

**UNITED STATES of AMERICA
TRANSACTIONAL ANALYSIS
ASSOCIATION**

(USATAA)

CODE OF ETHICS

and

MANUAL OF ETHICS PROCEDURES

February 2009

With appreciation to the International Transactional Analysis Association whose Code of Ethics and Ethics Procedures were made available for preparing this document. Revised April 2007 by Bobbie Barry, Dianne Maki, and Lucy Freedman. Updated February 2009 by Bobbie Barry.

Chapter 1

INTRODUCTION

1.1 Introduction

The primary goal of the complaint procedures for dealing with alleged violations of the USATAA Code of Ethics is to ensure that procedural fairness exists for all parties involved in the ethics complaint process. An objective will be to facilitate a resolution to the complaint through mediation, without the need to proceed to a formal complaint.

However when applying this process fails to facilitate a resolution, the USATAA Council will provide a structure for disclosure, a fair hearing and if necessary fair and sound judgement to ensure that members of the USATAA represent and conduct themselves professionally in line with the USATAA Code of conduct.

The ordinary rules of natural justice shall apply throughout the complaint process.

The term natural justice is used in the sense that it is commonly applied to include that:-

1. The person accused should know of the nature of the accusation made.
2. The person accused should be given an opportunity to state his or her case in response to the accusations being made.
3. Persons called upon to investigate, mediate or adjudicate shall act and be perceived to act fairly, in good faith without bias and in a dispassionate manner.
4. Only information relevant to the case is collected.
5. All parties involved in the complaint will treat confidentially all information received.

1.2 Council Constraints.

In carrying out its responsibilities, the USATAA Council shall act in accordance with the USATAA Articles of Incorporation and Bylaws, the Code of Ethics, and with these Procedures.

USATAA adjudication proceedings are not formal legal proceedings.

1.3 Subject's Use of Legal Counsel.

The Respondent under investigation may consult with their legal counsel at any time, but the Respondent is to be an active participant in these proceedings. The Respondent must respond to the complaints at all levels of the process.

Chapter 2

USATAA CODE OF ETHICS

We recognize that as a professional association, the USATAA establishes a social contract that invites the public to trust that all members of the USATAA acknowledge and adhere to the ethical principles in this document.

We also recognize that members do not always utilize these ethical principles and, therefore, that confrontation of a member is sometimes desirable and/or necessary.

We further recognize that should individual's behavior show a lack of integration of or consistency with these principles, his/her membership may be suspended by the USATAA until such time as that integration is assured.

1. A USATAA member acknowledges the dignity of all humanity regardless of physiological, psychological, sociological or economic status.
2. It is the primary protective responsibility of members of the USATAA to provide their best possible services to the client and to act in such a way as to cause no intentional or deliberate harm to any client.
3. Members of the USATAA should strive to develop in their clients awareness of and functioning from a position of dignity, autonomy and personal or organizational responsibility.
4. The ethical practice of transactional analysis involves entering into an informed contractual relationship with a client which the member of the USATAA and the client should have the competence and intent to fulfill. When a client is unable or unwilling to function autonomously and responsibly within this contractual relationship, the member of the USATAA must resolve this relationship in such a way as to bring no harm to the client.
5. A member of the USATAA will not exploit a client in any manner, including, but not limited to, financial and sexual matters.
6. Members of the USATAA will not enter into or maintain a professional contract where other activities or relationships between a USATAA member and a client might jeopardize the professional contract.
7. The professional relationship between a member of the USATAA and the client is defined by the contract, and that professional relationship ends with the termination of the contract. However, certain professional responsibilities continue beyond the termination of the contract. They include, but are not limited to, the following: a) maintenance of agreed-upon confidentiality; b) avoidance of any exploitation of the former relationship; c) provision for any needed follow-up care.

