



# Society of Forensic Toxicologists Ethics Procedures

## 1. Introduction

It is the Society of Forensic Toxicologists, Inc. (SOFT) goal to have all complaints of an ethical nature resolved in a timely manner. The duties of the Ethics Committee shall be to investigate complaints brought against SOFT members and to report such activities to the Board of Directors. Chapter II, Section 2.C of the SOFT Bylaws relates adherence to the SOFT Code of Ethics to possible membership termination. Chapter V, Sections 3 A&B set forth the composition and duties of the Ethics Committee. As required in Chapter V, Section 3.B, the operating procedures of the Ethics Committee herein contained shall be approved by the Board of Directors. SOFT Members agree to abide by the SOFT Code of Ethics upon initial application, and then yearly during membership renewal.

If recommended by either the Ethics Committee Chair or the SOFT President, and agreed upon by the other individual, this process may be suspended at any time. The complainant and the respondent (or their representatives) will be notified of such action. (SOFT Ethics Form 11).

If the complainant withdraws the complaint before the official Ethics Committee Investigation (Section 6), the matter will be closed.

## 2. Ethics Committee

2.1. This committee shall be comprised of five Members in good standing of SOFT, to be appointed by the SOFT President with approval of the Board of Directors.

2.1.1. The members of this committee are limited to Full Members, Retired Members, and Emeritus Members. The SOFT President serves as an ex officio member of the Ethics Committee.

2.1.2. The standard three-year term of office for committee members shall be staggered to ensure continuity. All terms will commence January 1 and conclude December 31.

2.1.2.1. When a new member joins the committee, they shall not be involved in any existing matters, only new complaints. Members leaving the committee shall continue to serve on any active complaints through completion, if willing and available to do so.

2.1.3. There shall be no limit upon the number of terms, consecutive or otherwise, which a committee member may serve.

2.1.4. In accordance with the SOFT Bylaws, the Chair of the Ethics Committee shall be appointed annually by the SOFT President.

2.2. The Ethics Committee shall be responsible for the following:

- 2.2.1. Reviewing and recommending changes to the Code of Ethics and Ethics Procedures.
- 2.2.2. Reviewing all complaints received which specify a violation of the Code of Ethics. Complaints will be considered by the Ethics Committee when conduct is alleged which violates the Code of Ethics. (Appendix 1)
- 2.3. Upon review of complaints, any action taken against a member must be approved by the Board of Directors, as enumerated herein.
- 2.4. All decisions made by the Ethics Committee will be determined by a simple majority unless stated elsewhere in this procedure.

### **3. General Procedures**

- 3.1. The Ethics Committee may confer with legal counsel, with approval of the SOFT President, at any time during this process. The Board of Directors may also confer with legal counsel.
- 3.2. Investigations shall be prohibited if the alleged violation of the Code of Ethics occurred more than five years prior to the complaint.
- 3.3. A member of the Ethics Committee or Board of Directors must recuse themselves from a particular investigation should there be a conflict of interest or the appearance thereof.
  - 3.3.1. If there is a conflict of interest for the SOFT President, the SOFT President Elect (or other appropriate Executive Board member) will fulfill those duties.
  - 3.3.2. If there is a conflict of interest for a member of the Ethics Committee, the SOFT President will appoint a qualified SOFT member to serve as part of the Committee for just this complaint. This temporary appointment will be approved by the Board of Directors.
  - 3.3.3. If there is a conflict of interest for the Ethics Committee Chair, the SOFT President will appoint another member of the Committee to serve as Chair for the particular matter.
- 3.4. Communications pertaining to a complaint are handled as follows:
  - 3.4.1. In order to facilitate the timely review of complaints, electronic communications and remote meetings between members of the Board of Directors and/or the Ethics Committee are permitted in accordance with Chapter IV, Section 3 of the Bylaws unless specified otherwise in these Procedures.
  - 3.4.2. All correspondence sent to the complainant or the respondent shall be sent by electronic means to the member's (respondent's) email address listed on file or the email address indicated on the SOFT Ethics Complaint Form (complainant). If the correspondence is not sent by the SOFT Office, the Office must be copied on it.
  - 3.4.3. A read receipt or acknowledgement of the email is required. If neither is received in three business days, the SOFT Office will send a follow up request for acknowledgement. If acknowledgement is still not received within ten business days of the second request, the correspondence will be sent via traceable

mail/courier to the member's (respondent's) mailing address listed on file or the mailing address indicated on the SOFT Ethics Complaint Form (complainant). If the address listed on file is not current, an alternate address may be used if available.

