2005

Report of the ACA ethics committee: 2003-2004

Michael Kocet
Bridgewater State College, mkocet@bridgew.edu

L. T. Freeman

Report of the ACA Ethics Committee: 2003–2004

Michael M. Kocet and Larry T. Freeman

■ This report summarizes the activities of the American Counseling Association (ACA) Ethics Committee during the period of July 1, 2003, through June 30, 2004. Summary data of the complaints filed and the inquiries received are presented.

A critical component of any professional association involves its ability to self-govern its ethical behavior. Since 1991, the American Counseling Association (ACA) Ethics Committee has published an annual report in the archival edition of the *Journal of Counseling & Development*. The purpose of this report is to provide the membership with summarized information about the activities and responsibilities of the Ethics Committee during the period of July 1, 2003, through June 30, 2004.

Ethics Committee Mission

The ACA Ethics Committee is charged by the ACA president to fulfill two primary roles: to conduct adjudications of ethical complaints and appeals in a timely manner and to educate the membership of the association on issues related to ethical practice and interpretations of the ACA (1995) *Code of Ethics and Standards of Practice*. The Ethics Committee had a third "charge" during the 2003–2004 administration: to continue the work of the task force responsible for making recommended changes to the 1995 *Code of Ethics*.

The Ethics Committee is responsible for adjudicating, monitoring, and providing interpretations related to key ethical issues facing members of the association. To conduct its work, the Ethics Committee uses the *Policies and Procedures for Processing Complaints of Ethical Violations* (ACA, 2003), which provides specific guidelines for the processing of formal ethical complaints against ACA members.

Ethics Committee and Appeals Panel Membership

The 2003–2004 Ethics Committee is composed of seven ACA members, and all serve a 3-year term. The ACA president-elect appoints a senior cochair for the committee, two new committee members each year, and a student member (nonvoting), with final approval granted by the ACA Governing Council. During the 2003–2004 administration, an Ethics Appeals Panel was formed and appointed by the president-elect. The purpose of the Ethics Appeals Panel is to hear cases originally adjudicated by the Ethics Committee that have gone to appeal. Members of the Ethics Committee reflect the diversity of the association membership regarding race, gender, sexual orientation, geography, and professional setting. Members of the 2003–2004 Ethics Committee were Michael M. Kocet (senior cochair), Donald Anderson (junior cochair), Harriet L. Glosoff, Laura W. Kelly, Samuel Sanabria, Vilia Tarvydas, and Joy Whitman. Linda Osborne served as Governing Council liaison. The members of the Appeals Panel were R. Mike Hubert, Joyce Breasure, Larry D. Burlew, Antoinette Thorn, Jorge Garcia, and Patricia Stevens. Previously, appeals panels were appointed on an "as-needed" basis; however, having a permanent appeals panel of respected counseling professionals ensures the timeliness of needed adjudications and significantly reduces any unnecessary delays in the process. The purpose of the Appeals Panel is to clarify grounds for appeals, to examine evidence presented in the original hearing, to consider mitigating factors related to the grounds for appeal, and to identify arbitrary or capricious actions taken by the ACA Ethics Committee in their initial deliberation in a case.

The ACA Ethics Committee convened formally for eight teleconference meetings and one face-to-face meeting during the 2004 ACA Convention. There was one formal adjudication hearing conducted during 2003–2004.

Educational Activities and Informal Consultation

During the 2003–2004 year, the members of the Ethics Committee were actively engaged in educational endeavors to promote ethical practice by members of the association. Members of the Ethics Committee continued to share their expertise with its membership through publication of ethics articles in the ACA monthly publication *Counseling Today*. Members of the Ethics Committee and

Michael M. Kocet, Department of Counselor Education, Bridgewater State College, senior cochair of the ACA Ethics Committee from 2003 to 2004; **Larry T. Freeman,** Ethics and Professional Standards, American Counseling Association. Correspondence concerning this article should be addressed to the ACA Ethics Committee, c/o Larry T. Freeman, Manager of Ethics and Professional Standards, American Counseling Association, 5999 Stevenson Avenue, Alexandria, VA 22304-3300 (e-mail: lfreeman@counseling.org).

