



Association of Fundraising Professionals (AFP)

Ethics Committee

AFP Global Board Approved - April 10, 2010

(Revised to reflect Bylaw Changes – Sept 2012)

(Revised by Ethics Committee – September 2018)

AFP Global Board Approved – October 13, 2018

Terms of Reference

The Ethics Committee is a standing Committee of the AFP Global Board of Directors and reports to the Board through the Chair of the Ethics Committee.

1. PURPOSE OF THE COMMITTEE

The purpose of the Committee is to provide continual review, interpretation, development and enforcement of the Code of Ethical Standards.

2. COMPOSITION OF THE COMMITTEE & TERMS OF OFFICE

The Committee will be composed of 15 volunteers and *ex officio* members, as follows:

- Current chair
- Immediate Past chair (*ex officio*, voting)
- Ten Association member volunteers
- No fewer than One Association business member volunteer
- One member of the public (*ex officio*, voting)
- One International Observer (*ex officio*, non-voting)
- President & CEO of AFP (*ex officio*, voting)

- AFP Legal Counsel (Outside or on Staff) (*ex officio*, non-voting)
- Other representatives of alliances as the Committee sees fit (*ex officio*, non-voting)

2.1 Chair of the Committee

The Chair of the Ethics Committee shall serve for a one-year term and may serve for a second one-year term upon reappointment.

2.2 Past Chair of the Committee

The Immediate Past Chair serves as a member as an *ex officio* voting member but is excluded from the enforcement process.

2.3 Committee Members

Pursuant to the recommendation of the Chair of the Association Board of Directors, the Executive Committee of the Association shall, subject to the ratification by majority vote of the Board, appoint the members of the Ethics Committee.

Each Association member of the Committee will be a highly respected, professionally experienced AFP member who will, in all circumstances, act under expressed rules of confidentiality.

The member representing the “public” will be a highly regarded individual independent of the staff and governing volunteers of AFP. Such an individual will be involved in the philanthropic process, and may be a professional, volunteer, researcher, academic, grantor or donor. The public member is a full, voting member of the Ethics Committee, and plays a role in all aspects of the Committee’s work, including the enforcement process.

Committee Members will be eligible to serve two four-year terms, with a third term being subject to approval of the Executive Committee and Board approval.

From time to time, past chairs of the Ethics Committee, task force members, Association members or others with relevant expertise may be consulted for their expertise on particular matters and invited to attend in person or conference call meetings, at the request of the Chair and President & CEO.

2.4 Nominations Sub-Committee

The Ethics Committee has a nominations sub-committee which reviews prospective committee members to be recommended to the Board of Directors of the Association.

The nominations sub-committee screens candidates against the competency profile for members, among other factors. The chair of the nominations sub-committee will review express expectations of Committee members with potential candidates. The competency profile and member expectations will be reviewed by the Ethics Committee from time to time, as appropriate.

2.5 Quorum

At each meeting of the Committee, the lesser of 5 members or 1/3 of the members of the committee, shall be present to constitute a quorum for the transaction of business.

3. ORIENTATION & TRAINING OF COMMITTEE MEMBERS

3.1 AFP Ethics Committee New Member Orientation

Given the critical role of the Committee to the issue of public trust, understanding the role of the Ethics Committee, and the reputation of AFP and its members, an orientation will occur for all new members prior to their first meeting.

3.2 Ethics Member's Legal Liability

Ethics Committee members should be aware that, through its *Code of Ethical Standards*, AFP seeks to promote responsible, professional and ethical behavior and practices by its members and others who agree to be bound by the AFP Code. AFP holds its members accountable to these standards and is intolerant of behavior or practices which threaten the integrity and reputation of the fundraising profession specifically, and the philanthropic sector generally.

The AFP Code and Standards do not have the force of law but represent a private contract between the Association and its members individually. An allegation of a breach of this agreement to adhere to the Code and Standards may result in the initiation of enforcement proceedings against a member. Such proceedings may lead to strong disagreements with a member who is the subject of an enforcement proceeding.