3.4.4. No information in the correspondence shall be redacted.

3.5. Suspension of the process:

3.5.1. The SOFT Ethics process may proceed regardless of concurrent criminal and/or civil litigation, and/or other investigation involving the complaint. However, if the Committee or the BOD feel that the outcome of the other process is needed to proceed with the SOFT Ethics process, the SOFT process may be suspended by the SOFT President or the Ethics Committee Chair (with concurrence by the other individual) pending final resolution of the other investigation(s).

3.5.2. If the respondent relinquishes their SOFT Membership during the process:

3.5.2.1. The Ethics Committee will complete their work as outlined through the end of Section 6 (determining if a violation of the Code of Ethics has occurred and issuing the appropriate report).

3.5.2.2. If the Ethics Committee determines that a violation has not occurred, the matter is closed.

3.5.2.3. If the Ethics Committee determines that a violation of the Code of Ethics has occurred, the SOFT Board of Directors may suspend the process at any time.

3.5.2.3.1. If the respondent reapplies for Membership at any time, then the respondent will be re-notified of the unresolved complaint by the SOFT Office, and the process may resume at that point.

3.5.3. The complainant, the respondent (or their representatives), and the Ethics Committee shall be notified of the decision to suspend the process by the SOFT Office (SOFT Ethics Form 11).

3.6. Reopening an Ethics Complaint:

3.6.1. If a SOFT ethics complaint is closed prior to the outcome of other investigations, the SOFT President may reopen the complaint, or initiate a new investigation, based on those other outcomes.

3.6.2. If new relevant information has been uncovered since the matter was closed or after the deadline for submitting materials for the original hearing, the SOFT President may reopen the case, or initiate a new investigation.

3.7. Any deviations from these procedures must be documented and approved by the SOFT Board of Directors. The applicable parties shall be notified of any approved deviations. The Ethics Forms provide a template for communications; edits to the forms do not constitute a deviation from the procedures.

3.8. Matters of ethics known to the SOFT Office, Ethics Committee or Board of Directors are to remain confidential until a final decision has been made pursuant to Section 8.2.1, and sufficient time has passed to allow for the possibility of an appeal. Except as

may be required by law, no person who received information as part of the formal Code of Ethics investigation shall reveal such information to anyone.

#### **4. Filing a Complaint**

- 4.1. In accordance with the Bylaws, an ethics complaint regarding a member of SOFT must be submitted in writing to the SOFT President via the SOFT Office. The SOFT Ethics Complaint Form shall be used to submit a complaint. The complainant shall specify how the SOFT Code of Ethics was violated and provide supporting documents. The next consecutive case number is assigned, and the SOFT Office will forward the original complaint to the SOFT President.
- 4.2. The SOFT Office shall acknowledge the receipt of the letter of complaint to the complainant (that individual by whom a complaint has been made concerning professional conduct) within ten business days (SOFT Ethics Form 1). The respondent (a Member of SOFT against whom a complaint has been made) shall also be notified of the complaint at the address on file for the respondent with the SOFT Office. Communications will follow guidance set forth in Section 3.4.
- 4.3. The SOFT Office shall also transmit the complaint and a copy of the respondent's file to the Ethics Committee Chair.
- 4.4. The Ethics Chair will review and forward materials to the Ethics Committee within ten business days of receipt from the Office.
- 4.5. The Ethics Committee will evaluate the complaint to determine if there is a need for clarification of the complaint or for additional information. When possible, this evaluation will take place within two weeks of distribution of materials to the Committee.
  - 4.5.1. If clarification or additional information is needed from the complainant, the Chair sends a copy of the Request for Additional Information letter (SOFT Ethics Form 2) to the complainant. Communications will follow guidance set forth in Section 3.4. A reasonable deadline to receive additional information will be set.
  - 4.5.2. If additional information is needed from any other SOFT Committee, the Ethics Committee Chair will request this information from the appropriate Chair.
- 4.6. If the Ethics Committee is satisfied there is sufficient written information, proceed to Step 5.