other invited authors make frequent contributions to counseling publications. "Ethics corner: ACA *Code of Ethics* Revision in Progress" by Michael Kocet (2004) and "Speaking Out for Social Concerns: Clients Prefer Counselors Committed to Advocacy, Outreach; Let Code of Ethics Guide Actions" by Ethics Committee member Vilia Tarvydas and Christine Malaski (2004) are examples of such articles. In addition, Harriet Glosoff and Michael Kocet presented a 1-day preconference learning institute at the 2004 ACA convention titled Integrating Ethical and Professional Issues in Counselor Education Practice. In addition, the members of the ACA Code Revision Taskforce convened an Ethics Town Hall Meeting on the Code Revision Taskforce during the 2004 ACA convention. The purpose of this meeting was to provide an open forum for the general membership to meet members of the Code Revision Taskforce, as well as provide ACA members' recommendations and feedback regarding the development of the new code of ethics.

In addition to the formal articles published in *Counseling Today* and the educational sessions held during the ACA convention, the Ethics Committee also provided informal consultation on ethical situations brought forward by association members. For example, the Ethics Committee deliberated the issue of confidentiality involving suspected cases of animal cruelty or abuse and counselors obligations in such situations. It was concluded that although animal cruelty is a serious issue, a counselor cannot break confidentiality of a client intending to harm or abuse an animal. Counselors are encouraged to explore these types of issues thoroughly with clients and should seek out consultation/supervision in such cases. This is just one example of the types of educational issues brought to the ACA Ethics Committee.

Pre-Adjudication Case (PAC) System

To improve the tracking of potential cases that are brought to the attention of the Ethics Committee, the Committee has implemented a PAC tracking system that assigns a precase number to inquiries that are formally submitted to the Committee for review by one of its cochairs. A PAC may or may not go to the full Ethics Committee for review. It is the decision of the cochair of the Committee whether a PAC should be adjudicated. This allows for improved and more confidential tracking of cases pending Committee review.

Ethics Committee Review of Completed Sanctions

During the 2003–2004 term, members of the Ethics Committee created a new policy clarifying the procedures for providing formal communication to those members found in violation of the ACA *Code of Ethics* who were required to complete some type of education sanction as part of the remediation efforts expected of association members.

According to the formal policy adopted, it was decided that

> The ACA Ethics Committee will receive and review evidence that an Ethics Committee sanction has been completed and fulfills the terms and conditions imposed by the Committee. A quorum is needed to take a vote and a majority of votes cast will determine whether that obligation has been satisfied or not. A letter of notification will be sent by the cochair of the Committee to the member stating the Committee's decision within thirty (30) business days from receipt of proof of completion. (ACA, 2003)

Letters of Instruction

Similarly, the members of the Ethics Committee voted to include in adjudication cases what is called a "Letter of Instruction." The purpose of this letter is to send educational guidance from the ACA Ethics Committee to members involved in ethical adjudication hearings who are not found to be in violation of the ACA *Code of Ethics*. The Ethics Committee members wanted to provide these members with guidance on their future ethical behavior. As stated in the guidelines,

> In a case of a finding of no ethical violations, the ACA Ethics Committee may choose to offer educational advice and counsel to its members to advance the ethical practice of counseling. Educational advice and counsel rendered by the Committee should in no way be construed as a finding of unethical conduct or a sanction. (ACA, 1995)

Ethics Committee Presence on the ACA Web Site

The ACA Ethics Committee continues to work at providing important information to members of the association through the ACA Web site. Members of the Ethics Committee are working closely with ACA leaders and staff to ensure that the *Code of Ethics* and other key documents related to ethical practice are readily accessible via the association Web page. Individuals can locate the ACA (1995) *Code of Ethics and Standards of Practice*, the ACA (1999) *Ethical Standards for Internet Online Counseling*, and the *Policies and Procedures for Processing Complaints of Ethical Violations* (ACA, 2003) at www.counseling.org. The Ethics Committee is also working to provide members with online access to the forms needed when filing a potential ethical violation.

