RULES AND PROCEDURES REGARDING THE EACC CODE OF CONDUCT

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Table of Contents

I. Responsibility and Objectives of the EACC Ethics & Discipline Committee........... Pgs. 3-4
   R1.1 Objectives
   R1.2 Code and Rules
   R1.3 Review of Complaints
   R1.4 Resolution of Complaints
   R1.5 Reports
   R1.6 Procedures
   R1.7 Time

II. Nature of Authority ........................................................................................................... Pgs. 4-5
   R2.1 Power to Investigate
   R2.2 Disposition of Complaints
   R2.3 Committee Actions
   R2.4 Monetary Award
   R2.5 Committee Meetings
   R2.6 Confidentiality
   R2.7 Determination
   R2.8 Record Keeping

III. EACC Credential Holders Convicted or Charged with a Felony or Disciplined by Other Entities or Organizations ......................................................... Pgs. 5-6
   R3.1 Conviction/Charge
   R3.2 Affiliations
   R3.3 Professional Negligence

IV. Disciplinary Procedures — Initial Consideration .............................................................. Pg. 6
   R4.1 Complaint
   R4.2 Disclosure of Previous Actions
   R4.3 Committee Complaint
   R4.4 Anonymous Complaint
   R4.5 Additional Information
V. Disciplinary Procedures — Initial Action ................................................................. Pgs. 7-8
R5.1 Initial Determination
R5.2 Formal Investigation
R5.3 Response to Complaint
R5.4 Additional Information
R5.5 No Further Action
R5.6 Final Statement

VI. Disciplinary Procedures — Disposition of Complaint ........................................... Pgs. 8-9
R6.1 EACC Action
R6.2 Notification of EACC Action
R6.3 Notice of Appeal
R6.4 Board Appeal Panel

VII. EAPA Board Decisions ........................................................................................... Pg. 9
R7.1 Further Consideration
R7.2 Board Decisions
R7.3 Notification
R7.4 Publication of Sanction

VIII. Close of Case ........................................................................................................ Pg. 9
R8.1 Close of Case

IX. Request for Reinstatement of Credential ............................................................... Pg. 10
R9.1 Reinstatement Request

X. Governing Law ........................................................................................................ Pg. 10
R10.1 Governing Law
R10.2 Venue
RULES AND PROCEDURES REGARDING THE EACC CODE OF CONDUCT

I. RESPONSIBILITY AND OBJECTIVES OF THE ETHICS & DISCIPLINE COMMITTEE

R1.1 — Objectives
The Employee Assistance Certification Commission (EACC) is the policy-making body for all professional certification activities as defined in Article IV Section 3 of the Employee Assistance Professional Association (EAPA) Bylaws. The EACC has established the EACC Ethics & Discipline Committee (Committee), consisting of four (4) Commissioners. The fundamental objectives of the Committee are to (i) enforce the EACC Code of Conduct (Code) to ensure that any EACC credential holder is practicing in accordance with professional standards; and (ii) protect individual and organizational clients of employee assistance programs (EAPs) and the public against unprofessional and unethical conduct by EACC credential holders.

R1.2 — Code and Rules
The Committee may review and analyze the Code and these Rules and Procedures Regarding the EACC Code of Conduct (Rules) and shall propose recommendations regarding the Code and Rules for adoption by the EACC.

R1.3 — Review of Complaints
The Committee is responsible for receiving, reviewing and, if appropriate, investigating all complaints regarding the alleged violations of the Code (Complaint).

R1.4 — Resolution of Complaints
The Committee shall resolve all Complaints including without limitation findings, conclusions and sanctions, if warranted.

R1.5 — Reports
Upon the request of the EACC, the Committee shall deliver a summary report to the EACC identifying the Committee’s activities. At the next scheduled meeting of the EACC Board of Directors (Board), the EACC shall report receipt of a Complaint; dismissal of a Complaint and actions taken against an EACC certificate holder.

