

## BCSP Disciplinary Action Policy

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### Policy

The Judicial Commission shall have the power to reject or suspend the application of any applicant, to terminate or suspend the eligibility of any candidate, to reprimand a certificate holder, suspend, refuse to renew or revoke any or all of the credential(s) of any certificate holder and to terminate or suspend the status with BCSP and to take such other action as the Judicial Commission shall deem necessary against any person who has been found to have committed one or more of the following actions:

- A. Obtaining or seeking to obtain a credential or a renewal of a credential through the use of fraud or deceit. The making of any fraudulent, misleading, or untruthful statements in any application or documentation submitted to the BCSP by any applicant, candidate or certification holder, or person holding any status with BCSP in an effort to obtain, retain or renew credential; *or*
- B. Violating one or more of the provisions of the BCSP Code of Ethics; *or*
- C. Having been convicted of a crime constituting a felony or a misdemeanor in the past five years, whether the conviction arises by a finding of guilty by a judge, a jury, a plea of guilty, or a plea of nolo contendere; *or*
- D. Having been convicted of any crime relating to or in connection with acts done relating to activities for which the certification was issued or considered by BCSP to encumber those who rely on the certifications issued by BCSP, whether the conviction arises by a finding of guilty by a judge, a jury, a plea of guilty, or a plea of nolo contendere; *or*
- E. Failure to Disclose Convictions and Unethical Behavior in accordance with the BCSP Criminal Conviction and Unethical Behavior Policy
- F. Using in an unauthorized or unlawful manner a credential issued by the BCSP or using in an unauthorized or unlawful manner a certification or license issued by another certification or licensing organization; *or*
- G. Using in an unauthorized or unlawful manner any BCSP document(s) materials or communications, regardless of how it was obtained; *or*
- H. Possessing, distributing or in any way using in an unauthorized or unlawful manner of any BCSP testing or examination materials, or preparation training materials or recertification testing or training materials, including but not limited to, copying and/or reproduction of any BCSP examination questions or test/training related items; or disclosing to others any examination question or test/training related item; *or*

- I. Using in an unauthorized or unlawful manner any registered certification mark, logo, or any intellectual property owned by BCSP; or
- J. Acting in a manner found to be unacceptable behavior or aggressive behavior as defined in BCSP Unacceptable Behavior toward BCSP Employees Policy toward a BCSP employee or volunteer by an applicant, candidate or certificant; or
- K. Acting in a manner found to be unacceptable behavior or aggressive behavior toward BCSP exam proctors, testing center employees, or third-party consultants/vendors; or
- L. Any other action unbecoming of a status holder as determined by BCSP

### **Procedure**

- A. The Chief Executive Officer of the Board shall be solely responsible for bringing a charge against any person holding status with BCSP based on the grounds enumerated in this policy. A charge shall be in writing and shall not be acted upon until filed with the President of BCSP. Any person may present to the Chief Executive Officer information relating to any person holding a credential issued by BCSP or having other status' with BCSP who may be found to have committed one or more of the acts enumerated in this policy.
- B. All charges shall be reviewed by a quorum of the Executive Committee within sixty (60) days of receipt of the charges by the President. The Board, its employees, agents and representatives shall not reveal the identity of any person who gives information to the BCSP that a status holder may have committed one or more of the acts enumerated in this policy, unless the person giving that information authorizes BCSP in writing to reveal his or her identity or unless revelation of that person's identity is required pursuant to a valid court order or valid subpoena. The Executive Committee shall review the charge or charges as presented by the Chief Executive Officer to determine if the charge or charges state grounds specified in the policy and states sufficient facts to call for a hearing on the charge or charges before a quorum of the Judicial Commission. The Executive Committee may request additional information from the Chief Executive Officer, however the investigation of the charge and prosecution of any charge against a status holder shall be the sole responsibility of the Chief Executive Officer. A charge which (1) does not allege a violation under this policy and/or is not supported by sufficient evidence to establish a preliminary finding that probable cause exists relating to one or more grounds enumerated in the policy; (2) is more appropriately the subject of a different forum or court proceeding; (3) is found to be untrue upon review by the Executive Committee; (4) would create a conflict of interest if reviewed by BCSP; or (5) proceeding with the disciplinary process would interfere substantially with any State or Federal government investigation or prosecution shall, at the discretion of the Executive Committee, be stayed or dismissed.
- C. A charge, unless dismissed or stayed by the Executive Committee, shall be scheduled to be heard by a quorum of the Judicial Commission for a final decision not less than 30 days but no greater than 90 days after the Executive Committee concurs with the charge or charges.

D. Any hearing on a charge shall be conducted by conference call. A copy of the charge or charges, together with a notice of the date and time of the hearing shall be served on the charged status holder by email and/or mailed to the last known email address or physical address of the charged status holder at least 30 days prior to the date of the hearing. Service by mail shall be by certified mail, return receipt requested. Physical addresses and emails contained in BCSP's official records are adequate for the purposes of service and for purposes of implementing disciplinary procedures. Notice shall be considered given when mailed, by certified mail-return receipt requested or, if given by email, at the date and the time of email transmission.

Notice provided to the charged status holder's legal counsel or designated representative under this policy shall be considered notice to the charged status holder. The notice of the hearing shall advise the charged status holder that his or her hearing will be held even if the charged status holder or his or her designated agent fails or refuses to participate in the hearing. If the charged status holder fails or refuses to participate in the hearing or any continued hearing, the Judicial Commission may proceed to hear and determine the validity of the charges and take all appropriate action in accordance with the provisions of this policy.

