



**ALABAMA BOARD OF EXAMINERS
IN PSYCHOLOGY**

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**PROCEDURES FOR FILING COMPLAINTS AGAINST LICENSEES
AND INVESTIGATING COMPLAINTS AGAINST LICENSEES**

1. INQUIRIES REGARDING MAKING A COMPLAINT:

Upon inquiry and request, the complaint form and procedures brochure will be sent to an individual making the inquiry. These documents will also be made available for download at the Board's website: www.psychology.alabama.gov. Anonymous or oral complaints will not be accepted by the Board.

2. PROCEDURES FOR RECEIVING A COMPLAINT AT THE BOARD'S OFFICE:

- A) The completed, signed, and notarized complaint form will be date-stamped upon receipt in the Board's office.
- B) The executive director shall ascertain whether or not the individual named in the complaint is currently licensed by the Board, was previously licensed by the Board, or holds an inactive license issued by the Board. Upon ascertaining such, the executive director shall appoint a Board member or members to serve on an investigative committee with the executive director and the Board's legal counsel regarding the charge(s) made against the licensee. The executive director and legal counsel serve as non-voting members of the investigative committee.
- C) If a complaint falls within the Board's jurisdiction, notice will be sent to the person who submitted the complaint ("the complainant") stating that an investigation committee has been appointed to consider the matter.
- D) If a complaint concerns an area outside of the Board's jurisdiction, the Board will submit a non-jurisdiction letter to the complainant. If applicable, the complaint may also be referred to the appropriate agency.

3. INVESTIGATIVE REVIEW BY THE INVESTIGATION COMMITTEE:

- A) No member of the investigation committee shall discuss the details of a case with any other member of the Board.
- B) If the committee considers the complaint appropriate for investigation, it will recommend a course of action regarding the investigation of the complaint. This is determined on a case-by-case basis. The Board may hire or use investigators to pursue complaints against licensees. In most cases, the licensee is informed in writing that a complaint has been filed against him or her, is made aware of the nature of the complaint, and given an opportunity to respond. When a complaint is received about an individual who is currently being supervised by a licensed psychologist or who has been supervised by a licensed psychologist in the past, the supervising psychologist may be contacted.
- C) When the complaint has been investigated and deemed to be without merit, the licensee and the complainant shall be notified that there has been a finding of “no probable cause”. “No probable cause” means that there is no merit for the licensee to appear before the Board for a disciplinary hearing. Upon notifying the parties involved, the investigation file is closed. Complaints against licensees are considered privileged and confidential unless there is a “probable cause” finding by the investigative committee.
- D) If the committee finds that there is “probable cause for a disciplinary hearing”, Board counsel proceeds with the filing of Administrative Charges and a formal hearing is scheduled to present evidence to the full Board regarding the complaint.
- E) The Board may not accept the voluntary surrender of a license on the part of a licensee to avoid a possible disciplinary action by the Board.

4. INFORMAL SETTLEMENT:

After the filing of administrative charges, the licensee and the licensee’s attorney (if he or she is represented by counsel) may communicate with the Board’s attorney to negotiate a potential resolution of the complaint. If a proposed settlement agreement is reached, a “Consent Agreement” is signed by the licensee. The consent agreement is then considered by the full Board during an Executive Session at a public meeting of the Alabama Board of Examiners in Psychology. A vote to accept, reject, or modify the consent document will occur in the public session of the Board’s meeting. If a final settlement is reached and approved by the Board, it becomes a part of the licensee’s public discipline file at the Board office. The licensee’s name will be included in the Board’s public cumulative list of disciplinary actions and will be reported to the Association of State and Provincial Psychology Board’s Disciplinary Data Bank, or its successor organization, and other regulatory agencies. Although the Board may settle a case by agreement at any time, it has no legal obligation to enter into a settlement agreement or even conduct settlement negotiations with a licensee.