R1.6 — Procedures
The EACC may adopt procedures and safeguards governing the functions of the Committee to ensure that all EACC credential holders and the Committee are in full compliance with the EACC Code and these Rules.
R1.7 — Time
The time periods set forth in these Rules are intended to provide guidance to the Committee, the EACC and the parties, and may be extended at the Committee or EACC’s discretion depending on the circumstances of each proceeding. Failure of the Committee, the EACC or any party to comply with the time periods shall in no event prevent the continuation or conclusion of a proceeding before the Committee or the EACC.

II. NATURE OF AUTHORITY

R2.1 — Power to Investigate
The Committee shall have the power, but shall not be obligated to investigate all Complaints that may be harmful to colleagues, employee assistance program clients, or the public, or that may be otherwise contrary to the objectives of the Code or the EACC, provided that such allegations are made in writing including Complaints that may be initiated by the EACC or the Committee. The Committee’s powers do not extend to addressing economic issues as they relate to legitimate marketplace competition.

R2.2 — Disposition of Complaints
The Committee has the sole authority to decide whether to act on a Complaint and to make recommendations to the EACC regarding each Complaint. The EACC shall have final determination of actions taken against an EACC certificate holder, subject to the Board’s authority to conduct an appeal as set forth in these Rules.

R2.3 — Committee Actions
After the Committee has determined to proceed with an investigation regarding allegations set forth in a Complaint, the Committee may recommend to the EACC, and the EACC may take, any or all of the following actions:

(i) notify all parties in writing that no action is warranted against the EACC credential holder;
(ii) request that the EACC credential holder cease the improper conduct, accept supervision or seek appropriate assistance;
(iii) reprimand the EACC credential holder;
(iv) place the EACC credential holder on probation;
(v) suspend the EACC credential holder’s credential for a specific amount of time or indefinitely;
(vi) permanently revoke the EACC credential holder’s credential;
(vii) refer the matter to the proper authorities for criminal prosecution, if appropriate; and/or
(viii) propose other action that is warranted under the circumstances.

R2.4 — Monetary Award
Neither the Committee nor the EACC will determine or impose monetary awards to any party.

R2.5 — Committee Meetings
The Committee shall meet as needed, but not less than once each year. A quorum at such meetings shall consist of a majority of the members of the Committee. The Committee may meet by virtual meeting and/or telephone conference call. All Committee members must be given at least 5 business days advance written notice of any meeting, provided that such notice may be waived by any member of the Committee or by the attendance of any member of the Committee at the meeting. Notices may be communicated by mail, hand delivery, electronic transmission or facsimile.
R2.6 — Confidentiality
All information disclosed to the Committee, the EACC or the Board shall be maintained on a confidential basis, except that the Committee, the EACC or the Board shall be permitted to disclose such information when compelled by a validly issued subpoena, when otherwise required by law, to law enforcement officers or government agencies if warranted and as determined by the EACC in its sole discretion, or to parties essential to the review and investigation of the alleged unethical or unprofessional conduct. Public information shall not be considered confidential information for purposes of this Rule.

R2.7 — Determination
When an investigation has been completed and the EACC has made its decision, it shall inform the Board and both the complainant and the EACC credential holder of its conclusions and the actions to be taken, if any, along with the bases for such actions. Such disclosures shall include a citation to the Code section(s) violated by the EACC credential holder.

R2.8 — Record Keeping
The EACC shall follow the EAPA record retention policy to ensure that confidentiality is maintained with respect to the handling, storage, maintenance and destruction of records.

III. EACC CREDENTIAL HOLDERS CONVICTED OR CHARGED WITH A FELONY OR DISCIPLINED BY OTHER ENTITIES OR ORGANIZATIONS

R3.1 — Conviction/Charge
If the EACC credential holder has been convicted of, pled guilty to or pled nolo contendere to a felony, has determined that the EACC credential holder is in violation of pertinent rules and regulations, the Committee shall review the record leading to the conviction, plea or finding and will thereafter send the EACC credential holder a notice requesting the EACC credential holder show good cause why he/she/it is not in violation of the Code.

