

# **National Association of Jewish Chaplains**

## **CODE OF PROFESSIONAL ETHICS**

(Revised August 2003 – Approved October 2003)

### **PREAMBLE**

Members of the National Association of Jewish Chaplains (NAJC) are expected to act in an ethical manner consistent with the highest principles of Judaism and to affirm and respect the dignity and worth of every human being created in the divine image (*tzelem Elohim*), This is particularly our responsibility towards our clients, co-workers, and colleagues.

### **SECTION ON ETHICAL MISCONDUCT**

#### **A. PRINCIPLES OF ACCOUNTABILITY**

1. The maintenance of high standards of professional competence and moral and ethical conduct is a responsibility shared by all NAJC members in the interest of the Jewish community, the general public and the profession. When accepted for NAJC membership (or when renewing membership following the adoption of this code) the NAJC member is bound to accept the judgment of colleagues as to standards of professional ethics. NAJC members are accountable to one another to maintain the ethical and professional criteria established by the NAJC. The NAJC member shall take collegial and responsible action when professional practice has been compromised.
2. Consistent with these expectations, we set forth principles and procedures to guide our members and their institutions and agencies and their clients who might confront ethical issues within the scope of this code. (Further procedural guidance is given in the section, “Procedures for Addressing Alleged Breaches of Professional Ethics”)
3. Members of the NAJC are expected to conduct themselves in ways consistent with the principles of Judaism and this Code, and in accordance with the codes of ethics of other professional organizations with which they may be affiliated.
4. These ethical principles guide members in (1) upholding respect for the chaplain’s role and authority, and guarding against abuse or the appearance of abuse of the chaplain’s role, authority or influence; (2) preserving the integrity of the chaplain-client relationship; and (3) maintaining high ethical standards at all times, in their personal lives as well as in their professional roles.
5. **Preservation of chaplain-client relationship.** The chaplain-client relationship depends upon a mutual expectation that the relationship will remain primarily professional and pastoral. Effective chaplaincy work of necessity involves conveying empathy, connection, and warmth to clients, which can sometime blur chaplain-client boundaries. We recognize the humanity of chaplains and clients, and the existence of unavoidable and difficult dilemmas in negotiating these relations. Nonetheless, a chaplain is primarily responsible for establishing and preserving appropriate boundaries to ensure the integrity of the chaplain-client relationship.

**6. Abuse of chaplain's authority.** By virtue of their title and position, chaplains are vested with authority that entails a concomitant responsibility to avoid using such authority for personal gain, financial or otherwise. A chaplain's primary consideration at all times must be the interest of the client, agency, or institution engaging his/her services. The exploitation of professional authority or influence for self-interested ends constitutes a breach of the trust implied in chaplain-client relations.

## **B. ACTIONABLE CONDUCT**

1. While this code focuses primarily on interactions in the professional context, Jewish chaplains are expected to maintain ethical integrity at all times. This includes behavior in family, social, financial, and civic affairs.
2. Actionable conduct includes conduct within or outside the professional sphere that a) involves an alleged abuse of power or authority, b) involves an alleged felony, c) or is the subject of civil action that impugns the ability of a Jewish chaplain to function effectively, or d) brings the field of Jewish chaplaincy into disrepute.
3. Initiation of court proceedings or investigative or adjudicatory proceedings in another professional or employment forum under any of the above in #2 may constitute sufficient grounds for interim action by the NAJC Executive Committee or Board, including expedited suspension of membership pending the outcome of the proceeding(s).
4. Allegations of misconduct under 2(d) must be respectful of the varieties of Judaism embraced by our organization and our movements.

## **C. SEXUAL ETHICS AND MISCONDUCT**

1. **Professional Boundaries.** A chaplain's behavior toward clients, which is intended to communicate caring, can on occasion be misinterpreted by clients as inappropriate blurring of chaplain-client boundaries. Chaplains are obliged to be especially sensitive to the danger of such misperception and to avoid behaviors that could reasonably be misconstrued by a client. In particular, the chaplain should be sensitive to appropriate locations, hours, physical touch, and presence.
2. In the event that a client misinterprets a chaplain's concern as a romantic or sexual interest, it is the chaplain's responsibility to state unequivocally that such a relationship is not possible. In such a situation, the chaplain is strongly urged to seek advice from colleagues and/or other professionals.
3. **Sexual harassment.** It is unethical to engage in sexual or other harassment of a client, staff member, student, colleague or other person with whom a chaplain deals professionally. Sexual harassment is defined as, but not limited to, deliberate or repeated

seductive speech, sexual comments, gestures, or physical contacts. It may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

