

LLPVRC Guidelines for Processing Ethical Complaints

LLPVRC Guidelines and Procedures for Processing Ethical Complaints

Adopted July 2000

Section A: General

1. The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the “Board” or “LLPVRC,” is dedicated to the promotion of professional rehabilitation counselor practice in Louisiana through licensure to advance the quality of service provided to persons with disabilities.
2. The Board, in furthering its objectives, administers the Code of Professional Ethics for Licensed Rehabilitation Counselors that has been developed and approved by the Board.
3. The purpose of the LLPVRC Guidelines and Procedures for Processing Ethical Complaints is to facilitate the work of the LLPVRC Ethics Committee (“Committee”) by specifying the procedures for a) processing cases of alleged violation of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, b) sanctioning licensed rehabilitation counselors (LRC), and c) appeals. The intent of the Board is to monitor the professional conduct of its licensees to promote sound ethical practices. LLPVRC does not, however, warrant the performance of any individual.
4. In the event that the Board receives a complaint concerning an individual who does not possess an LRC designation, a representative of the Board will inform the complainant and may refer the complainant to an appropriate authority.
5. Any failure to disclose pertinent information of which an LRC has direct personal knowledge or any misleading disclosure by an LRC with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter, concerning him/her, may constitute a violation.

Section B: Ethics Committee Members

6. The Ethics Committee is a standing Committee of the Board. The Committee consists of at least three (3) but no more than five (5) Board members, including Committee Chair, who are appointed by the Chair of the Board. Any vacancy occurring on the Committee will be filled by the Chair of the Board.
7. A quorum of three members of the Committee is necessary to conduct a hearing or any other business to come before the Committee.

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8. In the event any member of the Committee has a personal interest in the case or has any knowledge of the case other than what has been provided to all Committee members, he/she shall withdraw from hearing the case. In the event that the Chair shall withdraw, the Board Chair shall appoint another Committee member to act a Chair of the Committee.

Section C: Role and Function

9. The Ethics Committee is responsible for:
 - a. Educating the licensees and the general public as to the Board's Code of Professional Ethics for Licensed Rehabilitation Counselors;
 - b. Periodically reviewing and recommending changes in the Code of Professional Ethics for Licensed Rehabilitation Counselors as well as the Guidelines and Procedures for Processing Ethical Complaints;
 - c. Receiving and processing complaints of alleged violations of the Code of Professional Ethics for Licensed Rehabilitation Counselors; and
 - d. Receiving and processing questions.
10. The Committee shall meet in person or by telephone conference a minimum of four (4) times per year for processing complaints.
11. In processing complaints of alleged violations, the Committee will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The Committee, in taking any action, shall do so only for cause, shall only take the degree of disciplinary action that is reasonable, shall utilize these procedures with objectivity and fairness, and, in general, shall act only to further the interests and objectives of the Board and its licensees.
12. If a Committee member excuses himself/herself from a complaint and insufficient members are available to conduct business, the Chair of the Board shall appoint a former LLPVRC Board Member, who is an LRC, to act as a member of the Committee. In the event that no former LLPVRC Board Member is available to act as a member of the Committee, the Chair of the Board shall appoint a member who is a licensee until a sufficient number of members is obtained that constitutes a quorum.

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Section D: Responsibilities of the Committee Members

13. The Committee members have an obligation to act in an unbiased manner, to work expeditiously, to safeguard the confidentiality of the Committee's activities, and to follow procedures established to protect the rights of all individuals involved.

Section E: Responsibilities of the Committee Administering the Complaint

14. The responsibilities of the Committee will include, but not be limited to, the following:
 - a. Review complaints that have been received;
 - b. Determine whether the alleged behavior, if true, would violate LLPVRC's Code of Professional Ethics for Licensed Rehabilitation Counselors, and whether the Committee should accept the complaint under these rules;
 - c. Notify the complainant and licensee that the Committee has determined that no action will be taken; or, if action is to be taken, notify the complainant and the LRC of acceptance of the complaint via certified mail and marked "Personal and Confidential";
 - d. Request additional information from the complainant, licensee, or others;
 - e. Arrange for legal advice with the assistance of the LLPVRC Chair; and
 - f. Prepare and send, via certified mail, and marked "Personal and Confidential," communications to the complainant and LRC on the decisions of the Committee.

