

# Open Letter From Former Ethics Committee Chairs To The APA Board of Directors

August 3, 2018

To the APA Board of Directors,

We write as former chairs of the Ethics Committee to express our deep concern regarding recent changes approved by the Board to the APA ethics adjudication program. Specifically, we are concerned that APA proposes to adopt substantive changes to ethics programs within APA with neither adequate notice and transparency about how the decision was made, nor adequate input from APA leadership before the Board made final decisions. Additionally, it has come to our attention that the publication of the Annual Report of the Ethics Committee in *American Psychologist* will be suspended for 2018. If accurate, this suspension will—at the very least—compromise the transparency of the work of the Ethics Committee and its activities regardless of what direction APA takes in supporting professional ethics.

We write to provide the context for our concerns and to petition you to reconsider the process by which you have approved and intend to implement these changes.

In response to the Report, the APA appointed in January 2016 a Commission on Ethics Processes (“Commission”) to review APA’s Ethics program.<sup>1</sup> This Commission on Ethics Processes issued a report in August 2017 (<https://www.apa.org/ethics/ethics-processes-report.pdf>) that included recommendations to substantially restructure and enhance the adjudication program by creating a new committee dedicated solely to ethics adjudication.

The Commission’s report was subsequently reviewed by the Ethics Committee and the Board of Directors. The Commission’s recommendation to restructure and enhance ethics adjudication was rejected in favor of an approach in which ethics complaints will be accepted only when no other alternative forum is available. (“We are shifting our focus from accepting complaints against members regardless of whether there are other avenues to obtain possible resolution. We will now focus on providing information on those other potential avenues for resolution.”<sup>2</sup> (See also the June 2018 Ethics Item in the Board of Directors Agenda, “Revised Rules and Procedures of the Ethics Committee,” <http://www.apa.org/about/governance/bdcmte/secure/agenda-books/board-june-2018.pdf>)

In so doing, the Ethics Committee and Board of Directors took a substantively different position on the future of APA ethics adjudication than did the Commission on Ethics Processes. The position taken by the Ethics Committee and Board of Directors also reflects a radical departure from the ethics adjudication policies and practices in place since they were revised and approved by Council in 2001.

The former Chairs who have signed this letter have different views regarding the *outcome* of the decisions of the Ethics Committee and the Board of Directors. Indeed, not all of the former Chairs who sign this letter have chosen to be co-signers of prior letters from former Chairs to the Board. Rather, our shared concern now focuses upon the *process* by which these decisions were made on matters which so fundamentally touch upon the core values of APA and how to best support ethics in the professional practice of psychology. A fundamentally flawed *process* of decision-making is a problem whether or not we happen to agree with the *outcome* of a flawed process.

That APA governance bodies differ on important policy decisions is neither a sign of weakness nor of uncertainty by APA about the importance of ethics in psychology. Rather, these differences reflect a strength. For thoughtful and informed governance groups to discuss, debate, deliberate and vote on

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<sup>1</sup> <http://www.apa.org/news/press/releases/2016/02/commission-ethics-processes.aspx>

<sup>2</sup> <http://www.apa.org/ethics/complaint/index.aspx>

important policies is at the very heart of APA's process. Differences of perspective and opinion about substantive issues makes APA a better organization, especially when deliberated through a transparent process in which differences are aired, options are reviewed, and an open process of organizational decision-making concludes with a vote. Historically, these substantive decisions regarding the focus and processes of ethics programs—especially adjudication—have occurred with votes by Council. The more that a policy decision implicates the fundamental principles at the heart of the APA, the greater the moral and organizational necessity to involve the members of the APA and their representatives in governance.

David Hoffman ignored this fundamental point about the APA and the ethics program. The ethics adjudication program he reviewed was the result of a considered, thoughtful, and comprehensive discussion and debate involving many governance bodies and which culminated in a formal Council vote. Two signatories to this letter (former Chairs Kinscherff and Roberts) who had been involved in drafting the proposed revisions participated in that February 2001 meeting to be available to Council to respond to questions or concerns.