This action will be conducted without the right to have a hearing, as described in Rule R5.6. Following receipt of the EACC credential holder’s response, the Committee may proceed with a final determination in accordance with Rules R2.3 and R6.1. If the EACC credential holder has been charged with a felony, such charge will neither require nor preclude further action by the Committee.

Notwithstanding the above, if an EACC credential holder is charged with a felony, or is the subject of a law enforcement investigation regarding a possible felony, when in the interest of public protection, as reasonably determined by the Committee, the EACC may indefinitely suspend the EACC credential holder’s credential pending the EACC’s final decision regarding the EACC credential holder’s possible Code violation.

R3.2 — Affiliations
If the EACC credential holder has been expelled or suspended for unethical or unprofessional conduct from an international, national, regional or state professional association, or had his/her/its license or credential revoked or sanctioned in any way on ethical grounds by or any licensing or certifying authority, the Committee shall review the records leading to the sanction(s), if available, and the EACC may, if appropriate, send the EACC credential holder a notice that his/her/its credential will be suspended or revoked without further proceedings.
R3.3 — Professional Negligence

If the EACC credential holder has acknowledged committing or has been found to have committed professional negligence, the Committee shall review the record leading to the findings, if available, and, if appropriate, the EACC may thereafter send the EACC credential holder a notice that his/her/its credential may be sanctioned without further proceedings.

IV: DISCIPLINARY PROCEDURES — INITIAL CONSIDERATION

R4.1 — Complaint

A Complaint against any EACC credential holder may be submitted by: (i) any person or entity served by an employee assistance program (or their designated representatives); (ii) any international, national, regional or state professional association of which the EACC credential holder is a member; (iii) any licensing or credentialing authority; (iv) the Board; (v) the EACC; or (vi) the Committee. The Complaint must be in writing, signed and must contain complete and accurate information as required by the Complaint form and the Committee. The Complaint and supporting documents must be legible, and may not exceed 25 pages without the prior approval of the Committee.

Complaints must be submitted by mail, e-mail, or facsimile to the EAPA staff member designated as the EACC staff liaison at the EAPA headquarters mailing addresses, email address and facsimile number specified on the eapassn.org website. In person complaints will not be accepted. Complaints that are incomplete, submitted by those without standing, or do not reasonably relate or correspond to the Code will be returned to the Complainant along with written notification that the matter has been administratively discharged. All other Complaints will be forwarded to the Committee within 30 days of receipt.

R4.2 — Disclosure of Previous Actions

The Complainant shall inform the Committee of previous actions, if any, that have been taken with respect to the alleged unethical or unprofessional conduct and the results of such actions taken.

R4.3 — Committee Complaint

The Committee may proceed on its own initiative based on publicly available information that EACC credential holder appears to have violated the Code, by initiating an investigation or requesting information from the EACC credential holder or by submitting a formal Complaint.

R4.4 — Anonymous or Oral Complaint

The Committee may not act solely on the basis of an anonymous or oral Complaint.

R4.5 — Additional Information

The Committee may, through correspondence or otherwise, seek supplementary information from the Complainant or any other party, when necessary, in order to completely evaluate the substance of the allegations. In the event that the Committee determines that additional information is necessary but the Complainant refuses to provide such information, the Committee may determine that the case should be closed.
V: DISCIPLINARY PROCEDURES — INITIAL ACTION

R5.1 — Initial Determination
Within 45 days of receiving a Complaint, the Committee shall determine whether sufficient information exists to proceed with a formal investigation. The Committee shall not proceed until such time as the Committee is satisfied that the Complainant has complied with all procedural requirements. If the Complainant refuses to have his/her/its name known to the EACC Credential Holder, the Committee shall not consider the matter unless it determines to proceed with the Complaint based on independent verifiable information. If the Committee concludes that an investigation is not warranted, it shall notify the Complainant within 30 days of its determination. As used in Sections V and VI of these Rules, the terms Committee and EACC shall include EACC Staff Liaison to act on its behalf where written communication to the Complainant and EACC Credential holder is required.