#### **5. Review and Preliminary Investigation**

- 5.1. The Ethics Committee evaluates the complaint to determine whether the Ethics Committee has jurisdiction to address the complaint, and if so, if the complaint has

merit. This evaluation should take place within thirty days of having received sufficient written information, if possible.

5.1.1. If the Ethics Committee determines it does not have jurisdiction over a particular complaint:

5.1.1.1. The complainant shall be notified by the Ethics Committee Chair within two weeks from the date of such determination (SOFT Ethics Form 5).

5.1.1.2. A copy of SOFT Ethics Form 5 and the evidence of receipt shall be retained by the SOFT Office for addition to the respondent's SOFT file.

5.1.2. If the Ethics Committee determines it does have jurisdiction, but the complaint is without merit:

5.1.2.1. The complainant is notified by the Ethics Committee Chair within two weeks of the Committee's determination that the complaint is without merit (SOFT Ethics Form 7).

5.1.2.2. The respondent shall be advised by the Ethics Committee Chair of the complaint and its disposition (SOFT Ethics Form 8).

5.1.2.3. A copy of SOFT Ethics Forms 7 and 8 and the evidence of receipt are retained by the SOFT Office for addition to the respondent's file.

5.1.3. If the Ethics Committee determines it does have jurisdiction, and the complaint has merit:

5.1.3.1. The Ethics Committee Chair will select a date and time for a meeting of the Ethics Committee at which the complaint will be considered.

5.1.3.2. The matter will proceed to Section 6.

## **6. Ethics Committee Investigation and Meeting**

6.1. Once the Ethics Committee determines that it has jurisdiction and that the complaint has merit, the complainant, respondent, and the President of SOFT will be notified about the nature of the complaint, about the rights of the parties involved to submit written statements for consideration at the Ethics Committee Meeting, and about the date and time set for that meeting (SOFT Ethics Form 9 and SOFT Ethics Form 10).

6.2. This notification by the Ethics Committee Chair must occur at least thirty days prior to the meeting at which the complaint is to be discussed.

6.3. The complainant and the respondent shall be permitted to provide written submissions to the Committee in advance of the meeting, but shall not, unless expressly permitted by this Committee Chair, be permitted to attend this meeting in person or telephonically. All written submissions from the complainant and the respondent (or their representatives) must be received by the Ethics Committee Chair at least seven days prior to the meeting at which the complaint is to be addressed.

6.4. The Ethics Committee shall conduct a thorough review of the matter at the meeting.

- 6.5. The Chair shall provide a written report on the outcome of the meeting to the President within thirty days from the date of the Ethics Committee meeting at which the complaint was addressed. The report shall present a concise summary of the facts for both parties, including the ethics code element(s) on which the complaint is based. The report and its contents shall be treated as confidential and not publicized. The report shall indicate if the Committee has determined that a violation of the Code of Ethics has occurred.
  - 6.5.1. If the Committee decides no violation of the Code of Ethics has occurred, a copy of the Committee Report shall be sent to the complainant and respondent.
  - 6.5.2. If the Committee decides that a violation of the Code of Ethics has occurred, proceed to section 7 after completion of Step 6.6.
- 6.6. The Ethics Committee Chair shall forward the entire record to the SOFT Office upon completion of the Ethics Committee role in the process. (See Section 11 for more details on records filing and disposition.)