Any such disagreement could lead to the filing of civil proceedings in a court of law by a member who objects to the enforcement proceedings or to the decision rendered pursuant to the enforcement procedures. Several theories could conceivably be asserted in such an action which could be brought not only against the Association but also against individual members of the Committee. While, to our knowledge, the filing of a complaint by a member in a civil court has not occurred in the past, such a course of action has been threatened.

If such an eventuality occurred, it is expected that AFP liability insurance could help to protect Committee members from personal liability based upon their participation in Ethics Committee activities. However, such protection from personal liability cannot be guaranteed.

AFP carries a Directors and Officers liability policy covering "any person who has been, now is, or shall become a duly elected director or trustee, a duly elected or appointed officer, an employee, or Committee member...and any other persons acting on behalf of the Association or at the direction of an officer or board of directors of the Association." These insured persons are protected against "any error, misstatement or misleading statement, act or omission, or neglect or breach of duty committed, attempted or allegedly committed or attempted...in the discharge of his duties to the Association, or any matter claimed against him solely by reason of his serving in such capacity." This policy may be modified from time to time at the sole discretion of AFP.

Current or prospective Committee members with concerns about legal liabilities which may attend service on the AFP Ethics Committee may contact AFP counsel, but are encouraged to discuss the matter with their own qualified independent advisors.

4. MANDATE & ACCOUNTABILITY OF THE COMMITTEE

4.1 Code of Ethical Standards (“Code”)

The Board of Directors of the Association approves any changes to the Code. The Ethics Committee may recommend changes of the Code to the Association Board.

The Ethics Committee proposes subjects for position papers to facilitate the understanding of significant ethical issues. Through task forces, the Ethics Committee addresses issues of specific concern. Information gathered assists the Committee in its deliberations.

4.2 Ethics Advice

Confidential non-legal advice is provided to AFP members and to third parties by the Director of Board Governance & Ethics, President & CEO of AFP, and/or Legal Counsel.

Committee members are consulted by the Director of Ethics, President & CEO and/or Legal Counsel and, from time to time upon the request of the President, may respond directly to confidential inquiries. Committee members provide consultation and counseling for ethical inquiries arising out of their duties in implementing the enforcement procedures.

4.3 Ethics Education & Promotion

The Ethics Committee is involved with and approves all the training materials regarding ethics, such as the ethics components including in the CFRE Review Course, First Course, ACFRE materials, AFP Website, AFP Webinars, Hemispheric Congress, blogs, AFP International Conference and AFP Online Ethics Inventory Tool.

The Ethics Committee develops and revises, based upon member feedback, *Guidelines to the Standards*, and provides clarification and guidance in their application.

Chapters are encouraged to adopt a proactive educational role in local communities and to appoint Ethics Education Committees. The Ethics Committee reviews and amends educational materials like the *Education Leadership Guide for the AFP Code of Ethical Standards* – a working kit provided to chapter to assist them in providing training on ethical decision-making. It is not the chapters' function to screen adjudicate, review or advise in specific situations.

The Ethics Committee designs interactive workshops on the ethical decision-making process that are held annually during the International Conference.

Members of the Ethics Committee are expected to teach and write and provide articles of ethics for AFP publications such as *Advancing Philanthropy*.

AFP will provide all materials and conduct the relevant proceedings in English. On a case by case basis, AFP will consider providing translation services upon request.

4.4 Enforcement & Appeal Procedures

The Board of Directors of the Association approves the enforcement and appeal procedures for the Code. The Ethics Committee is the only AFP entity with the authority to enforce the Code.

The Ethics Committee implements the enforcement procedures to ensure member compliance. The enforcement procedures include investigating ethics queries and complaints (or initiating complaints, in its own right¹), counseling, holding hearings, adjudicating, and imposing sanctions.

AFP will provide all materials and conduct the relevant proceedings in English. On a case-by-case basis, AFP will consider providing translation services upon request.

Committee members will maintain strict confidentiality throughout enforcement procedures process. In particular, the complainant's identity is to remain strictly confidential and not revealed to the respondent unless the hearing process, if one occurs, is commenced under the enforcement procedures. Under exceptional circumstances, the Ethics Committee reserves the right in its sole discretion to keep the complainant's identity confidential throughout the entire process, including the hearing process (if one is commenced), upon a clear showing of risk to the complainant if the complainant's identity were revealed to the member against whom the complaint was filed. Examples of a "clear showing of risk" include, but are not limited to, risk of physical harm through retaliation or risk of loss of employment (e.g., a case where the respondent is the complainant's employer or direct supervisor).