R5.2 — Formal Investigation
If the Committee determines that a formal investigation should ensue, it shall notify the Complainant and EACC credential holder within 30 days of its determination. The notification sent by the Committee to the EACC credential holder shall include the Complaint and all supplemental information submitted with the Complaint, including the specific Section of the Code that the EACC credential holder is alleged to have violated. The notification shall include a copy of the Code and these Rules. The notification will contain the name of the Complainant.

R5.3 — Response to Complaint
The EACC credential holder is required to provide to the Committee his/her/its written response within 15 days from the date of the notification sent by the Committee. The EACC credential holder’s written response must be complete, accurate and fully responsive to the Complaint and any and all Committee inquiries. The response and supporting documents must be legible, and may not exceed 25 pages without the prior approval of the Committee. Failure to respond, or any other unwarranted delay by the EACC credential holder, or the lack of the EACC credential holder’s cooperation, shall in no way prevent the continuation or conclusion of the proceedings by the Committee as it deems fit.

R5.4 — Additional Information
If, after receipt of the EACC credential holder’s response, the Committee determines that additional information is warranted from either or both the Complainant or the EACC credential holder, or from any third party, it shall notify the Complainant and the EACC credential holder of the request for additional information. The parties shall provide the additional information no later than 15 days from the date of the request for additional information.

R5.5 — No Further Action
Once all of the information has been received pursuant to Rules R5.3 and R5.4, the Committee may conclude that the Complaint has no basis in fact, is insufficient or is likely to be corrected on its own merit and, therefore, may determine to close the case without further action. Such decision shall be made within 45 days of the Committee’s receipt of all of the information. If the Committee determines to close the case, it shall inform both the Complainant and the EACC credential holder.

R5.6 — Final Statement
If the Committee, having received all information pursuant to Rules R5.3 and R5.4, determines that further action is warranted, it shall notify the Complainant and the EACC credential holder that the Committee is prepared to consider all of the information before it and render a decision on that basis. The EACC Credential Holder may request that, prior to such analysis and decision, he/she/it be afforded the opportunity to submit a final statement to the Committee. If the EACC credential holder desires to submit a final statement, he/she/it must submit such statement, which shall not exceed three pages, to the Committee, in writing, within 15 days of the Committee’s notification to the EACC credential holder.
holder and Complainant as set out in this Rule R5.6. The EACC credential holder’s failure to timely submit a final statement shall be deemed a waiver by the EACC credential holder of the right to submit the statement.

VI. DISCIPLINARY PROCEDURES — DISPOSITION OF COMPLAINT

R6.1 — EACC Action
If the Committee concludes that some type of action is warranted, it shall present its findings and recommended sanctions at the next regularly scheduled meeting of the EACC. The EACC may adopt any one or more of the following sanctions or take any other appropriate actions:

(i) require that the EACC Credential Holder cease and desist the alleged conduct;
(ii) require the supervision of the EACC Credential Holder as the Committee deems necessary;
(iii) reprimand the EACC Credential Holder if the Committee determines there has been a Code violation but limited harm to another person, the public or the profession has occurred;
(iv) place the EACC Credential Holder on probation and monitor the EACC Credential Holder for a specific length of time;
(v) if appropriate, refer the matter to a state licensing or certifying authority;
(vi) suspend the EACC Credential Holder’s credential;
(vii) permanently revoke the EACC Credential Holder’s credential;
(viii) require the EACC Credential Holder to take remedial personal rehabilitative or educational actions; or
(ix) take any other action that is warranted under the circumstances.

Should the EACC not accept the recommendations of the Committee, it may either revise the sanctions or return the matter to be returned to the Committee along with specific guidance for further review. The Committee will report findings of this review to the EACC at the next regularly scheduled EACC meeting.

R6.2 — Notification of EACC Action
The EACC shall notify the Complainant and the EACC credential holder of the EACC’s determination and action to be taken within 30 days of the date of the EACC’s decision. If the EACC credential holder has been suspended or has had his/her/its credential revoked, the EACC credential holder will not be eligible to obtain any other EACC or EAPA credential during the period of the suspension or revocation.

