



## **DISCIPLINARY PROCEDURES FOR THE CODE OF PROFESSIONAL CONDUCT FOR IBCLCS**

### **I. Introduction**

The IBCLC Commission is a certification body for the evaluation of individuals who wish to earn or recertify as an International Board Certified Lactation Consultant®, or IBCLC®. The IBCLC Commission is empowered by the IBLCE Board of Directors and has authority and autonomy over essential certification policies and activities related to the International Board Certified Lactation Consultant or IBCLC certification. Essential certification policies and activities include IBCLC ethics & disciplinary matters.

- a) Those certified as IBCLCs (also referred to as "certificants") have successfully completed the required certification process, which includes meeting certain educational and clinical requirements passing a professional certification examination, and are subject to a Code of Professional Conduct.
- b) Successful candidates are granted certification as IBCLCs and may hold themselves out to the public as such. In order to maintain the credibility of the IBCLC certification, these Procedures allow consumers and others to bring complaints concerning certificants' conduct. The Commission may require education, obtain written assurance of noncontinuation of specified conduct, privately reprimand, publicly reprimand, suspend the certificant, or revoke the certificant's certification for violation of the Code of Professional Conduct.
- c) The IBCLC Commission will ensure that information concerning the complaint process will be available to consumers and the public at appropriate locations. These Procedures apply to all complaints or inquiries received about an IBCLC.
- d) It should be emphasized that actions taken under these Procedures do not constitute enforcement of the law, although referral to appropriate government agencies, licensing bodies, or other organizations may be made about the conduct of the certificant in appropriate situations. Individuals bringing complaints are not entitled to any relief or damages by virtue of this process, although they will receive notice of any public action taken.
- e) Unless it would render impossible or seriously impair the achievement of the objectives of these Procedures, all information in a submission that constitutes personal data of a complainant (including one or more of the complainant's children), certificant, or a third party may be disclosed by the IBCLC Commission to that person as part of the Commission's disciplinary proceedings process. Such personal data will be subject to IBLCE's Privacy Notice [<https://iblce.org/privacy-notice/>] and the person's rights and obligations specified therein.

### **II. IBCLC Commission Ethics & Discipline Committee**

- a) The IBCLC Commission is responsible for the administration and the implementation of these Procedures. The Commission has a standing Ethics & Discipline Committee. The Chair of the Commission appoints, subject to the approval of the Commission, the Chair of the Ethics & Discipline Committee and the members of the Ethics & Discipline Committee are appointed by a majority of the Commission members in office. The Chair of the IBCLC Commission is responsible for ensuring that these procedures are implemented and followed. The Chair of the IBCLC Commission will not serve

on any Review Subcommittee, Ethics & Disciplinary Panel, or Appeal Board referred to in these Procedures.

All Ethics & Discipline Committee members, IBCLC Commission members, staff, and other individuals engaged in investigations or decisions with respect to any complaint under these Procedures shall be indemnified and defended by IBLCE against liability arising from IBCLC Commission related activities to the extent provided by law.

### III. Complaints

- a) Complaints must be signed, and valid contact information for the submitter furnished, and submitted either by uploading to the IBLCE portal or in writing addressed to the IBCLC Commission, 3120 Fairview Park Drive, Suite 720, Falls Church, Virginia, 22042, USA and marked “Personal and Confidential.” Inquiries or submissions other than complaints may be reviewed and handled by the IBCLC Commission at its discretion. During the course of the disciplinary process, a complainant’s identity may become known to the certificant who is the subject of the complaint for purposes of ensuring a fair process.
- b) These Procedures are designed to resolve only complaints concerning potential unethical conduct of an IBCLC within the meaning of the Code of Professional Conduct (the "Code"). These Procedures are not applicable to disputes of a **commercial or personal nature**, such as claims that an IBCLC's conduct amounted to defamation or disparagement, or to differences in professional opinion. Such matters should be resolved without resorting to these Procedures. Only complaints where the major component rises to the level of unethical conduct under the Code will be considered actionable by the IBCLC Commission under these Procedures.
- c) The IBCLC Commission may self-initiate complaints based on publicly available information, however anonymous complaints will not be entertained by the Commission unless they involve egregious conduct such as abuse, bodily harm, or other serious conduct.
- d) The individual filing a complaint is referred to as the complainant and must have direct, first-hand knowledge of the facts of an IBCLC violation of one or more principles of the [Code of Professional Conduct](#). Complaints made without sufficient evidentiary documentation, as well as those based on hearsay, may be deemed invalid. All available evidentiary documentation to support allegations of the complaint must be submitted with the complaint form.
- e) The individual filing the complaint must provide signed consent authorizing the IBCLC Commission to share with or otherwise disclose to (a) the certificant and (b) all persons with knowledge identified in the complaint all the information included in the complaint, or a summary of such information, for purposes of the disciplinary proceeding initiated against a certificant.
- f) The individual filing the complaint must provide signed consent authorizing the IBCLC Commission to collect information, including health information about self and children from the certificant or any third party the certificant identifies as being a person with knowledge of relevant facts about the complaint.
- g) A complaint involving conviction of a crime by a certificant may not be actionable if the crime is unrelated to the practice of lactation consulting.
- h) Submission of complaints by certificants that clearly do not rise to the level of unethical conduct under the Code of Professional Conduct or complaints that are submitted in bad faith (e.g., in retaliation) may be viewed as an abuse of process and a potential violation of the Code of Professional Conduct Section 6.1, which states: “Behave honestly and fairly as a health