Ethics Committee Electronic Mailing List

To foster timely communication between members of the Ethics Committee, the ACA Ethics Committee continues to use an electronic mailing list, allowing members to share ideas, concerns, and suggestions related to Ethics Commit-

tee business. Recognizing the potential risks inherent in technology, the Ethics Committee has a policy of not sharing confidential or sensitive information through its electronic mailing list or through e-mail communications.

ACA Ethics Committee and Appeals Panel Orientation

In 2001–2002, the Ethics Committee began an annual orientation session for new members recently appointed to serve on the committee. An orientation session was also held for new members appointed to the newly formed Appeals Panel. The cochairs of the Ethics Committee and the Manager of Ethics and Professional Standards facilitated both of the orientation sessions, which took place during the 2004 ACA convention.

Council for the Advancement of Standards in Higher Education (CAS) Project

In 2003–2004, the members of the Ethics Committee approved a motion supporting ACA's partnership with the CAS Project. The CAS Project involves a consortium of higher education and counseling-related organizations developing a unified statement of guiding ethical principles that are shared across student service organizations. Although the ACA Ethics Committee was not directly involved in creating the statement of guiding ethical principles, the Committee members support such efforts to promote ethical conduct.

ACA Code of Ethics Revision Taskforce

In 2002, ACA President David Kaplan created the ACA Code Revision Taskforce, which was given the responsibility to review the 1995 *Code of Ethics and Standards of Practice* and make recommendations for a draft code of ethics to be completed by 2005. The Code Revision Taskforce was asked to ensure that, in creating the new draft, specific focus would be on issues of cultural diversity, social justice, and infusing ethical issues in technology into a single document. The members of the Code Revision Taskforce, chaired by Michael M. Kocet, were John Bloom, Tammy Bringaze, R. Rocco Cottone, Harriet Glosoff, Barbara Herlihy, Courtland Lee, Judith Miranti, E. Christine Moll, and Vilia Tarvydas. Graduate students Anna Harpster and Michael Hartley served as note takers. During the 2004 ACA convention, a town hall meeting was held to present a first draft of the 2005 Code of Ethics to ACA members. A copy of the draft Code of Ethics was also printed in *Counseling Today*. Association members were able to provide feedback on the initial draft. Some examples of issues that are addressed in the 2005 draft Code of Ethics include end-of-life issues, receiving gifts from clients, the incapacitation or termination of practice, and potential

beneficial interactions between counselors and clients. The final draft of the 2005 Code of Ethics was submitted in spring 2005 to the ACA Governing Council for their review and final approval.

Ethics Summit

During the 2004 ACA convention, Ethics Committee Cochair Michael Kocet convened a meeting of ACA leaders in the area of ethics to discuss future planning for a historic Ethics Summit. The purpose of the Ethics Summit would be to gather ethics scholars from around the country to discuss the core ethical principles that guide the counseling profession and examine ways to infuse multiculturalism throughout an ethics framework. The Summit would enable counseling ethicists to examine current ways of reflecting on ethical dilemmas and identify new issues facing the counseling profession.

Graduate Student Ethics Case Study Competition

Before the completion of the 2003–2004 term, the ACA Ethics Committee voted unanimously to institute an ACA Graduate Student Ethics Case Study Competition. The purpose of the case study competition would be to support the Ethics Committee charge of helping educate the members of the association regarding ethical issues. The case study competition would serve as an opportunity to engage graduate students (master's- and doctoral-level) in critically analyzing a potential ethical case and creating an appropriate ethical decision-making plan to respond to the hypothetical ethical situation.

Graduate students from various counseling programs will be invited to form teams (limited to one master's-level team and one doctoral-level team from each participating institution) to participate in the contest. Members of the Ethics Committee will create the hypothetical ethics scenarios and will send them out to all qualified and registered teams. The members of the Ethics Committee will be the final judges of the case study competition, with first, second, and third prizes awarded to the winners. Winners will be announced in a future issue of *Counseling Today*. It is the intention of the Ethics Committee to make the case study competition an annual event that becomes a regular component of the work of the Committee.