R6.3 — Notice of Appeal
If the EACC credential holder desires to appeal (Appeal) the Committee’s decision, he/she/it must notify the EACC staff liaison, in writing (Appeal Notice) within 30 days of the date of the EACC’s decision. The Appeal Notice must be (i) mailed by certified mail, return receipt requested; (ii) mailed by verifiable overnight express mail service; or (iii) sent by electronic message which is capable of being verified as coming from the EACC credential holder, c/o the EACC staff liaison at EAPA’s headquarters. The Appeal Notice must include a detailed description of all reasons and bases for the Appeal. The Appeal Notice shall not be longer than three pages and shall include only information previously not provided to the Committee. The Appeal must be based upon at least one of the reasons set forth in Rule R7.2. If the EACC credential holder accepts the Committee’s determination and sanctions or if the EACC credential holder does not Appeal within the 30 day time period, the EACC’s conclusions and sanctions shall be deemed final and be effective the date of the initial notification. The EACC shall so notify the Complainant and the EACC credential holder. The Committee shall forward the Appeal Notice to the Board. The Board shall consider the written statement and all available evidence. The EACC credential holder shall pay for all of his/her/its own costs.
R6.4 — Board Appeal Panel
The Board may elect to establish a panel (Panel) consisting of at least three of its members, who are not simultaneously serving on the Committee to act on its behalf to review, consider and make a final determination regarding an Appeal. As used herein, the term Board shall mean Panel where the Board has constituted a Panel to act on its behalf pursuant to this Rule R6.4.

VII. BOARD DECISIONS

R7.1 — Further Consideration
The Board may, after reviewing the decision of the EACC, determine that the EACC did not have all relevant evidence or adequately review the evidence prior to making its final decision in the matter. In such case, the Board may remand the matter back to the EACC and/or Committee for further consideration.

R7.2 — Board Decisions
The Board shall only modify the EACC Action based on clear and convincing evidence in the event of any or all of the following:

(i) the Code was incorrectly applied;
(ii) the findings of facts by the EACC were clearly erroneous;
(iii) it would be unjust or unfair to implement the EACC decision;
(iv) the procedures used by the EACC were in serious and substantial violation of the Code and these Rules;
(v) the disciplinary sanctions determined by the EACC were grossly disproportionate to the facts.

R7.3 — Notification
Within 60 days of receipt of the Appeal Notice, the Board shall notify the Complainant and the EACC credential holder of its decision which shall be final. The Board’s decision may not be appealed. Once the Board’s decision has been made, it shall notify the EACC, which shall implement the Board’s directives.

R7.4 — Publication of Sanction
The EACC shall report at least annually the names of all EACC credential holders suspended or revoked during the prior 12 months due to a violation of the Code. In addition, the EACC may, at its discretion, notify all interested state licensing and certifying authorities; and, on request, any interested person or public agency deemed necessary to protect the public or who recognizes the standards of the EACC.

VIII. CLOSE OF CASE

R8.1 — Close of Case
Once the final decision has been made by the EACC or the Board, the matter shall be closed and the files shall be retained by the EACC as specified in the EAPA record retention policy.
IX. REQUEST FOR REINSTATEMENT OF CREDENTIAL OF CREDENTIAL

R9.1 — Reinstatement Request
The EACC will consider all written reinstatement requests, which must include the following information: (i) the date of the final EACC or Board disposition; (ii) a complete statement supporting the EACC certificate holder’s reinstatement request; (iii) proof that the EACC credential holder has complied with the EACC’s sanctions and (iv) copies of all relevant documents and materials supporting the reinstatement request. The EACC will provide its decision to the EACC credential holder within 45 days of receipt of the reinstatement request and all requested information. Published reinstatement fees and application process will be required prior to reinstatement of the credential.

X. GOVERNING LAW/VENUE

R10.1 — Governing Law
The EACC credential holder, the Complainant, and EACC agree that the laws of the Commonwealth of Virginia shall govern these Rules.

R10.2 — Venue
The EACC credential holder, the Complainant, and EACC agree to file and pursue all claims and suits regarding these Rules with the applicable court in the jurisdiction in which EAPA’s headquarters are located.