Sections F: Jurisdiction

15. The Committee has jurisdiction to consider whether an individual has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors if the individual is a current licensee of the LLPVRC.
16. Should a respondent attempt to relinquish LLPVRC licensure during the course of any case, the Board reserves the right to continue the matter for a final and binding resolution according to these rules.

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Sections G: Eligibility to File Complaints

17. The Committee will accept complaints that an LRC has violated one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors from the following:
 - a. Members of the general public who have reason to believe that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.
 - b. LRCs or members of other helping professions who have reason to believe that a licensee has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.
 - c. The Committee Chair when the Committee has reason to believe through information received through materials in the public domain that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

Section H: Time Lines

18. The time lines set forth in these standards are guidelines only and have been established to provide a reasonable framework for processing complaints.
19. The Committee will grant an extension of a deadline requested by a licensee or complainant only when justified by unusual circumstances.
20. LRCs are pledged, in accordance with the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, to cooperate with proceedings of the Board for any alleged violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If the LRC voluntarily relinquishes licensure or if the licensee or complainant fails to cooperate with an ethical inquiry in any way, the Board shall, at its discretion, continue its investigation, noting in its final report the circumstances of the LRC's failure to cooperate. The Committee, in its sole discretion, may terminate the complaint of an uncooperative complainant.

Section I: Nature of Communication

21. Only signed, written communications regarding ethical complaints against LRCs will be accepted. If telephone inquiries from individuals are received regarding the filing of complaints, responding to complaints, or providing information regarding complaints, the individuals calling will be informed of the signed, written communication requirement and asked to comply.

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22. All correspondence related to a complaint must be addressed to the Ethics Committee, LLPVRC Board of Examiners, P.O. Box 41594, Baton Rouge, LA 70835-1594, and must be marked "Confidential." This process is necessary to protect the confidentiality of the complainant and the LRC.

Sections J: Management of Filed Complaints

23. Upon receipt of complaints, the Committee will communicate to the complainant and LRC in writing, via certified mail marked "Personal and Confidential," noting its receipt of the complaint and its confirmation of the licensed status of the accused LRC.
24. The Committee will determine whether the complaint, if true, would violate one of more sections of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If not, the complaint will not be accepted and the complainant and licensee so informed in writing via certified mail.
25. If the Committee determines that the complaint contains insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Committee, the Committee may request further written information for the complainant or others.
26. When complaints are accepted, the complainant and LRC will be so informed in writing via certified mail.

Section K: Notification of LRC

27. Once the complaint has been received, the LRC will be sent a copy of the complaint via certified mail, and marked "Personal and Confidential."
28. If the complaint is accepted, the LRC will be asked to respond in writing to the complaint against him/her, addressing each of the following areas:
 - a. Acknowledge the section of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors which he/she has been accused of having violated; and
 - b. Submit any fact affidavits, documents, or written arguments which he/she wishes to be considered by the Committee in reviewing the complaint.

The LRC will be informed that if he/she wants to respond, he/she must do so in writing within thirty (30) days from the date of notification. If the licensee fails to respond in writing to a request from the Committee, the Committee may impose sanctions on the basis of the complaint alone.

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29. Should the Committee request further information from the LRC, the licensee shall be given thirty (30) days from the date of request to respond.
30. The Committee may, in its discretion, delay or postpone its review of the case.

Section L: Disposition of Complaints

31. After receiving the response of the LRC, Committee members will be provided copies of the response and supporting fact affidavits, documents, or written arguments provided by the LRC and others.
32. At the next meeting or teleconference of the Committee, the Committee will discuss the complaint, response, and any supporting documentation.
33. On the basis of the complaint and the LRC's response, the Committee must act as follows:
 - a. If no violation is found, the case will be closed and all parties will be notified of case closure in writing via certified mail; or
 - b. If reasonable basis is found to exist for any violation alleged in the complaint, all parties will be notified in writing via certified mail. Upon a finding of reasonable basis, the LRC may make a written request for a hearing before the Committee or the Committee, in its discretion, may initiate a hearing.