8. Members of the USATAA will operate and conduct services to clients with full responsibility to existing laws of the state and/or country in which they reside.
9. In establishing a professional relationship, members of the USATAA assume responsibility for providing a suitable environment, including such things as specifying the nature of confidentiality observed, providing for physical safety appropriate to the form of activity involved, and obtaining informed consent for high-risk procedures.
10. If members of the USATAA become aware that personal conflicts or medical problems might interfere with their ability to carry out a contractual relationship, they must either terminate the contract in a professionally responsible manner, or insure that the client has the full information needed to make a decision about remaining in the contractual relationship.
11. Members of the USATAA shall in their public statements, whether written or verbal, refrain from derogatory statements, inferences and / or innuendoes that disparage the standing, qualifications or character of members, bearing in mind their responsibility as representatives of the USATAA and of transactional analysis.
12. Members of the USATAA accept responsibility to confront a colleague whom they have reasonable cause to believe is acting in an unethical manner, and, failing resolution, may report that colleague to the appropriate professional body.

We affirm these principles as common to the practice of USATAA members unless a member explicitly states in writing his/her differences from these positions. In such an instance, the client's attention to any such differences must also be noted in writing as part of their contract setting process.

Chapter 3

A SUMMARY OF THE PROCEDURES

The primary goal of the complaint procedures for dealing with alleged violations of the USATAA Code of Ethics is to ensure that procedural fairness exists for all parties involved in the ethics complaint process. An objective will be to facilitate a resolution to the complaint through mediation, without the need to proceed to a formal complaint.

However when applying this process fails to facilitate a resolution, the USATAA Council will provide a structure for disclosure, a fair hearing and if necessary fair and sound judgement to ensure that members of the USATAA represent and conduct themselves professionally in line with the USATAA Code of Ethics.

- 3.1 An individual is required to confront the USATAA member whose behavior they believe to be in violation of the Code of ethics and invite a change in behavior
- 3.2 Should the confrontation prove to be unsuccessful or impractical then the USATAA Council will then admit the complaint to the following procedure.

- 3.3.** A formal written complaint must be filed with the USATAA Council, addressed to General Coordinator, USATAA, c/o USATAA office in an envelope marked “CONFIDENTIAL”.
- 3.4** The Office Manager will check to see if the complaint is about a member of USATAA and if so will send a copy of the formal complaint to the General Coordinator and one other General Member of the USATAA Council. If the person complained about is not a member of USATAA the Office Manager will advise the General Coordinator who advises the Complainant that the Association has no authority to deal with the matter.
- 3.5** The General Coordinator and another General member of the USATAA Council and if required, the legal counsel for the Association, shall review the complaint and shall determine whether it states allegations which, if proven factual, would constitute violation(s) of the Code of Ethics.
- 3.6** If there are sufficient grounds for the complaint to be investigated, the General Coordinator shall:
- (a) Notify the Complainant in writing that the complaint will be investigated and
 - (b) Request the Complainant's permission to disclose his or her name to the member being complained about (Respondent), and
 - (c) Seek permission to provide a copy of the complaint (or a summary) to a USATAA Ethics Committee and/or Investigator/s.
- 3.7** After the General Coordinator of the USATAA Council receives permission for the use of the Complainant's name, or after a decision to proceed on the Council's own initiative is made, the General Coordinator of the USATAA Council shall notify the member (Respondent) of the complaint. The notice to the Respondent shall:
- (a) Be mailed by appropriate means and marked "confidential".
 - (b) State the articles of the Code of Ethics relevant to the allegations of the Complainant.
 - (c) Enclose a copy or a summary of the complaint
 - (d) State the Council's basis for statement of the complaint.
 - (e) Enclose a copy of the Code of Ethics and a copy or a summary of the Ethics Procedures.
 - (f) Direct the Respondent to respond to the allegations, in writing, within thirty (30) days from receipt of the notification.
 - (g) Inform the Respondent that failure to respond may,
 - i Be taken as an admission of the facts contained in the allegation/s and
 - ii. May result in sanctions being applied including the possibility of termination of his or her membership in the Association.