5. **HEARING - *If a formal hearing of charges is to be conducted, the following procedures will be observed:***
- A) A notice of the Administrative Complaint including the Statement of Charges, Notice of Hearing, and Explanation of Rights shall be sent in writing to the last known address of the licensee. The complainant shall be forwarded a copy of these documents by certified mail, with return receipt requested.
 - B) The licensee will be given a minimum of thirty (30) days' notice in writing of the charge or charges made against him or her, and the date, time, and location of a public hearing for the Board to consider the evidence in the case.
 - C) A transcript of the hearing will be officially recorded by a court reporter.
 - D) The licensee may at all times be represented by counsel of his or her choosing, or may waive this right.
 - E) At a hearing, either the full Board shall sit or the Board shall appoint a hearing officer to hear the case. If the Board sits, a quorum of the Board must be present at the hearing.
 - F) At least one member of the Board shall be present at all times during a hearing, deliberation, and action thereon. However, the Board member or members who assisted with the investigation of the complaint shall not participate in Board deliberations and shall not vote on the subsequent action(s) to be taken. Board members must abstain from voting in or otherwise participating in disciplinary investigations or hearings if the licensee is in their employ or under their supervision, or if there is another legal, ethical, or moral question vis-à-vis the Board member and the licensee.
 - G) If the Board appoints a hearing officer, the hearing officer shall have the authority to determine pre-hearing matters such as motions, subpoenas, etc., preside over the hearing, and issue recommendations to the Board about whether or not disciplinary action should be imposed against the licensee based on the evidence presented at the hearing. The Board will notify the licensee of the name and address of the hearing officer.
 - H) After notice to the licensee of the administrative charges, nonappearance of the licensee shall not prevent a hearing on the administrative charges.
 - I) At a formal hearing, the Board may administer oaths and procure by its subpoenas the attendance of witnesses and the production of relevant records.
 - J) The hearing shall proceed in accordance with the rules of evidence for a non-jury civil case. The burden of proof required to substantiate the charge(s) is a preponderance of the evidence. In general, the Board's administrative hearing is governed by the "Alabama Administrative Procedures Act" Alabama Code, §41-22-12 et seq. (1975)
 - K) At the hearing, the licensee and his or her attorney may present evidence and testimony on his or her behalf. The Assistant Attorney General who represents the Board presents the case against the licensee.

6. FINAL ORDER OF THE BOARD:

- A) If the Board finds that the administrative charges were proven against the licensee, the Board shall then determine the discipline to be imposed. A formal vote by the Board on the disciplinary action occurs during a public session. Then, the Board issues a final order that contains the findings of fact and conclusions of law pertinent to the case. The findings of fact shall be based solely upon evidence and matters that have been officially noted in the record.
- B) Any disciplinary action adjudged appropriate by the Board shall, within thirty (30) days following the adoption of the final order by the Board, be forwarded via certified mail to the licensee and the complainant, as well as any relevant regulatory bodies (i.e., the Association of State and Provincial Psychology Board's Disciplinary Data Bank, or its successor organization, and other regulatory agencies). Disciplinary actions may include, but are not limited to, suspension or revocation of licensure, refusal to issue a license, or non-renewal of a license for a period not to exceed three years.

7. POST-HEARING MATTERS:

- A) The Board in its discretion may suspend a license, revoke a license, or place a licensee on probation. In addition to suspension, the Board also may require in writing that the licensee serve a probationary period to obtain further education, training, personal counseling, psychotherapy, or such treatment as is necessary to the satisfaction of the Board to remediate any personal or professional deficiencies that might have contributed to the circumstances in the case.
- B) The Board may assess the cost of any investigation, legal service, legal proceeding, or disciplinary action against any applicant or licensee found to be in violation of this chapter. See *Code of Alabama, 1975*, §34-26-46(c).
- C) In addition to costs, the Board may assess penalties against any applicant or licensee found to be in violation of this chapter. In determining the amount of any penalty, which may not exceed one thousand dollars (\$1,000) per violation or a total of five thousand dollars (\$5,000), the board shall consider the seriousness of the violation, including any threat to the health, safety, or welfare of the public, the unlawful gain or economic benefit gained from the violation, the history of previous violations by the person, and the efforts of the licensee to mitigate and comply with the laws, rules and regulations, and code of ethics governing the practice of psychology. See *Code of Alabama, 1975*, §34-26-46(d).
- D) Appeals of the decision of the Board shall be made in accordance with the Alabama Administrative Procedure Act governing appeals in contested cases.