Continuances of hearings before the Judicial Commission may be requested only in writing at least 7 days before the scheduled hearing and only for a good cause shown. The CEO of BCSP, in consultation with BCSP legal counsel, will, in the CEO's sole discretion, determine if the party asking for a continuance has shown good cause. Failure to request a continuance within the time frame established herein will result in the hearing being held on the scheduled hearing date. In the event a continuance is requested and granted, the status holder will be informed of the new hearing date by email or mail at least 5 days before the continued hearing. Reasonable efforts will be made to hold a continued hearing no more than 30 days from the date of the original hearing date. In no event shall an additional 30-day notice be required to schedule a continued hearing date.

E. During the hearing, the charged status holder shall have the right to request a copy of the record made of the proceedings, such copies of which may be obtained by the charged status holder at his or her own expense. The charged status holder shall have the right to call, examine, and cross-examine witnesses, which participate during the hearing. Any witnesses participating on behalf of the charged status holder shall participate at the sole expense of the charged status holder. The charged status holder shall have the right to introduce evidence in his or her own defense if that evidence is determined by the Judicial Commission to be relevant and material regardless of its admissibility in a court of law. During the hearing, the rules of evidence and procedure that apply to state and federal courts shall not apply. The charged status holder shall have the right to submit a written statement prior to any hearing for the Judicial Commission to review and consider.

F. The charged status holder may be represented by his or her designated representative.

G. The charged status holder shall have the right to receive the written decision of the Judicial Commission within 30 days of the conclusion of the hearing.

H. The Judicial Commission, consisting of no fewer than three members, will hear the charges. The Chief Executive Officer is considered an ex-officio member of the Judicial Commission without a vote. At the request of the Judicial Commission, the Chief Executive Officer may participate in the proceedings to the extent the Judicial Commission determines is necessary or helpful to the Judicial Commission in deciding the outcome of any hearing or proceeding. Such participation may include, but shall not be limited to providing testimony, clarifying the charges brought, suggesting lines of inquiry of the charged status holder and providing other information as may be requested by the Judicial Commission. The decision of the Judicial Commission shall be final. If, after the hearing, a majority of a quorum of the Judicial Commission votes in favor of sustaining the charges, the Judicial Commission will render a decision regarding the action to be taken concerning the charged status holder. Such actions may include but are not limited to one or more of the following actions:

1. Suspend any or all of the credential(s) of the charged status holder;
2. Refuse to renew any or all of the credential(s) of the charged status holder;
3. Revoke the credential(s) of the charged status holder;
4. Suspend or terminate any or all of the credential(s) process of the charged status holder; such suspension or termination may include the suspension of the ability of a charged status holder to apply for and obtain any BCSP credentials;
5. Issue a written reprimand to the charged status holder;
6. In the event it is determined the status holder has used in an unauthorized or unlawful manner a credential issued by the BCSP or used in an unauthorized or unlawful manner any registered certification mark, logo, or any intellectual property owned by BCSP, the Judicial Commission may have the status holder's name to be published on a special area of the BCSP Website listing individuals penalized for such activity and listing the period for which any penalty provided herein is imposed or
7. Such other further action as the Judicial Commission deems appropriate.

If the credential(s) or certification process of the charged status holder is suspended or refused a period of renewal, such suspension or termination shall be for a period no longer than 10 years. During such time, the charged status holder will not be permitted to use the credential in any form or medium during the suspension period. Once the suspension period has ended, the charged status holder may reinstate the credential by paying all applicable renewal fees and a reinstatement fee. The charged status holder will also be required to complete and submit documentation demonstrating compliance for any recertification cycle(s) occurring during the suspension period before the credential is reinstated.

If the credential(s) of the charged status holder is revoked, such revocation shall be permanent subject to the provisions of Paragraph I below. A person whose credential(s) has been revoked may not apply for any other BCSP credentials.

I. The Judicial Commission, upon petition of the charged status holder may, for reasons it deems sufficient, terminate any period of suspension, period of nonrenewal or period of revocation. However, in any case of action, such action shall be for a minimum of two years

before any petitioner under this section may petition the Judicial Commission to terminate the action. As a part of any petition to the Judicial Commission to terminate a period of suspension, a period of nonrenewal, or a revocation, the petitioner must provide proof that such person is otherwise eligible to hold such certification.

The factors that may be considered by the Judicial Commission in considering any petition hereunder may include but not be limited to the following: a hardship that the continued revocation or suspension may bring upon the petitioner, employment factors (including loss of job, inability to advance, inability to obtain employment without such certificate); evidence of notable accomplishments in the field of safety; or the successful obtaining of other certifications relating to safety.

A revoked credential(s) can only be obtained through the approval of the application process by the Judicial Commission and successful completion of said credential(s).

## **References**

This policy was removed and edited from the November 2010 Article XIV of the BCSP Bylaws and became effective January 1, 2012, per Board approval, October 2011 Fall Board Meeting, Motion 3.A.

## **Related Documents**

BCSP Code of Ethics

Appeals Policy

Criminal Conviction and Unethical Behavior Policy

Unauthorized Use of Certification Policy

Unacceptable Candidate Behavior Towards a BCSP Employee

Unacceptable Candidate Behavior during Examinations