3.8 Mediation.

The General Coordinator will appoint an Investigator/Investigators. It will be the responsibility of the Investigator/s to see if it is possible to facilitate a resolution of the issues through mediation and if need be, suggest a line of action that is agreed upon by all concerned. If Complainant and Respondent agree upon resolution of complaint, such recommendation will be reported to the USATAA Council for their review and approval.

- 3.9** If mediation is not successful, the General Coordinator will appoint an Ethics Committee who will:
- (a) Notify the Respondent and Complainant of the Ethics procedures to be used
 - (b) Contact both the Complainant and the Respondent in order to gather all relevant information
 - (c) Notify the Respondent of their rights to appear, to testify or present their side of the allegations
 - (d) Notify the Respondent that they may respond to the Complainant's allegations in writing and that this response may be given to the Complainant.

- 3.10** It will be the responsibility of the Ethics Committee to see if it is possible to facilitate a resolution of the issues through mediation and if need be, suggest a line of action that is agreed upon by all concerned. If Complainant and Respondent agree upon resolution of complaint, such recommendation will be reported to the USATAA Council for their review and approval.

If a resolution is not reached, the Ethics Committee shall report the results of their investigation to the USATAA Council with a recommendation for action. The USATAA Council will review and take action.

- 3.11** The USATAA Council may take the report of the Ethics Committee and find that violation/s of the Code have been established and order any of the following actions:-
- (a) An order to cease and desist
 - (b) Censure
 - (c) Supervision,
 - (d) Education, and/or therapy
 - (e) Performance of community service
 - (f) Suspension (holding membership in abeyance for a specific purpose, for example, rehabilitation)
 - (g) Resignation with or without publication
 - (h) Termination of membership
 - i. Permanent bar to readmission
 - ii. Or any other action, within its remit, that the USATAA Council deems appropriate.

If the USATAA Council decides upon a finding for suspension or expulsion, the committee will so report to the USATAA General Coordinator within ten (10) days of reaching the decision.

- 3.12** The Respondent may request, or the USATAA Council may decide, that the case be submitted to a Hearing Board, in which case the General Coordinator shall appoint a Hearing Board Chairperson who will appoint at least three Hearing Board members.
- 3.13** After all parties have been notified of the Hearing Board and the documents have been reviewed, the Hearing Board will convene to hear the case following the procedures laid down for the conduct of the Hearing.

- 3.14** If a violation of the Code is found, the hearing Board shall recommend to the USATAA Council the action to be taken. Such action will be consistent with paragraph 10 above.
- 3.15** The Respondent, with reasonable grounds, may appeal the findings of the Hearing Board, in writing to the General Coordinator of USATAA, within thirty (30) days of the announcement of the decision. The only basis for appeal to the USATAA Council by a Respondent regarding the decision is that there was a violation of the procedural rules of the Hearing Board, and that this violation substantially impaired the Respondent's ability to defend against the complaint. The appeal shall be limited to a review of the procedures, evidence and findings, with no new evidence being submitted:
- 3.16** Should an appeal be granted by the USATAA Council an Appeal Board consisting of the General Coordinator of the USATAA Council and two members of the USATAA Education committee will convene to consider the application and all relevant material.
- 3.17** The General Coordinator of USATAA shall issue a written decision on the appeal and shall inform the Respondent and the USATAA Council of the decision in writing within fifteen (15) days of the meeting. The Board must either
- (a) Affirm the USATAA Council's decision or
 - (b) Order a new hearing before a Hearing Board.
 - (c) Change the findings of the Hearing Board
 - (d) Dismiss the case.
- 3 3.18 If additional evidence of unethical conduct is brought to the attention of the Committee after a matter has been closed, the case may be reopened by the members of the USATAA Council and under these Procedures, be used in their deliberations about the new matter.

Chapter 4

THE USATAA COUNCIL RESPONSIBILITIES AND JURISDICTION

4.1 Review of Code of Ethics

The council will review the USATAA Code of Ethics from time to time and interpret it to the membership and to the public.

