided by the Notifier if there is documented evidence that contradicts the Notifier's evidence. 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 required date.

**Cases with Corrective Actions (i.e., Nonpublished Consequences):** In cases that only include corrective actions, the Subject may submit a written appeal document but will not be present during the appeal review. 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 Ethics Department.

**Disciplinary Appeal Committee Decision:** The Committee may issue one of three outcomes in the Appeal Determination in part or in whole: uphold, modify (but not in a manner more adverse to the Subject), or overturn.

**Notification of Outcome:** BACB staff typically 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 unless requested by the Appeal Committee. The BACB also sends the Appeal Determination to the Notifier, supervisor, consultant, or mentor of record and applicable licensure/regulatory authorities (e.g., state licensing boards).

## Release of Documentation

Actions taken under the Code-Enforcement Procedures do not constitute enforcement of the law. Upon formal request (e.g., subpoena, court order), official request on agency letterhead by a governmental agency or court of law, or at the discretion of the Chief Executive Officer, the BACB may release all documentation (e.g., Notice, documents relevant to the violation[s], Subject's response and related documents, relevant correspondence) to the requesting party.

## Amendment to Procedures

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