Any member of the Ethics Committee may be appointed by the Committee to serve as judge advocate pro tem (JAPT) to conduct a formal investigation. If the matter proceeds to a hearing, a tribunal ranging from one to nine Committee members is constituted.

Sanctions include a reprimand, letter of censure or prohibition of office, suspension or expulsion and withdrawal of AFP credentials.

AFP Respondents have the right to appeal the decision of the Ethics Committee to the Executive Committee of the Board of Directors of the Association.

To ensure consistency and even-handedness in interpreting the Code and its enforcement procedures, the Ethics Committee maintains a compendium of Ethics Committee decisions and precedents.

¹ The Ethics Committee itself may lodge a complaint. Circumstances where such a situation may arise include, but are not limited to, a case where the Ethics Committee receives clear evidence of Code violations but the conveyor of that evidence refuses to act as the complainant (e.g., out of fear of retaliation) or a case where the Ethics Committee receives notice that a member has been prosecuted and sentenced for a criminal act but no complainant comes forward to lodge a formal complaint against that member.

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5. Reimbursable Expenses

5.1 Travel

Travel expenses are reimbursed for Committee members and, from time to time, travel expenses for past chairs are reimbursed when the chairs are requested to attend a meeting to provide specific expertise.

AFP Ethics Committee Competency Profile & Expectations for Volunteer Committee Members

Purpose:

This document is to be used by the chair of the Nominations Sub-Committee to identify potential Committee members for recommendation to the AFP Executive Committee, and to ensure expectations of members are clear and transparent. It is also a guide for the President & CEO with respect to the qualities and expectations of ex officio members.

A. Goals of Committee

Based on the mandate of the Ethics Committee, specific knowledge and skills are required to meet the following goals:

- a) assist in the development and delivery of ethics training programs to identify, communicate and reinforce ethical decisions;
- b) develop, monitor and recommend updates and amendments to Code;
- c) encourage leadership and ethical decision-making;
- d) provide ethics advice and consultation;
- e) protect public trust by educating the community and donors about AFP standards;
- f) investigate and initiate inquiries;
- g) assist in remediation;
- h) adjudicate, make rulings and impose sanctions for breaches of Code.

B. Specific Competencies of Members

1) Knowledge

- Subject matter information needed to carry out work (e.g. ethics theory; language; ethical decision-making models);
- Understand the public's expectations on ethical behaviour, especially as they apply to fundraising and volunteerism;
- Understand major ethics cases and trends that relate to fundraising;

- Understand generally the legal context for the application of ethics in fundraising; understand the scope of ethical behaviour beyond minimal compliance with the law;
- Understand ethics networks, knowledgeable individuals, and other resources, and how and when to use them.

2) Skills & Attributes of Members of the Ethics Committee

- Demonstrate high standard of ethical behavior;
- Demonstrate core values of caring, fairness, respect, responsibility, and trustworthiness (including honesty, integrity, reliability);
- Strive to be increasingly fair, objective and impartial in giving advice, guidance or rendering decisions;
- Demonstrate ability to analyze and apply AFP standards to particular factual situations;
- Provide effective advice and guidance including useful recommendations and interventions;
- Demonstrate a commitment to AFP's values of diversity and inclusion.

3) Expectations of All Committee members

- Read AFP's Nondisclosure Agreement, agree to terms and annually sign Nondisclosure Agreement;
- Declare real and perceived conflicts of interest;
- Attend in person or by conference call 75% of all Committee meetings;
- Participate in adjudication panels, including acting as judge advocate pro tem (JAPT);
- Provide ethics consultation and remedial counseling.

4) Additional Expectations of Association Committee Members

- Participate in designing and delivering interactive workshops on the ethical decision-making process held annually at the International Conference;
- Promote the development of ethics expertise through mentoring, teaching, supporting colleagues and sharing information;
- Contribute to the development of the field through such activities as research, publication and teaching;
- Write an article at least once every two years on ethics for *Advancing Philanthropy*.