Summary of the ACA Ethics Formal and Informal Inquiries 2003–2004

During the reporting period between 2003 and 2004, the ACA Ethics and Professional Standards Department received 1,117 informal inquiries and 22 formal inquiries in the form of complaints.

The informal inquiries fell within seven major categories: Counseling Relationship, Confidentiality, Professional Responsibility, Relationship With Professionals, Assessment, Teaching/Supervision, and Research. Of these inquiries, 47% involved Confidentiality, which included but was not limited to issues regarding couples' access to records, subpoenas/court orders, expert witness, and divorce and separation decrees. Twenty-seven percent of the inquiries were in the category of Counseling Relationship and entailed professional disclosure statements, client welfare, termination and referral, fees and bartering, and dual relationship dilemmas. Eleven percent of the inquiries represented the Professional Responsibilities category: professional competence, credentials, public responsibility, advertising and soliciting clients, and reports to third parties. Eight percent were in the Relationship With Other Professionals category involving negative conditions, role definition, consultation, and fees for referrals. Five percent of the inquiries were regarding Teaching and Supervision: endorsement, self-growth experiences, field placement, and standards for students and supervisees. Assessment and Research inquiries were 1% each. Assessment inquiries centered around counselors' competence to use and interpret instruments. Research inquiries focused on principal research responsibilities.

Of the formal inquiries (complaints), 19 complaints were filed against non-ACA members and thus outside of the Ethics Committee's jurisdiction to process and adjudicate. The remaining 3 formal inquiries involved ACA members; 2 of these cases were closed due to lack of follow-through with the adjudication process on behalf of the complainant. One case was deliberated, and it was determined that there was a violation of the ACA *Code of Ethics and Standards of Practice* (Code A.6. Dual Relationship). Sanctions were imposed based on that determination.

It is noteworthy that Confidentiality represented 47% of the inquiries, nearly half of the pie graph, which is a significant disproportionate distribution of the total inquiries. Second, the inquiries involving Counseling Relationship (27%) make up approximately a quarter of the graph, with the remaining five categories (Professional Responsibility, Relationship with Professionals, Assessment, Teaching/Supervision, and Research) combined sharing the last quarter of the total inquiries recorded.

The Ethics Committee suggests that data regarding ACA ethics inquiries be conveyed to members and counselor educators through articles in the ACA publications *Journal of Counseling & Development* and *Counseling Today*.

Discussion

The 2003–2004 Ethics Committee together with the Manager of Ethics and Professional Standards and ACA leaders worked diligently to ensure that members of the association and those served by counselors have been provided with accurate and helpful information regarding ethical issues facing the profession. The ACA Ethics Committee has continued to make the administration of ethical cases more streamlined, including the formal orientation and training of an Ethics Appeals Panel. In addition to the oversight of ethics adjudications, the Ethics Committee devoted a significant portion of its work to creating new programs and services, such as the planned Ethics Summit and the Graduate Student Case Study Competition. Finally, the Ethics Committee has taken on a project of historic importance—the revision of the 1995 ACA *Code of Ethics and Standards of Practice*. The forthcoming code of ethics will certainly have a long-lasting impact on the work that all counselors, supervisors, and counselor educators engage in.

All members of ACA are encouraged to become more involved in the study of ethical practice in counseling, infusing an ethical identity into their personal and professional lives. When faced with a challenging ethical situation, members can turn to the ACA Ethics Committee for assistance and support. The success of any Ethics Committee is dependent on the cooperation of its leaders and association members. The ACA Ethics Committee looks forward to its continued service to ACA.

References

American Counseling Association. (1995). *Code of ethics and standards of practice*. Alexandria, VA: Author.

American Counseling Association. (1999). *ACA ethical standards for Internet online counseling*. Alexandria, VA: Author.

American Counseling Association. (2003). *Policies and procedures for processing complaints of ethical violations*. Alexandria, VA: Author.

Kocet, M. (2004, March). Ethics corner: ACA code of ethics revision in progress. *Counseling Today*, p. 7.

Tarvydas, V., & Malaski, C. (2004, March). Speaking out for social concerns: Clients prefer counselors committed to advocacy, outreach; Let code of ethics guide actions. *Counseling Today*, p. 41.