4.2 Advisory Opinions

The USATAA Council, at its discretion, may choose to give an advisory opinion about an ethical issue raised by a member of the Association, but it is not required to do so. Any such opinion will be confined to matters concerning the ethics process and whether an enquiry about alleged ethical violations would be appropriate matters for the USATAA Council or its appointed Ethics Committee to consider. An advisory opinion will be given only when actual and not hypothetical question(s) have been asked. Such opinions will be rendered only in writing and only in response to a written request.

4.3 Jurisdiction

The Code of Ethics is binding on members of USATAA.

Chapter 5

PROCEDURE FOR FILING A COMPLAINT

5.1 Submitting a Formal Complaint

The USATAA Council shall receive written complaints from members of the Association and non-members. The Complainant must have personal knowledge of the alleged behavior complained about or be in position to supply relevant, reliable testimony or other evidence on the subject.

Complaints must be in writing, and signed. The information contained in the complaint should at least cover the following areas: (See “Ethics Complaint” form in appendices)

1. What action the Complainant is seeking to achieve a resolution to the complaint
2. Details about the Complainant: e.g., name, address, contact details, employment position & the position you were in at the time of the alleged ethics violations, eg. client, colleague etc.
3. The name of the person/s that the complaint is against (The Respondent)
4. The details of the alleged violations of the USATAA Ethics Code.
5. The date/s of the alleged violations.
6. The section/s of the Code that the Complainant believes have been violated.
7. Any evidence or names of persons that could help to support Complainant’s allegations.
8. Details and outcome of the action that the Complainant has taken to confront the USATAA member before filing a formal complaint as required by the Code and these procedures.
9. Any actions that the Complainant has taken or is considering taking to deal with the alleged violations. (eg, advising the Respondent's employer, initiating a formal grievance procedure, seeking legal sanctions,. etc)

The letter of complaint should be addressed to the General Coordinator USATAA Council and forwarded to the USATAA office (address on title page of this document) with the envelope marked "CONFIDENTIAL"

5.2 Initiation of a Complaint by the USATAA Council

The USATAA Council may proceed on its own initiative when it has been presented with sufficient allegations that, if proven factual, would constitute a violation of the Code of Ethics. For example, the Council could proceed on information received from another professional organization, a state regulatory agency, or from public sources. If the Council decides to proceed on its own initiative, it shall prepare a written statement concerning factual allegations of a Code of Ethics violation or violations.

5.3 Time Limitations

The USATAA Council may determine, at its discretion, that a complaint cannot be investigated because the events complained about occurred too far in the past.

5.4 Complaints Regarding Resigned Members.

The USATAA Council will consider a complaint within one year from the date of resignation of membership or termination of membership for non-payment of dues.

5.5 Actions Prior to Membership.

An USATAA member may not be charged with unethical behavior for actions related to his or her professional conduct prior to the time the individual became an USATAA member.

5.6 Time Requirements for the Adjudication.

USATAA shall make its best efforts to adhere strictly to the time requirements specified in these Procedures. However, failure to do so will not prohibit final adjudication unless the person under investigation can show that such failure was wilful or unfairly prejudicial.

Chapter 6

CONFIDENTIALITY

6.1 Confidentiality

All information concerning ethical complaints made against USATAA members shall be treated in a strictly confidential manner by USATAA Council members, USATAA staff persons, and USATAA members. Ensuring that confidentiality is maintained is important in order to protect the rights of the individual members who are the subject of complaints, and to protect USATAA from charges of improper disclosure of information. Under the terms of these procedures, all information regarding complaints shall be treated in a strict, confidential manner. Ethics case information is not to be faxed or sent by any electronic means unless the sender has ensured that only the recipient will see it.

6.2 Breaches of confidentiality

The USATAA Council may take action if either party alleges a breach of confidentiality by:

- (a) Sending letters of warning
- (b) Terminating proceedings

If the USATAA Council determines that a breach of confidentiality has occurred it may demand that all confidential material must be immediately removed from any person to whom the material was given and returned to the USATAA office.

