

December 18, 2023

Implementation Provisions for the Code of Conduct

I. Committee on Professional Conduct: The Institute shall have a standing Committee on Professional Conduct.

A. Composition and Appointment. The Committee on Professional Conduct (“Committee”) shall consist of seven members elected by the Council of Fellows. To be eligible to serve on the Committee, potential members must be members of the Faculty of the Institute as defined by The Code of Professional Conduct. The election process will be conducted by the Nominations and Elections Committee of the Council of Fellows who will seek nominations from the Faculty. To insure continuity, members shall serve staggered four-year terms, with one or two members elected each year. Members may not serve more than two consecutive four-year terms. A hiatus of three years is required before former members are eligible to serve again. New members will be elected each year to replace those members whose terms have expired.

The Committee members will designate one member to act as chair of the Committee (“Chair”) for a term of four years. In the event of a vacancy on the Committee, the Council of Fellows will elect another member to complete the unexpired term of the incumbent member. The Chair may appoint a subcommittee of three to initiate and handle formal and informal Conduct proceedings. It is expected that members will recuse themselves in cases where there may be a conflict of interest. The Chair will appoint a substitute to replace any subcommittee member who recuses himself or herself from a case or who is unable to serve for any other reason. If this results in an insufficient number of members to form a subcommittee, then the Council of Fellows will elect additional members.

B. Duties. The Committee on Professional Conduct shall:

(1) Respond to communications regarding the “Code of Professional Conduct of the William Alanson White Institute” (“Code”) and these “Provisions for Implementation of the Code of Professional Conduct” (“Provisions”) and issue advisory opinions regarding the application of the Code to particular conduct.

(2) Pursuant to procedures hereinafter described, the Committee will evaluate the merits of a complaint alleging that a faculty member or candidate of the Institute has breached the Code. Such a review shall enable the Committee to make a decision on the basis of its inquiry. The Committee will maintain strict confidentiality during its process. A breach in confidentiality is subject to discipline under these Provisions.

C. Initial Response to Complaint.

If a member of the Institute community or a current or former patient or supervisee of a member of the Institute community alleges that a faculty member or candidate of the Institute has breached the Code, the Chair of the Conduct Committee (the “Chair”) will engage in informal consultations with such member or current or former patient or supervisee regarding a contemplated complaint under the Code. If after such consultations, the complainant decides to pursue the complaint, or the Chair or the Executive Director of the Institute has reason to believe that a violation of the Code may have occurred and agree that an investigation is appropriate (in such case, the Chair and Executive Director shall be considered the complainant), the Chair will appoint a Subcommittee to investigate and respond to the complaint. No member of the Conduct Committee (the “Committee”) will participate in the complaint process who has a relationship with the complainant or respondent that would interfere, in the discretion of the member or the Chair, with such member being able to evaluate the complaint impartially.

The Subcommittee shall determine initially whether the asserted misconduct by the charged member (“respondent”), if found to have occurred, would constitute a violation of the standards established by the Code. If not, or if the Subcommittee determines that there has been an undue delay by the complainant in making the complaint, the complaint shall be dismissed and the complainant shall be so informed in writing.

If the complaint is determined to merit further investigation, the Committee will furnish the complainant copies of the Code and the Committee's procedures for dealing with complaints of conduct in violation of the Code, including the procedures in Sections (D) and (E) below. The complainant will also be informed that the Subcommittee will be available for informal consultations with the complainant regarding a contemplated complaint. With the consent of the complainant, the informal consultations may include the respondent, with the goal of finding a resolution acceptable to both the complainant and respondent prior to the preparation of a formal complaint and any further proceedings set forth below.

If the complaint is not resolved to the complainant's satisfaction pursuant to the prior paragraph, the complainant will be informed that they must prepare a formal written complaint. The formal written complaint must identify the charged member; must clearly describe the facts and circumstances surrounding the charge, citing, if known, the applicable provisions of the Code alleged to have been breached; and must be signed by the complainant. In addition, the formal written complaint must be accompanied by a signed statement by the complainant agreeing to the use of the Institute's procedures set forth herein, asking that action be taken, and authorizing the distribution of the complaint and other materials submitted by the complainant in connection with the inquiry to the Committee and respondent. Both the formal written complaint and the signed statement must be delivered to the Chair.

The Chair, with the approval of the Committee, may dispose of a complaint based on undue delay of the complainant in providing the formal written complaint and signed statement, taking into account all considerations deemed relevant.

If the complaint is not disposed of pursuant to the preceding paragraph, the Committee will promptly notify the respondent of the complaint, providing copies of the complaint and any other materials submitted by the complainant, and the Institute's procedures for handling such complaints, including the procedures set out in Sections (D) and (E) below.

D. Informal Process and Resolution.

The Subcommittee will conduct an informal fact-finding process and attempt to mediate a resolution acceptable to both the complainant and respondent. With the approval of the complainant, such fact-finding process may include interviews with third parties who may have information relevant to the inquiry. This informal process will be conducted by the Chair and, if the Chair or Committee so determines, the Subcommittee and/or the Executive Director of the Institute.