4. **Unethical sexual activity.** It is unethical to engage in, or attempt to engage in, sexual activity with a minor, an unwilling adult, a married or partnered client, any person whom a chaplain is providing spiritual care, counseling, supervision, or aiding in life cycle events, conversion, or other pastoral situations. Such sexual relationships are unethical even if suggested or welcomed by the client. It is the responsibility of the chaplain to maintain appropriate boundaries. Sexual activity may include intimate or unwanted physical contact as well as intercourse.

5. It is unethical to engage in sexual activity with an adult to whom a chaplain provided spiritual care, counseling, supervision, or aided in life cycle events, conversion, or other pastoral situations within one year of the termination of the pastoral or other professional clerical relationship. This does not mean that any relationship after one year is automatically ethical, but that it will be assessed on a case-by-case basis. Some states and professional organizations prohibit relationships for longer periods following the termination of a professional relationship.

6. **Single chaplains and clients.** Any sexual or romantic relationship between a single chaplain and a single client is fraught with risks for both parties and is illegal in some states. These risks include ambiguities about the perceived power of the chaplain, the chaplain's ability to provide future pastoral care for the client, and the future of both parties in the institution. A sexual relationship ends the chaplain-client relationship between the parties, and the chaplain is responsible in assisting the client in obtaining spiritual support elsewhere. A sexual relationship between a single chaplain and a single client is potentially an ethical violation, and to be avoided where possible. Chaplains are strongly urged to seek guidance from colleagues or other professionals before beginning such a relationship.

7. **Single colleagues or co-workers working in the same organization.** Any sexual or romantic relationship between colleagues or co-workers is fraught with risks for both parties. These risks include ambiguity about roles, effects on relationships with lay leaders and other staff members, and the future of both parties in the organization. Ethical and professional risks are greatly magnified if one colleague is the supervisor or perceived superior of another. Chaplains are strongly urged to seek guidance from colleagues or other professionals before beginning a relationship with a colleague or co-worker.

#### **D. FINANCIAL MISCONDUCT AND OTHER BREACHES OF TRUST**

1. It is unethical to use funds of an organization for personal financial gain without the knowledge and consent of that organization. It is unethical to exploit a chaplaincy relationship with a client, staff member, or colleagues for personal financial gain.

2. It is unethical to misrepresent one's professional education, experience, or credentials.
3. As suggested by Section A, there can be other types of conduct not enumerated in this code that constitute breaches of professional trust.

#### **E. COMPLAINT PROCEDURES**

1. The chair of the NAJC Ethics Committee is the central person to receive complaints. The president of the NAJC shall designate a vice-chair or an alternate in case the chair of the Ethics Committee is unavailable, or excuses him/herself due to conflict of interest.
2. The Ethics Committee may receive complaints from any person with knowledge of misconduct, including a client, organizational officer or staff member, affected party, other layperson, or colleague. Any member of the Ethics Committee may file a complaint, stating the reasonable grounds for further inquiry.
3. A complaint should be presented as soon as possible after an alleged violation. Procedural guidelines for the submission of complaints can be found in the section detailing "Procedures for Addressing Alleged Breaches of Professional Ethics".

#### **F. AUTHORITY, AMENDMENT, AND REVIEW**

1. This Ethics Code is adopted under the NAJC constitution and bylaws, particularly Section X on Ethics Code.
2. The sections contained in this document, with the exception of Section E (Complaint Procedures) and the part entitled "Procedures for Addressing Alleged Breaches of Professional Ethics", and are defined as the "Ethics Code" referred to in the bylaws Section X requiring adoption by the membership of the NAJC. Substantive amendments to these sections can only be adopted by membership vote of the NAJC.
3. Section E (Complaint Procedures) and the part entitled "Procedures for Addressing Alleged Breaches of Professional Ethics" are defined as administrative sections that can be amended as needed by the NAJC board, with due notice to the membership of any changes.
4. The Ethics Committee may from time to time recommend any necessary amendments to this code to the board or the NAJC membership meeting.
5. Periodic review. No less than five years after the adoption of this code, and every five years thereafter this code shall be reviewed by a special Ethics Code Review committee designated by the NAJC president, to recommend to the board (and ultimately the membership) any necessary amendments or clarifications. This committee shall consult

with the Ethics Committee and former members of the committee for their experience and suggestions, as well as with other NAJC members.