## **7. Board of Directors Review**

- 7.1. Upon the Ethics Committee decision that a violation has occurred, the President shall inform the Board of Directors of the matter. The SOFT Office shall provide the Board with the entire record for the complaint within fifteen days of the Ethics Committee decision.
- 7.2. Within sixty days of receipt of the Ethics Committee Report, the Board shall take action to:
  - 7.2.1. Dismiss the complaint.
  - 7.2.2. Request the Ethics Committee further investigate the matter, return to Section 6.
  - 7.2.3. Move forward with a hearing, proceed to section 8.

## **8. Board of Directors Hearing**

- 8.1. Upon decision to proceed to a hearing, the President of SOFT shall schedule a hearing on the complaint. The hearing will be held during the conference week in which the SOFT Board of Directors holds their meeting (i.e. SOFT and AAFS conferences). This hearing will be held prior to the Board of Directors meeting when possible. If necessary, the President of SOFT may schedule a hearing on the complaint outside of the regularly scheduled conference meetings.
  - 8.1.1. The complainant and respondent (or their representatives), will be notified by the President regarding the date, time, and place of the hearing; about their right to be present at the hearing; about their right to call witnesses on their behalf; and about the nature of the complaint. They will receive copies of the Ethics Committee report and a copy of the SOFT Ethics Procedures, as outlined herein.

- 8.1.2. The Ethics Committee members and Board of Directors will be notified by the President regarding the date, time, and place of the hearing. They will receive copies of the Ethics Committee report and a copy of the SOFT Ethics Procedures, as outlined herein.
- 8.1.3. These notifications by the President shall be made at least sixty days prior to the hearing (SOFT Ethics Form 12). The respondent and complainant (or their representatives), and any witnesses they wish to call, must give written notice by electronic means to the President via the SOFT Office at least fifteen days prior to the hearing regarding whether they intend to appear in person before the Board of Directors; whether they intend to be represented and, if so, the name of any persons who will be representing them; whether any witnesses are to be called and, if so, their names; and a copy of all of the documents on which a respondent, a complainant, their representatives, or any witnesses propose to rely at the hearing.
  - 8.1.3.1. The SOFT Office shall acknowledge receipt by electronic means within ten business days.
  - 8.1.3.2. Any notification or documentation received less than fifteen days prior to the hearing date may not be considered by the Board of Directors.
- 8.1.4. The SOFT President will preside over the hearing and shall ensure the orderly conduct of the hearing, the testimony of witnesses and receipt of evidence. Form 14 may be used as an example Ethics Hearing Script.
  - 8.1.4.1. The President will appoint the SOFT Secretary (or the Secretary's designee) to keep confidential minutes of the hearing or to transcribe the hearing. Any member of the Board of Directors may ask questions of any witness giving evidence at the hearing. The President may suspend the proceedings at any time.
- 8.2. At the conclusion of the hearing, the Board of Directors shall deliberate in private until it has reached a decision on: 1) whether the Code of Ethics was violated, and 2) the outcome to be enforced (8.2.1). The decision for 1) will be by simple majority, with the President voting only in the event of a tie. The decision for 2) requires a 2/3 majority.
  - 8.2.1. The outcome of the Board of Directors' deliberation will be one of the following:
    - 8.2.1.1. The complaint is dismissed. No further action is to be taken.
    - 8.2.1.2. The complaint is upheld but no action by the Board of Directors is required. The complaint has been dealt with in a constructive manner.
    - 8.2.1.3. The complaint is upheld and specific action for resolution has been determined by the Board of Directors which may include:
      - 8.2.1.3.1. A letter of censure;
      - 8.2.1.3.2. Temporary suspension of Membership for a specified time period;
      - 8.2.1.3.3. Revocation of Membership and bar from reapplying with SOFT for a specified time period; or

