SECTION A. Preamble

The BACB is charged with promoting and maintaining standards of professional conduct in the practice of behavior analysis. To protect the public from practitioners who fail to meet these standards, the Behavior Analyst Certification Board (BACB) has adopted a Professional and Ethical Compliance Code for Behavior Analysts (“Code”). The BACB has designed and implemented enforcement procedures for addressing alleged violations of the Code.

The purpose of the BACB’s disciplinary system is to protect the public from certificants and certification applicants who have violated the Code. The BACB provides due process to certificants and applicants who are alleged to have violated the Code (“Subject”). Each Notice of Alleged Violation submitted is reviewed by BACB Legal Department staff and behavior analysts trained on disciplinary matters.

When it is determined that a violation of the Code has occurred, the consequences may vary in severity, from cautionary guidance to the revocation of an individual’s certification or eligibility to pursue certification. Mandatory supervision, suspension, and revocation outcomes will be published on the BACB website along with the certificant's or applicant's name.

SECTION B. Basis for Action

A violation of the Code provides basis for action and imposition of consequences under these Procedures.

SECTION C. Actions

1) Violations of the Code may result in one or more of the following consequences:

   a) Cautionary Guidance: An educational memorandum sent by the BACB to a certificant alleged to have violated the Code.

   b) Code Compliance Process: An educational and professional development process for a certificant alleged to have violated the Code. Participation in the process is voluntary.

   c) Consequences: Any action or status change required by the BACB.
      i. Corrective Actions: Any number of required actions imposed by the BACB on a certificant alleged to have violated the Code, to include mentorship, coursework, etc.
      ii. Mandatory Supervision: The certificant is required to maintain supervision by an approved supervisor for an established period of time; the certificant may also be required to complete certain tasks during the period of supervision.
      iii. Ineligibility for Certification: The individual is barred from becoming certified by the BACB, either indefinitely or for a certain duration.
      iv. Suspension: The certificant loses certification for a certain duration, after which the individual may be required to apply for reinstatement, subject to compliance with then-existing standards for certification.
      v. Revocation: The certificant permanently loses certification.

2) Consequences that are announced publicly and identify the Subject by name include: mandatory supervision, suspension, and revocation. The BACB may disclose further information related to disciplinary matters to licensure and regulatory boards.
SECTION D. Procedures for Enforcement of the Code

1) Jurisdiction

The BACB has jurisdiction over all individuals who have been certified as a Board Certified Behavior Analyst (BCBA), a Board Certified Assistant Behavior Analyst (BCaBA), or a Registered Behavior Technician (RBT), as well as those who have applied for certification, and those who have applied for or obtained Authorized Continuing Education (ACE) or Verified Course Sequence (VCS) status.

2) Intake of Notice of Alleged Violation

When a Notice of Alleged Violation ("Notice") of the Code is submitted or generated by the BACB, the BACB evaluates the Notice to ensure:

a) It is submitted against an individual over whom the BACB has jurisdiction.

b) It is submitted within six months of the alleged violation (BACB staff have the discretion to extend this deadline in exceptional circumstances).

c) It has a valid signature and is appropriately formatted and redacted.

d) It includes evidence to support an alleged violation of the Code. Each individual Code violation must be supported by clearly-identified evidence, to be included in the submission. All supporting evidence must be linked to a discrete Code section.

If the Notice does not meet these criteria (or it is otherwise not actionable as determined by the BACB), then no action will be taken and the person filing the Notice ("Notifier") will be informed. The BACB is not an independent investigative body. Notices need to provide conclusive evidence, not speculation or unsubstantiated suspicions. If a complaint related to the allegations in the Notice 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 of the Notice until a final determination has been issued by the investigatory agency.