6.3 Staff

Administrators and paid or volunteer staff who received information about complaints should be instructed on the confidential nature of the information.

6.4 Correspondence

Correspondence concerning ethical complaints received by USATAA staff should be mailed as "personal and confidential" to the USATAA General Coordinator at the association's business address.. It should not be faxed or emailed, unless the sender has ensured that only the recipient will see it.

6.5 Discussion of Complaints.

Any necessary discussion of cases by USATAA Council officers, staff or members should take place where conversations cannot be inadvertently overheard by other member of an office, or members of the public

6.6 Confidentiality Exceptions.

All information obtained by the USATAA Council, including the Ethics Committee, and all proceedings of the USATAA Council, shall be confidential except to obtain evidence when participants may disclose that a complaint is under way. The participants should provide the least amount of information and not disclose any identification of the parties involved

6.7 Publication of Sanctions.

Whenever the USATAA Council orders publication of sanctions such publication shall be an exception to the rule of confidentiality stated above.

Chapter 7

RECORDS

7.1 Disposition of Files.

The disposition of any complaint investigated by the Ethics Committee or a Hearing Board shall be noted in that individual's file and all records of the investigation placed in a sealed file to be opened only in the event of a future complaint against the same individual.

- (a) Files for those members whose membership is terminated or who are permitted to resign are maintained indefinitely.
- (b) Files of cases in which the member is found not to have violated the Code of Ethics are screened for identifiable (statistical) information and then destroyed after one year.
- (c) Files of cases closed for insufficient evidence are maintained for five years.
- (d) Files of cases where the USATAA Council has found a violation but where the sanction is less than termination of membership are maintained for five years.
- (e) All case files containing identifiable information are destroyed one year after the Association is notified of death of the member or former member.
- (f) The USATAA Council may use its case files for archival, educative, or other legitimate purposes so long as identification of the parties is protected.

7.2 Materials.

Copies of all original materials regarding ethics complaints received in USATAA offices should be sent immediately to the USATAA Council General Coordinator or their delegate.

7.3 Records.

All records of the Hearing Board proceedings, including the decisions, recordings of hearings, and supporting documents, shall be maintained in the office of the Association. The permanent files of the USATAA Council shall be maintained in the office of the Association

APPENDICES

TO

THE MANUAL OF ETHICS PROCEDURES

- 1. Complaint form**
- 2. Letter to Complainant**
- 3. Waiver and Release of Information Form**

**ETHICS COMPLAINT FORM
CONFIDENTIAL**

Date_____

1. Complainant (Person making the complaint)

Name_____ Address_____

City, State or Province, Postal Code, Country_____

Home Phone ()_____ Business Phone ()_____

Email: _____

2. USATAA member (Respondent - person being complained about)

Name_____ Address_____

City, State, Postal code, Country_____

Telephone ()_____ Email: _____

3. Your relationship with the Respondent at the time of the alleged violation (e.g., Client of, colleague, employee, trainee etc)

4. Date/s the alleged unethical behavior occurred _____

5. Details of the alleged violations.

Write an account of what happened that you believe to be an ethical violation and how the events affected you. Be as specific as possible. Please type or use a computer if possible. Include this when you return the form. You may send additional information at any time up until the Ethics Committee begins its deliberation.

6. The section/s of the USATAA Code of Ethics that you believe have been violated

7. Provide details of the outcome of the action that you took to confront the USATAA member.

8. Any actions that you have taken or are considering taking to deal with the alleged violations (e.g., advising the Respondent's employer, initiating a formal grievance process with another body, seeking legal sanctions etc)

9. Have you filed a formal complaint against the USATAA member with any other organization?

Yes _____ No _____

If yes, what organization? Please include a contact number.

10. Provide the names, addresses and telephone numbers of witnesses, if any, or others who might provide relevant information about the events you are filing a complaint about. If possible obtain from them a signed statement that can be sent along with this form.