professional.”

- i) Upon receipt and preliminary review of a submission involving the IBCLC certification programme or the Code of Professional Conduct, the Staff Liaison to the Ethics & Discipline Committee (staff liaison) may conclude that the submission: (1) contains insufficient information, (2) or does not constitute a complaint under these Procedures. In such cases, the staff liaison will respond to the complainant and allow the complainant to amend the complaint to correct any technical errors such as including required evidentiary information. All such preliminary dispositions by the staff liaison are reported to the Ethics & Discipline Committee.
- j) Complaints that meet the technical requirements are forwarded by the staff liaison to the Ethics & Discipline Chair. In such cases, the Ethics & Discipline Committee Chair may determine that the submission does not constitute a valid and actionable complaint that would justify bringing it before IBLCE for investigation and a determination of whether there has been a violation of the Code of Professional Conduct. If so, the submission is disposed of by notice from the Ethics & Discipline Committee Chair to its submitter (Complainant), if the submitter is identified. All such preliminary dispositions by the Ethics & Discipline Committee Chair are reported to the Ethics & Discipline Committee and to the Board of Directors. In the event that the Ethics & Discipline Committee Chair has any personal involvement or conflict of interest in the matter, the Chair of the Commission shall appoint another member of the Ethics & Discipline Committee to act as Chair for the particular matter. In the event the Chair of the Commission has any personal involvement or conflict of interest in the matter, the First Vice Chair or other officer shall make such an appointment.

If a submission is deemed by the Ethics & Discipline Committee Chair, or the alternate, to be a valid and actionable complaint, the Ethics & Discipline Committee Chair, or alternate, shall see that written notice is provided to the certificant whose conduct has been called into question. The notice shall include a copy of these Procedures, a copy of the complaint along with any evidentiary documents or information and provide that the certificant shall have thirty (30) days from receipt of the notice to submit in writing any information relating to the complaint that the certificant may want to present to the Review Subcommittee.

The individual submitting the complaint shall receive notice that the complaint is being reviewed by the IBCLC Commission.

#### **IV. Review of Complaint**

- a) For each submission involving an alleged violation of the Code of Professional Conduct, the Ethics & Discipline Review Subcommittee shall investigate the specific facts or circumstances to whatever extent is necessary in order to clarify, expand, or corroborate the information provided by the submitter. A Review Subcommittee of three members of the Ethics & Discipline Committee is formed with Chair approval, to investigate and make an appropriate determination with respect to each alleged violation; the Review Subcommittee may review one or more such complaints as determined by the Chair and is not limited to review of one complaint. The Ethics & Discipline Committee Chair does not serve as a member of the Review Subcommittee. No one with any personal involvement or conflict of interest may serve on the Review Subcommittee. The Review Subcommittee may postpone, or hold in abeyance, its review of the complaint until such time that any other involved governmental or administrative entity or agency has concluded its review of the matter. The Review Subcommittee may be assisted in the conduct of its investigation by staff liaison or legal counsel.

Both the individual submitting the complaint, and the certificant who is the subject of the investigation, or their employer or named witnesses, may be contacted for additional information with respect to the complaint. The time for providing such additional information shall be established by the Review Subcommittee. The Review Subcommittee, or the staff liaison on the Review Subcommittee's behalf, may at its discretion contact such other individuals who may have knowledge of the facts and circumstances surrounding the complaint.