Section M: Withdrawal of Complaints

34. If the complainant and LRC agree to discontinue the complaint process, the Committee may, at its discretion, complete the adjudication process if available evidence indicates that this is warranted.

Section N: Ethics Committee Actions

35. Letter of Instruction. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, the Committee will consider the degree of harm and significant mitigating circumstances and may issue a letter of instruction, which is not a sanction.
36. Sanctions. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, and a letter of instruction is not appropriate, the Committee shall impose one or a combination of the possible sanctions which follow:

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- a. Reprimand. Remedial requirements may be stipulated by the Committee.
 - b. Probation for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.
 - c. Suspension of LRC license for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.
 - d. Revocation of LRC license.
3. The penalty for failing to fulfill, in a satisfactory manner, a remedial requirement imposed by the Committee as a result of a sanction will be automatic revocation unless the Committee determines that the remedial requirement should be modified based on good cause.

Section O: Notification of Results

4. The LRC shall be given a written notice via certified mail of Committee decisions regarding complaints against him/her.
5. If a violation has been found and the LRC's license has been suspended or revoked, other licensure or certification boards, voluntary national certification boards, and appropriate professional associations will also be notified of the results.
6. If a violation has been found and the LRC's license has been suspended or revoked, a notice of the Committee action that includes the section(s) of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that were found to have been violated and the sanctions imposed will be published on the LLPVRC website.

Section P: Hearings

7. A hearing shall be initiated:
 - a. If the LRC requests a hearing; or
 - b. At any time at the request of the Committee.
8. If a hearing has been requested or initiated by the Committee, and provided all necessary and requested information is received, the Committee Chair shall schedule a hearing on the case at the next scheduled Committee meeting and notify the complainant and the licensee of their right to attend the hearing.

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9. The hearing will be held before the Committee.

Section Q: Hearing Procedures

10. Purpose:

- a. A hearing will be conducted to determine whether a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors has occurred and, if so, to determine appropriate disciplinary action.

- b. The Committee shall be guided in its deliberations by principles of basic fairness and professionalism, and will keep its deliberations as confidential as possible, except as provided herein.

11. Notice:

- a. The LRC shall be advised in writing via certified mail by the Chair administering the complaint of the time and place of the hearing.

- b. If the LRC fails to appear at the hearing, the Committee shall decide the complaint and determine what testimony it will hear on record. Failure of the LRC to appear at the hearing shall not be viewed by the Committee as sufficient grounds alone for taking disciplinary action.

12. Conduct of the Hearing:

- a. The location of the hearing shall be determined at the discretion of the Committee. The Committee shall provide a private room to conduct the hearing and no observers or recording devices other than a recording device used by the Committee shall be permitted.

- b. The Chair administering the complaint shall preside over the hearing and deliberations of the Committee. At the conclusion of the hearing and deliberations of the Committee, the Chair shall promptly issue written notice to the LRC via certified mail of the Committee's decision. The Chair shall also notify the complainant in writing via certified mail of the disposition of the complaint. However, the Chair shall not disclose the disciplinary action, if any, imposed on the licensee.

- c. A record of the hearing shall be made and preserved, together with any documents presented in evidence, at the Board's administrative office. The record shall consist of a summary of testimony received or a verbatim transcript, at the discretion of the Committee.