- 8.2.1.3.4. Revocation of Membership and permanent bar from reapplying for membership with SOFT.
- 8.2.1.3.5. Another action the Board deems appropriate, depending on the violation. This may include being barred from presenting at future SOFT meetings, or barred from attending future SOFT meetings.
- 8.2.2. For outcomes 8.2.1.3.2 – 8.2.1.3.4, the Board of Directors shall disclose case specific information to the Membership. For outcomes, 8.2.1.3.1 and 8.2.1.3.5, the Board’s decision shall include whether or not the outcome will include disclosure to the Membership. See section 10 for Reporting details.
  - 8.2.2.1. Disclosures will not occur until after the deadline to appeal has passed, or the appeal has been settled.
- 8.2.3. All records associated with the ethics complaint shall remain confidential unless release is required by Section 11.5.
- 8.2.4. The SOFT Office will notify the respondent and the complainant (or their representatives), of the action taken by the Board of Directors regarding the complaint within thirty business days of its decision (SOFT Ethics Form 6).
- 8.2.5. The SOFT Office will transmit a copy of the SOFT Ethics Form 6 to the Ethics Committee members.
- 8.2.6. A copy of SOFT Ethics Form 6 and evidence of receipt are maintained in the respondent’s file.

## **9. Appeals**

- 9.1. Upon receiving the outcome of the Board, the respondent or complainant has the right to file an appeal within three weeks of receipt of the outcome.
- 9.2. The appeal shall be submitted to the SOFT Office using SOFT Ethics Form 15.
- 9.3. The grounds for the appeal are as follows:
  - 9.3.1. The SOFT Ethics Procedures were not properly followed.
  - 9.3.2. The outcome (8.2.1) is considered inappropriate for the offense(s).
  - 9.3.3. The SOFT Board dismissed the complaint without cause.
- 9.4. SOFT Executive Director, in consultation with the SOFT President and SOFT Ethics Committee Chair shall determine if the appeal meets the requirements for appeal (9.3).
  - 9.4.1. If the appeal does not have merit, the SOFT Office will notify the individual filing the appeal that it does not fall within the requirements of appeals.
  - 9.4.2. If the appeal has merit, proceed to section 9.5.
- 9.5. Appeals related to the consequences of a founded complaint (9.3.2) will be referred to the Ethics Committee. In these situations, the Committee and the Board both independently agreed that a violation had occurred; it is the consequences of that violation that need to be reviewed.



- 9.5.1. The respondent and complainant will be notified of the details of the appeal and that the Ethics Committee will be handling the appeal. Notification will be made by the SOFT Office within two weeks of the appeal being submitted.
- 9.5.2. The Ethics Committee will review the actions of the Board of Directors and the basis of the appeal within thirty days.
- 9.5.3. The Ethics Committee may make one of the following two determinations:
  - 9.5.3.1. The outcome determined by the Board was appropriate based on the violation(s). The Board determination is upheld.
  - 9.5.3.2. The outcome determined by the Board was inappropriate based on the violation(s). The Ethics Committee shall recommend an alternate outcome from 8.2.1 to the Board.
  - 9.5.3.3. This determination requires a 2/3 majority vote of the Committee.
  - 9.5.3.4. The Board may accept the Committee's recommended outcome, or refer the matter to an Appeals Panel.
- 9.6. Appeals related to the Board dismissing the complaint (9.3.3), to procedures not being properly followed (9.3.1), or where the outcome (consequence) was considered inappropriate by the respondent or complainant with agreement by the Ethics Committee that the Board does not agree with will be referred to an independent Appeals Panel.
  - 9.6.1. The respondent and complainant will be notified of the details of the appeal and that an independent panel will be handling the appeal. Notification will be made by the SOFT Office within two weeks of the appeal being submitted to the SOFT Office.
  - 9.6.2. The SOFT Executive Director will convene an Appeals Panel within thirty days of the appeal, consisting of five SOFT Members not involved in the case. Preference will be given to past Board members and past Ethics Committee members. It is preferable that the Chair of the Appeals Panel be a Past President.
  - 9.6.3. For appeals alleging that the SOFT Ethics Procedures were not properly followed, the Appeals Panel shall review the actions of the Ethics Committee, Board of Directors, and SOFT Office, related to the Ethics Procedures. They will be provided the necessary records to perform their review and will be held to the same standards of confidentiality as others in the process. They shall render a decision within forty-five days.
    - 9.6.3.1. If the Appeals Panel finds no violation of the Ethics Procedures, the matter will be closed.
    - 9.6.3.2. If the Appeals Panel finds that the Ethics Procedures were not properly followed, they will propose an appropriate course of action to remediate the issue. Options may include determining if there were any negative effects of the violation and if any parts of the process need to be conducted again by the same or different individuals.
  - 9.6.4. For appeals in a situation when the Ethics Committee determined a violation occurred but the Board did not concur (8.2.1.1), an independent Appeals Panel shall review the matter. They shall render a decision within forty-five days.