- b) All investigations and deliberations of the Review Subcommittee, the Ethics & Disciplinary Panel and the Appeal Board are conducted in confidence, with all written communications sealed and marked "Personal and Confidential," and they are conducted objectively, without any indication of prejudgment. An investigation may be directed toward any aspect of a complaint which is relevant or potentially relevant. **Neither the complainant nor the certificant that is the subject of the investigation may disclose any information regarding the matter to any third party without the express written authorisation of the IBCLC Commission.**
- c) Members of the Review Subcommittee shall be reimbursed for reasonable expenses incurred in connection with the activities of the Subcommittee.

#### **V. Determination of Violation: Review Subcommittee and Panel**

- a) Upon completion of an investigation, the Review Subcommittee recommends whether the Ethics & Discipline Committee should make a determination that there has been a violation of the Code of Professional Conduct. When the Review Subcommittee recommends that the Ethics & Discipline Committee find a violation, the Review Subcommittee also recommends imposition of an appropriate sanction. If the Review Subcommittee so recommends, a proposed determination with a proposed sanction is prepared and is presented by the Review Subcommittee to the Ethics & Discipline Committee along with the record of the Review Subcommittee's investigation. If the Review Subcommittee recommends against a determination that a violation has occurred, the complaint is dismissed with notice to the certificant and the individual who submitted the complaint of the dismissal by the Subcommittee and that the disciplinary review process has been completed.
- b) Unless the complaint is dismissed, the certificant shall be notified of the Review Subcommittee's findings and recommendations at the time such findings and recommendations are provided to the Ethics & Disciplinary Panel. **The certificant subject to the findings and recommendation shall be given a period of thirty (30) days in which to respond in writing to the Review Subcommittee's findings and recommendations.**
- c) At least a majority of those members of the Ethics & Discipline Committee who were not part of the Review Subcommittee, thereby constituting the Ethics & Disciplinary Panel, shall review the recommendation of the Review Subcommittee based upon the record of the investigation. The Ethics & Disciplinary Committee Chair shall participate as a voting member of the Ethics & Disciplinary Panel and shall not be disqualified from serving as such due to his/her/their general supervision of all investigations. No one with any personal involvement or conflict of interest may serve on the Ethics & Disciplinary Panel. The Panel may review any relevant information and may meet in person or virtually to make a determination. The Review Subcommittee record provided to the Ethics & Disciplinary Panel shall include documents provided to the Review Subcommittee by the certificant, all factual documentation or information used by the Review Subcommittee in reaching its decision, and official Review Subcommittee comments, findings, and recommendation posted.
- d) There is no formal hearing or trial-type proceeding, no hearing or witnesses, and the rules of evidence are not applicable. The Panel may in its sole discretion permit an informal oral statement

to be made by the certificant whose conduct is at issue by conference call. Legal counsel for the certificant is not expected to participate in the process, unless requested by the certificant and approved by the Ethics & Disciplinary Panel. The IBCLC Commission and the Ethics & Disciplinary Panel may consult legal counsel at any time.

- e) The Ethics & Disciplinary Panel may accept, reject, or modify the Review Subcommittee's recommendation, either with respect to the determination of a violation or the recommended sanction to be imposed. The Ethics & Disciplinary Panel shall provide its determination in writing to the certificant whose conduct is at issue and shall explain the Panel's findings and identify which provisions of the Code of Professional Conduct have been violated. The certificant is also advised in writing of his/her/their appeal rights under these Procedures and advised that **only facts and conditions up to and including the time of the Ethics & Disciplinary Panel's determination as represented by facts known to the Ethics & Disciplinary Panel are considered during an appeal.** The Panel shall also provide a copy of its written determination to the IBCLC Commission Chair, or Vice Chair or other officer where the Chair has any personal involvement or conflict of interest.
  
- f) In certain circumstances, the Ethics & Disciplinary Panel may consider a recommendation from the Review Subcommittee that the certificant who has violated the Code of Professional Conduct should be offered an opportunity to submit a written assurance that the conduct in question has been terminated and will not recur. The decision of the Review Subcommittee to make such a recommendation, and of the Ethics & Disciplinary Panel to accept it, are within their respective discretionary powers. If such an offer is extended, the certificant at issue must submit the required written assurance within thirty (30) days of receipt of the offer, and the assurance must be submitted in terms that are acceptable to the Ethics & Disciplinary Panel.