Signed _____

Date _____

COMPLAINANT TEMPLATE LETTER

Date

CONFIDENTIAL
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

XXXXXX
XXXXXXXX

Dear

I am responding to your letter regarding your complaint against_____.

Since you believe that this member has violated the *USATAA Code of Ethics*, you may file a formal complaint with the USATAA Council by using the enclosed Ethical Complaint form.

Please read the enclosed copy of the *USATAA Code of Ethics*.

Please read the enclosed Waiver and Release of Information Form. In order for the USATAA Council to proceed with the case, it is necessary that you give the Committee permission to use your name and the information you provide when we contact the member with your complaint and when the Committee considers your case. Please sign the form, which gives the USATAA Council permission to use your name in this manner.

Please understand that signing of the Waiver to Release Information grants the USATAA Council permission to send a copy of your complete complaint materials including witnesses and witness statements and any additional material provided to the member for a response.

Please return all of the materials in envelopes marked “CONFIDENTIAL” to:-

USATAA Council
c/o Janel Quintos
7891 Westwood Drive, Suite 103
Gilroy, CA 95020

When all of the material has been received, the General Coordinator’s first steps will be to decide whether the allegations in your complaint would, if proven factual, constitute a violation of the *USATAA Code of Ethics* and therefore warrant an investigation. If so the Chairperson will appoint a suitable person to investigate. You will be informed of this decision.

The Investigator will be responsible to:-

- (a) Contact both the Complainant and the Respondent to gather information
- (b) Notify both parties of the Ethics procedures to be used.
- (c) Notify the Respondent of their rights to appear, to testify or present their side of the allegations.
- (d) Determine if a resolution can be agreed to through a mediation process

A full copy of the Manual of Ethics Procedures to be used can be obtained from the USATAA office.

Once you have considered making a formal complaint you are advised not to discuss the matter with anyone not directly involved with it. All information should be treated as highly confidential. The Ethics manual outlines the procedures for any disclosure of information.

Please retain copies of all the documents included with this letter for your own reference. Also, please keep copies of all your correspondence with the USATAA Council.

We realize that this may be a difficult as well as lengthy process. We appreciate your patience and cooperation. If you need any further assistance in reaching a decision or in compiling your complaint please feel free to contact any of the Council Members.

Thank you for contacting the USATAA Council with your concerns. Our organization is committed to maintaining high standards of ethical practice in Transactional Analysis.

Sincerely,

XXXXXXXXXXXXXXXXXXXX

USATAA Council General Coordinator

enclosures: Ethics Complaint Form
USATAA Manual of Ethics Procedures

**WAIVER OF CLIENT/THERAPIST PRIVILEGE
AND
AUTHORIZATION TO RELEASE INFORMATION**

I, (name of complainant) _____ have filed a complaint with the United States of America Transactional Analysis Association (USATAA) dated (date of the complaint) _____ against (name of the USATAA member against whom the complaint has been filed) _____, a member of the USATAA.

I hereby waive any client/therapist privilege with respect to the member of the USATAA against whom I have made a complaint so that the member may respond to my complaint and provide confidential information to the USATAA Ethics Committee regarding the matters raised in my complaint; and to those people who, in the discretion of the committee, its staff or legal counsel, it may be necessary to contact in order to conduct a full and fair investigation of the complaint.

I hereby authorize the release of the information contained in my complaint to the USATAA member against whom the complaint has been filed, the members of the USATAA Ethics Committee, the Investigator or Investigation sub committee who will conduct a thorough and fair investigation of the complaint, the legal counsel for the USATAA, and those individuals who in the discretion of the Committee or its legal counsel may be necessary to receive this information. I also authorize the release of this information to those that might carry out any ensuing therapy or supervision resulting from discipline to the USATAA member in this case.

I waive any claims that I may have or could have against the USATAA, its Council, its employees or committee members, relative to the release of information that is the subject of my complaint.

I authorize the use of my name in the investigation of my complaint by the USATAA Ethics Committee, and the legal counsel for the USATAA.

Name of Complainant (Please Print)

Date

Signature of Complainant