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- d. The LRC and the complainant shall be entitled to have legal counsel or a representative present to advise and represent them throughout the hearing. Legal counsel for the Board may also be present at the hearing to advise the Committee and shall have the privilege of the floor.
 - e. Either party shall have the right to call witnesses to substantiate his/her version of the case.
 - f. The Committee shall have the right to call witnesses it believes may provide further insight into the matter.
 - g. Witnesses shall not be present during the hearing except when they are called upon to testify and shall be excused upon completion of their testimony and any cross-examination.
 - h. The Chair administering the complaint shall allow questions to be asked of any witness by the opposition or members of the Committee if such questions and testimony are relevant to the issues in the case.
 - i. The Chair administering the complaint will determine what questions and testimony are relevant to the case. Should the hearing be subject to irrelevant testimony, the Chair may call a brief recess until order can be restored.
 - j. Both the complainant and the LRC, and any witnesses and legal counsel that they may have must pay their own expenses. Parties initiating telephone contact will assume the expenses related to the calls.
13. Presentation of Evidence:
- a. The Chair administering the complaint shall be called upon first to present the charge(s) made against the LRC and to briefly describe the evidence supporting the charge. The Chair shall also be responsible for examining and cross-examining witnesses on behalf of the complainant and for otherwise presenting the matter during the hearing.
 - b. The complainant or a member of the Committee shall then be called upon to present the case against the LRC. Witnesses who can substantiate the case may be called upon to testify and answer questions of the LRC and the Committee.
 - c. If the LRC has exercised the right to be present at the hearing, he/she may be called upon to present any evidence which refutes the charges against him/her. This includes witnesses as in Subsection 3 above.

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- d. The LRC will not be found guilty simply for refusing to testify. Once the LRC chooses to testify, however, he/she may be cross-examined by the complainant and members of the Committee, subject to the constitutional rights of the licensee.
 - e. Testimony that is merely cumulative or repetitious may, at the discretion of the Chair administering the complaint, be excluded.
 - f. All parties providing testimony will be required to attest to the veracity of their statements.
14. Relevancy of Evidence:
- a. The Committee hearing is not a court of law and is not required to observe formal rules of evidence. Evidence that would be inadmissible in a court of law may be admissible in the hearing before the Committee, if it is relevant to the case. Therefore, if the evidence offered tends to explain, clarify, or refute any of the important facts of the case, it should be considered.
 - b. The Committee will not consider evidence or testimony for the purpose of supporting any charge that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.
15. Burden of Proof:
- a. The burden of proving a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors is on the complainant and/or the Committee.
 - b. Although the charge(s) need not be proved “beyond a reasonable doubt,” a Committee finding that an LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors must be supported by substantial, objective, and believable evidence.
16. Deliberation of the Committee:
- a. After the hearing is completed, the Committee shall meet in a closed session to review the evidence presented and reach a conclusion. The Board’s legal counsel may attend the closed session to advise the Committee if the Committee so desires.
 - b. The Committee shall be the sole judge of the facts and shall weigh the evidence presented and assess the credibility of the witnesses. The decision of a majority of the members of the Committee present shall be the decision of the Committee and the Board. The Chair shall vote only to break a tie or when the Committee consists of three

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members.

c. Only members of the Committee who were present throughout the entire hearing shall be eligible to vote.

17. Decision of the Committee:

a. The Committee will first resolve the issue of the guilt or innocence of the LRC on each charge. Applying the burden of proof in Subsection 5 above, the Committee will vote by secret ballot, unless all of the members of the Committee entitled to vote consent to an oral vote.

b. In the event the Committee does not find the licensee guilty, the charges will be dismissed. If the Committee finds the LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors, it must then determine what sanctions shall be imposed.

Section R: Appeals

18. Decisions of the LLPVCR Ethics Committee that a licensee has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors may be appealed by the LRC found to have been in violation based on one or more of the following grounds:

a. The Committee violated its policies and procedures for processing complaints of ethical violations; and/or

b. The decision of the Committee was arbitrary and capricious and was not supported by the materials provided by the complainant and the licensee.

19. After the LRC has received notification that he/she has been found in violation of one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, he/she will be given thirty (30) days from the date written notification is sent to notify the Committee in writing via certified mail that he/she is appealing the decision.

20. An appeal must be in writing stating one or more grounds of appeal listed in Section R.1, Subsections a or b above, and the reasons for the appeal.

21. The Board Chair will appoint a three (3) person appeals panel consisting of at least one (1) former Board member, who is currently an LRC, with the balance of the licensees, none of whom served on the Committee at the time the original decision was rendered. The Board's attorney shall serve as legal advisor and have the privilege of the floor.