## VI. Sanctions

- a) Any of the following sanctions may be imposed by the Ethics & Disciplinary Panel upon a certificant whom the Ethics & Disciplinary Panel has determined to have violated the Code of Professional Conduct, although the sanction applied must reasonably relate to the nature and severity of the violation, focusing on reformation of the conduct of the certificant and deterrence of similar conduct by others:
  - 1) Continuing education with respect to issues of relevance.
  - 2) Private or public written reprimand to the certificant;
  - 3) Suspension of the certificant for a designated period; or
  - 4) Revocation of the certificant's certification.

In conjunction with any of the sanctions above, the Ethics & Disciplinary Panel may require that specific actions be taken by the certificant (e.g., continuing education on ethics or submission of a letter of assurance that the conduct in question has been terminated and will not recur) which are not requirements of certification.

For each of the public sanctions, a summary of the determination and the sanction will be published by the IBCLC Commission in such media as determined by the Panel and notice of the action taken provided to the submitter of the complaint. Any sanction and publication will not be made or taken until the appeal period has expired or the appeal determined, as provided in these Procedures. Certificants who have had their certification revoked may not be considered for IBCLC certification in the future. If certification is revoked, any and all certificates or other materials requested by the IBCLC Commission must be returned promptly to the IBCLC Commission.

## VII. Appeal

- a) Within thirty (30) days from receipt of notice of a determination by the Ethics & Disciplinary Panel that a certificant violated the Code of Professional Conduct, the affected certificant may submit to the Chair of the IBCLC Commission in writing a request for an appeal and identify the grounds for appeal consistent with (b) below.
- b) The letter should be addressed to Chair, IBCLC Commission, 3120 Fairview Park Drive, Suite 720, Falls Church, Virginia, 22042, USA and marked "Personal and Confidential." Upon receipt of a request for appeal, the Commission Chair, or Vice Chair or other officer where the Chair has any personal involvement or conflict of interest, establishes an appellate body consisting of three IBCLCs, none of whom are members of the Ethics & Disciplinary Committee. No one with any personal involvement or conflict of interest may serve on the Appeal Board. Members of the Appeal Board shall be reimbursed for reasonable expenses incurred in connection with the activities of the Board.
- c) The Appeal Board may only review whether the determination by the Ethics & Disciplinary Panel of a violation of the Code of Professional Conduct was inappropriate because of: (1) material errors of fact, or (2) failure of the Review Subcommittee or the Ethics & Disciplinary Panel to conform to published criteria or procedures. **Only facts and conditions up to and including the time of the Ethics & Disciplinary Panel's determination as represented by facts known to the Ethics & Disciplinary Panel are considered during an appeal.** The appeal shall not include a hearing or any similar trial-type proceeding, but the Appeal Board may in its sole discretion permit an informal oral statement to be made by the appellant by conference call. Written appellate submissions and any reply submissions may be made by authorized representatives of the certificant and of the Ethics & Disciplinary Panel. Submissions are made according to whatever schedule is reasonably established by the Appeal Board.

Legal counsel for the certificant is not expected to participate in the appeal process, unless requested by the appellant and approved by the Appeal Board. IBCLC Commission and the Appeal Board may consult legal counsel at any time.
- d) The Appeal Board conducts and completes the appeal within ninety (90) days after receipt of the request for an appeal. The decision of the Appeal Board either affirms, modifies, or overrules the determination of the Ethics & Disciplinary Panel and the sanction. The decision of the Appeal Board, including a statement of the reasons for the decision, is reported to the Chair, or Vice Chair or other officer where the Chair has any personal involvement or conflict of interest, and the Ethics & Discipline Committee Chair. The Appeal Board decision is binding upon the IBCLC Commission, the certificant who is subject to the determination, and all other persons.

## VIII. Resignation

If a certificant who is the subject of a complaint voluntarily surrenders their IBCLC certification at any time during the pendency of a complaint under these Procedures, the complaint is dismissed without any further action by the Review Subcommittee, the Ethics & Disciplinary Panel, or the Appeal Board established after an appeal. The entire record is sealed and the individual may not reapply for certification by the IBCLC Commission. However, the IBCLC Commission may authorize the Ethics & Discipline Committee to communicate the fact and date of resignation, and the fact and general nature of the complaint which was pending at the time of the resignation, to or at the request of a government entity engaged in the administration of law. Similarly, in the event of such resignation, the person or entity who submitted the complaint are notified of the fact and date of resignation and that the IBCLC Commission has dismissed the complaint as a result.