Material on the APA Ethics website (<http://www.apa.org/ethics/complaint/index.aspx>) eloquently illustrates how egregiously Hoffman either misunderstood or intentionally mischaracterized the ethics program, its handling of individual cases, and its adjudication procedures. He also overlooked the role of APA governance processes in establishing the Ethics Committee procedures guiding adjudication, particularly when he criticized the adjudication program for lacking transparency and being insufficiently prosecutorial when he alleged that some specific ethics cases had been improperly handled. The ethics program Hoffman reviewed was the result of an internal policy decision by APA made in 2001 following detailed review and thoughtful revision of adjudication procedures with consistent and extensive involvement and input of governance groups. The existing ethics program had the benefit of review and input from both individuals and governance groups, and ultimately the approval by Council.

We now fear that this important lesson has been lost: Changes to the way APA approaches ethics adjudication should be the result of a full and robust discussion within the Association. This broad and open discussion has not yet occurred and we are concerned that—for reasons that have yet to be articulated by the Board—this broad discussion of a landmark change of policy and practice in ethics adjudication will not occur.

Substantive changes to the ethics program have been made through edits to sections of the Ethics Committee Rules and Procedures approved by the Board at its June 2018 meeting. The Board does have the authority to make changes to the Ethics Committee rules and procedures (APA Bylaws, Article XI, paragraph 5, <http://www.apa.org/about/governance/bylaws/article-11.aspx>), However, that authority should be exercised judiciously. Substantive changes to APA ethics policy and practice have deep implications for our association and the profession of psychology. In the past, changes in ethics policy and practice of this magnitude have occurred transparently, with broad governance and member comment and suggestion, and votes in Council.

Many former Chairs have previously written regarding erroneous statements authored by David Hoffman in the Independent Report (“Report”) regarding the Ethics program and its ethics adjudication procedures. Immediately prior to the Report’s release, many former Chairs wrote to the Board and offered to review the Report to ensure its accuracy regarding the ethics program. The Board did not accept this offer and now faces calls to remove the Report from the APA website because of the Report’s material errors and omissions including, but not limited to, the policies and procedures of ethics adjudication and cases that had come before the Ethics Committee. Events subsequent to the publication of the Report highlight the

very problem many former Chairs had hoped to remedy in the initial offer to the Board to review the Report.

The former Chairs who sign this Letter to the Board are deeply concerned about the flawed process pursued by APA in making significant changes to ethics-related programs, including our concern that pre-existing controversies will be exacerbated rather than addressed or relieved by the course of action recently taken by the Board.

Nothing stands in the way of the Board bringing recommended changes to Council for discussion and approval or sending recommendations for a full governance review prior to a discussion by Council. That the changes approved by the Board constitute a sharp and unexplained rejection of the August 2017 recommendations of the Commission on Ethics Processes is all the more reason to open broad discussion of changes to ethics policy and processes and, in particular, to submit proposed changes to the Council of Representatives for ultimate approval.

The APA Ethics program is at the heart of the Association. We petition the Board in the strongest terms to suspend the current changes to the Ethics adjudication program until the recommended changes have been subject to transparent and meaningful governance review. A major organizational strength of APA is found in its respect for inclusive process and governance. APA publically embraces principles of inclusion, respect for diversity of perspective and opinion, and transparency. We ask the Board to draw upon that strength now, and to lead and act in a manner consistent with those principles as the Association sets a future course for the Ethics program.

Respectfully,

**Former Chairs of the Ethics Committee (2000 – 2017)**

Robert Kinscherff, Ph.D., J.D.	Chair 2000, 2001
Steven Sparta, Ph.D., ABPP	Chair 2002
Michael D. Roberts, Ph.D.	Chair 2003
Katherine Di Francisca, Ph.D.	Chair 2005
Olivia Moorehead-Slaughter, Ph.D.	Chair 2006
Robin M. Deutsch, Ph.D., ABPP	Chair 2007
W. Brad Johnson, Ph.D.	Chair 2008
Jeffrey Barnett, Psy.D., APBB	Chair 2009
Nancy McGarrah, Ph.D.	Chair 2010
Linda Forrest, Ph.D.	Chair 2011
Nadya A. Fouad, Ph.D.	Chair 2012
Armand Cerbone, Ph.D.	Chair 2014
Andrea Barnes, J.D., Ph.D.	Chair 2015
Patricia Watson, Ph.D.	Chair 2017