E. Process.

If the informal process set out in Section (D) is not successful, a more formal process will be conducted as follows:

- (1) The respondent will have opportunity to address the charges in writing within 30 days after being informed by the Chair that the informal process set forth in Section (D) has not been successful and/or, if requested by the Chair or the respondent, at a hearing to be held and conducted as follows.
- (2) The respondent and complainant will be provided notice of not less than 30 days of the date, place, and time of the hearing and any persons other than Subcommittee members who will be present and permitted to speak at the hearing. Such other persons may include third parties who may have information relevant to the complaint. The complainant shall be entitled to attend the hearing if they so choose. No lawyers representing any party will be entitled to attend the hearing.
- (3) The respondent will have the right to postpone the hearing on one occasion provided that the hearing can be rescheduled to occur within 30 days of the original hearing date.
- (4) A written record will be made of the hearing, by and at the expense of the Committee, and will be provided to both the complainant and respondent.
- (5) The complainant and respondent will each have the right to submit a written statement within 15 days after delivery of the written record has been provided to them.

F. Suspension of Procedures.

In the event the complainant has filed a lawsuit or a complaint with a state licensing agency or a professional organization, the Committee's procedures, including any hearing, may be suspended until the lawsuit or the state's or the professional organization's investigation has concluded.

G. Decision of the Subcommittee.

Following the process described in Section (E) above, the Subcommittee may engage in further fact finding and discussions with the respondent and complainant in an effort to obtain additional information to help inform its determination. In any case in which the procedures in Section (E) have been followed, after full and fair consideration of the complaint, all information provided at the hearing, any statements submitted by the complainant and/or respondent, and any additional information the Subcommittee may have obtained in connection with its investigation, the Subcommittee, by majority vote, shall arrive at a determination as to the appropriate disposition of the complaint. It may:

- (1) Conclude that no Code violation has occurred; or
- (2) Determine that there has been a violation of the Code that requires one of the following actions:
 - (a) Private admonishment;
 - (b) Public censure;
 - (c) Implementation of a remediation plan recommended by the Subcommittee and agreed to by the respondent (e.g., supervision);
 - (d) Suspension of all faculty privileges or candidacy for a specified period; or
 - (e) Permanent termination of all faculty privileges or candidacy.

H. Review of the Subcommittee Decision.

The Chair will present the Subcommittee's findings and recommended course of action to the full Committee for review. The full Committee will meet, and by simple majority, either (1) accept that a decision was reached in accordance with these provisions for the implementation of the Code and is supported by the information obtained by the Subcommittee in connection with its investigation or (2) refer the case back to the Subcommittee for further proceedings consistent with such provisions. The full Committee will maintain confidentiality during its review.

If the full Committee refers the case back to the Subcommittee for further proceedings, the Subcommittee will reevaluate its determination in light of the concerns expressed by the Committee. After conducting such further procedures and information gathering as the Subcommittee deems appropriate in its discretion, the Subcommittee, by majority vote, will either reaffirm its original recommended course of action or recommend a different course of action consistent with the options set forth in Section (G) above. This determination by the Subcommittee will not be subject to further review by the full Committee.

I. Notification of Respondent.

Within seven business days after a final decision has been made by the Committee or Subcommittee, as the case may be, the Chair shall advise the respondent in writing of the decision of the Committee or Subcommittee and the basis therefor.

J. Appeal Process.

The respondent will have 30 days after receiving written notice of the final decision of the Committee or Subcommittee, as the case may be, to initiate an appeal to the Council of Fellows (the "COF") by notifying the Chair of the COF in writing. Upon receipt of the respondent's request for an appeal, the Chair of the COF will gather the necessary information and documentation from the Chair of the Committee.

The Chair of the COF will convene an *ad hoc* Appeals Committee of three former or current Fellows selected by the Chair of the COF. Within 30 days of being convened, the Appeals Committee will review the record of the proceedings to ascertain that proper procedures have been followed and that the decision of the Committee or Subcommittee is supported by the information obtained by the Subcommittee in connection with its investigation. If it deems proper procedures were not followed or further fact-finding is required, it shall refer the matter to the Subcommittee for the necessary further investigation and deliberation. Confidentiality shall be kept during the appeals process.

If the Appeals Committee refers the case back to the Subcommittee for further proceedings, the Subcommittee will reevaluate its determination in light of the concerns expressed by the Appeals Committee. After conducting such further procedures and information gathering as the Subcommittee deems appropriate in its discretion, the Subcommittee, by majority vote, will either reaffirm its original recommended course of action or recommend a different course of action consistent with the options set forth in Section (G) above. This determination by the Subcommittee will not be subject to further review by or appeal to the COF.

K. Notification of Respondent and Institute Faculty.

After a final decision has been made as provided in Section (H) or following an appeal as provided in Section (J), the Committee shall advise the respondent and the complainant of the decision. If the decision of the Committee or Subcommittee is censure, suspension or termination of the respondent, then the Institute Faculty will also be notified.