3) Notice of Alleged Violation

a) At least two BACB staff shall collaborate to make an appropriate routing decision for processing of each accepted Notice.

b) Upon completion of evaluation and routing, action may be taken based on the evidence and violation of the Code. The Notice may be processed into one of the follow three systems:

   i. Cautionary Guidance
   ii. Code Compliance Process
   iii. Disciplinary Review (Committee and/or Staff Action)

c) The Subject will receive a copy of the Notice, typically within 30 days of its receipt by the BACB.
4) Failure to Respond to Notice of Alleged Violation

Failure to respond to a Notice in a timely manner will result in automatic suspension of certification, application eligibility, or other status with the BACB. During the period of suspension, individuals may not represent that they are certified by the BACB, use a BACB credential, or bill under a BACB certification. Failure to respond during the suspension period may result in revocation.

The subject may be reinstated during the suspension period if the Subject has satisfied the following requirements:

a) Requested reinstatement, in writing, identifying the reason for the nonresponse and the action plan to ensure timely response moving forward;

b) Completed any recertification requirements (BCBA, BCaBA, RBT) or renewal requirements (ACE or VCS);

c) Complied with all requirements for conduct of the review, including response to the Notice; and

d) Demonstrated appropriate reporting to and from third parties and licensure board(s), if applicable.

Reinstatement, if approved, will not occur until after the disciplinary process has concluded.

5) Procedures for Disciplinary Review (Committee and/or Staff Action)

a) Staff have the discretion to issue a consequence that will become final, unless appealed.

b) Staff have the discretion to docket a case for Disciplinary Review Committee action.

6) Disciplinary Review Committee

a) Staff shall prepare a comprehensive file that includes the Notice of Alleged Violation, supporting evidence, and the Subject’s response. This file shall be provided to the Disciplinary Review Committee members in advance of their meeting. The members of the Disciplinary Review Committee include at least one current or former member of the BACB Board of Directors and other certified behavior analysts.

b) At the Committee meeting:

i. The Subject is not permitted to be present or to participate in the Committee meeting. The Notifier is likewise not permitted to be present or to participate in the Committee meeting.

c) BACB staff shall verbally present summary of the matter to the Committee; the Committee is provided a comprehensive written file in advance of the meeting. The Committee will have the opportunity to discuss and deliberate on the matter. The Committee shall then issue a decision regarding the outcome of the matter. The decision may include:

   a) No further action,
   
   b) Imposition of Corrective Actions, or
   
   c) Imposition of mandatory supervision, suspension, or revocation.

ii. Following the Committee meeting, BACB staff shall notify the Subject of the Committee’s decision (“Final Determination”) within thirty days of the decision. If after thirty days, the subject had not requested an appeal, the Notifier shall likewise be informed of the Final Determination.
7) **Appeal Process**
   a) If the Subject is issued Consequences by staff or by the Disciplinary Review Committee, the Subject has thirty days to submit a written request for appeal. The Notifier does not have the right to request an appeal.
   b) The Appeal shall be heard by the Disciplinary Appeal Committee, consisting of a minimum of three current or former members of the BACB Board of Directors. Members of the Disciplinary Review Committee that issued the Final Determination in the matter may not serve on the Disciplinary Appeal Committee for the same matter.
   c) The Subject has the right to be present during the appeal, via videoconference. The Subject may present written or verbal evidence in support of their appeal. Formal rules of evidence shall not apply.
   d) The Subject may choose to be represented by counsel, or to have witnesses present.
   e) The Disciplinary Appeals Committee may:
      i. Uphold the Disciplinary Review Committee or Staff Final Determination.
      ii. Overturn the Disciplinary Review Committee or Staff Final Determination, or
      iii. Modify the Disciplinary Review Committee or Staff Final Determination, but not in a manner more adverse to the Subject.
   f) Typically, BACB staff will notify the Subject of the outcome of the appeal within fifteen days.

8) **Standard of Proof**
   The BACB shall take disciplinary action against an individual only when there is a *preponderance of the evidence* supporting a finding of a violation of the Code.

9) **Amendment to Procedures**
   These procedures may be amended at any time by the BACB.