- 9.6.4.1. If the Panel concurs with the Board, this decision is final.
- 9.6.4.2. If the Panel concurs with the Ethics Committee that a violation of the Code of Ethics did occur and the complaint should not have been dismissed by the Board, the Appeals Panel shall amend the outcome based on the options presented in section 8.2.1. This decision will be final and cannot be appealed.

9.6.5. All Appeals Panel determinations require a 2/3 majority vote.

9.7. The SOFT Office shall notify the respondent and complainant within two weeks of the final decision of the Ethics Committee or Appeals Panel.

## 10. Reporting

10.1. Committee reporting to the Board of Directors and Membership:

10.1.1. The Ethics Committee Chair's report during the applicable SOFT Committee Activity Update meetings shall state if any complaints were received, along with the status or outcome. No names or specifics shall be included in the Committee Activity Update. (e.g., The Committee received one complaint and found it to be without merit.)

10.1.2. The detailed confidential Committee Report submitted to the President is only shared with the Board of Directors if the Committee has determined that a violation of the Code of Ethics has occurred.

10.2. Board of Directors reporting to the Membership

10.2.1. For ethics related activities of the Board of Directors, the President shall report during the Annual Business Meeting under Old or New Business, as applicable.

10.2.2. For those outcomes that remain confidential, no names or specifics shall be included in the Board activity report. (e.g. The Board held a hearing and a confidential letter of censure was issued.)

10.2.3. For those outcomes that include disclosure, the President will provide a brief synopsis of the Code of Ethics violation(s), the outcome determined by the Board, and the Member impacted. (e.g. Jane Doe was found to have violated sections x, y, and z of the Code of Ethics after providing what was considered inaccurate expert testimony and testimony outside their area of expertise. Their membership has been suspended for 10 years.)

## 11. Filing and Disposition of Records

11.1. All documents related to ethics complaints shall remain confidential upon completion of the administrative actions contained herein, but may be released if required by Section 11.5.

- 11.2. Electronic records related to ethics complaints shall be maintained by the SOFT Office indefinitely.
- 11.3. The Chair will coordinate with the SOFT Office to ensure that all records are on file and retained by the Office. All members of the Ethics Committee and the Board shall destroy their copies of the file after a case is finalized.
- 11.4. The release of records related to ethics complaints shall be made only in cases of written request by a competent authority demonstrating a legitimate need to know the contents thereof. If such a request is received, the matter will be satisfied or resolved by the Board of Directors with necessary support from the SOFT Office. The Board of Directors may confer with legal counsel.

## Appendix 1

### Society of Forensic Toxicologists (SOFT) Code of Ethics

*As a Member of the Society of Forensic Toxicologists (SOFT) I agree to conduct myself in a professional manner, in accordance with the following ethical principles of the SOFT. I understand if I behave in a manner detrimental to the organization or the profession of toxicology in general, I may be censured or expelled from membership.*

#### **Members agree to:**

1. Perform professional activities with honesty, integrity and objectivity.
2. Refrain from any knowing misrepresentation of professional qualifications including, but not limited to: education, training, experience, certification, area of expertise, and professional memberships.
3. Hold in confidence and refrain from misuse of information obtained or received in the course of professional activities.
4. Provide expert advice and opinions within the limits of individual competence and generally accepted scientific principles.
5. Render testimony in a truthful manner without bias or misrepresentation.
6. Refrain from exercising professional or personal conduct adverse to the best interests and objectives of the Society.