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22. The three (3) member appeals panel will be given copies of the materials available to the Committee when it made its decision, a copy of the hearing transcript if a hearing was held, and a copy of the letter filed by the appealing licensee.
23. The decision of a majority of the members of the appeals panel shall be the final decision. The decision shall be rendered within a reasonable period of time.
24. The decision of the appeals panel may include one of the following:
 - a. The decision of the Committee is upheld.
 - b. The decision of the Committee is reversed and/or remanded with guidance to the Committee for a new hearing. The reason for this action will be given in detail to the Committee in writing.
25. When a Committee decision is reversed and/or remanded, the complainant and the LRC will be informed in writing via certified mail and additional information may be requested. The Committee will then render another decision after further hearing.
26. A decision of the appeals panel to uphold the Committee decision is final.

Section S: Substantial New Evidence

27. In the event substantial new evidence, which was not available to the LRC at the time of the hearing, is presented in a case in which an appeal was not filed, or in a case where a final decision has been rendered, the case may be reopened by the Committee.
28. The Committee will consider substantial new evidence that was unavailable at the time of the hearing and, if it is found to be substantiated and capable of exonerating an LRC whose license was revoked, the Committee will reopen the case and proceed with the entire complaint process again.

Section T: Records

29. The records of the Committee regarding complaints are confidential except as provided herein.
 - a. All information concerning complaints against LRCs shall be confidential except that the Committee may disclose such information when compelled by a validly issued subpoena or when otherwise required by law or valid court order. In addition, the Committee may disclose to any appropriate organizations or individuals that an individual is under ethical investigation in cases deemed to be threats to the public welfare and only when to do so before final adjudication appears necessary to protect the public.

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- b. Nothing in this Section shall be construed to prevent the Committee from communicating with the complainant, witnesses, potential members of fact-finding committees, or other sources of information necessary to enable the Committee to carry out its investigative function.
30. Original copies of complaint records will be maintained in locked files at the Board's administrative office or at an off-site location chosen by the Board for a specified period of time listed below:
- a. Confidential Permanent Files. Permanent files of the Committee shall be confidential and shall be available only to those specifically authorized by the Committee and by the Chair of the Board.
- b. Files for Revocation. Files concerning an LRC whose license has been revoked shall be maintained indefinitely.
- c. Files for Non-Violations. Except for those cases for insufficient evidence, personally identifiable information concerning an LRC who has been found not to have violated the Code of Professional Ethics for Licensed Rehabilitation Counselors shall be destroyed one (1) year after the Committee has closed the case.
- d. Files for Insufficient Information. In cases where the Committee has closed a case due to evidence insufficient to sustain a complaint of ethical violation, records containing personally identifiable information shall be maintained for five (5) years after the Committee has closed the case.
- e. Files of Lesser Sanctions. In cases where the Committee has found an ethical violation but where the sanction is less than revocation, records containing personally identifiable information shall be maintained for five (5) years after the Committee has closed the case.
- f. Files After Death. All records containing personally identifiable information shall be destroyed one (1) year after the Commission is notified of the death of the LRC.
- g. Records for Educational Purposes. Nothing in this Section shall preclude the Committee from maintaining records in a form which prevents identification of the LRC so that it may be used for archival, educational, or other legitimate purposes.
31. Members of the Committee will keep copies of complaint records confidential and will destroy copies of records on the sooner of the date of case closure under Section 1, the date the time for appeal has expired, or the date the member is no longer a member of the Committee.

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Section U: Legal Actions Related to Complaints

32. LRCs are required to notify the Committee if they learn of any type of legal action (civil or criminal) being filed in relation to the complaint.
33. In the event any type of legal action is filed regarding an accepted complaint, all actions related to the complaint may, at the discretion of the Committee, be stayed until the legal action has been concluded.
34. If actions on a complaint are stayed, the complainant and the LRC will be notified in writing via certified mail.
35. When actions on a complaint are continued after a legal action is concluded, the complainant and the LRC will be notified in writing via certified mail.

Acknowledgment

LLPVRC wishes to thank the Commission on Rehabilitation Counselor Certification for granting permission to adopt its Guidelines and Procedures for Processing Complaints.

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