## **PROCEDURES FOR ADDRESSING ALLEGED BREACHES OF PROFESSIONAL ETHICS**

### **A. INTRODUCTION**

1. The maintenance of high ethical standards of professional conduct, as set forth in the NAJC Code of Ethics, is a responsibility shared by all NAJC members in the interest of the Jewish community, the general public and the profession. When accepted for NAJC membership, and when continuing to maintain membership, the NAJC member is bound to uphold the standards of professional ethics that have been adopted by the NAJC. NAJC members are accountable to one another to maintain the ethical and professional criteria established by the NAJC. The NAJC member shall take collegial and responsible action when professional practice has been compromised.

2. The following principles and procedures are to guide our members, their institutions and agencies, and their clients who might confront ethical issues or allegations of breach of standards set forth in the NAJC Code of Professional Ethics, hereafter referred to as the Code.

### **B. DEFINITIONS**

1. “Chaplain” refers to a person who is member of the National Association of Jewish Chaplains.
2. “Institution” refers to a hospital, hospice, long-term care facility, correctional facility, community organization, or other institution served professionally by a chaplain, whether the chaplain is paid or unpaid.
3. “Client” may include patients, residents, counselees, their family and/or friends, chaplaincy interns, students, or fellow staff members.
4. “Preponderance of evidence” is the standard by which allegations will be decided. It is a qualitative and not a quantitative standard of measure, and means “whether it is more likely than not that a violation of the code occurred.”
5. “Advocate” refers to a person who provides support and assists the complainant or the respondent through the investigative process. The role of the advocate is further delineated below in section D.9.
6. “Victim” is a person, persons, or organization alleged to have been harmed by an NAJC member.
7. “Complainant” is a person or persons reporting alleged misconduct to the NAJC. The complainant may or may not be the victim.
8. “Respondent” is a chaplain who has been accused of ethical misconduct, or who is the subject of an ethics inquiry.

9. Recognizing the variety of terms used, “chaplaincy,” “pastoral care” and “spiritual care” are used interchangeably.
10. “National Coordinator” refers to the NAJC’s lead professional staff person, regardless of title.
11. “Ethics committee” refers to the NAJC Professional Ethics Committee, unless specified otherwise.
12. “Chair” refers to the chair or co-chair of the NAJC ethics committee or the designated person acting in his/her place.
13. “Executive Committee” refers to the elected officers of the NAJC, or as currently defined in the bylaws.
14. “Board” refers to the Board of Directors including officers and directors at large or as currently defined in the bylaws.

### **C. GENERAL PRINCIPLES**

1. These procedures are to help monitor and maintain the high ethical standards of the NAJC. The purpose of these procedures is to determine whether a member acted unethically in a manner affecting his/her professional role, and what steps should be taken to respond to the situation.
2. These procedures reflect concern for procedural fairness for the chaplain, the complainant, the institution, and the NAJC, and concern for the safety and well being of NAJC members and the chaplain’s past, current, and future clients. Respect for all parties shall be shown.
3. The NAJC’s investigation and adjudication of alleged ethical misconduct is based on what the association has determined to be principles of fairness—not on due process rules of criminal or civil procedure, nor on *halachic* rulings—which it will follow. The complainant and the respondent are each responsible for providing the investigators and adjudicators with timely, relevant and truthful information. Neither party has the burden of proof. The Ethics Committee comes to a decision based on a preponderance of evidence as supplied by the parties and other witnesses through the investigators. The intent is a process which is conversational and cooperative rather than adversarial and confrontative.
4. While confidentiality cannot be promised, every effort will be made to treat with discretion and sensitivity information concerning an allegation. All parties and witnesses will be treated with dignity and respect.
5. The chair of the Ethics Committee shall see that written records are kept at all stages of the proceedings.
6. Since the inquiry concerns the ethical and professional integrity of a chaplain and by implication the NAJC, proceedings shall not be vacated on the basis of the chaplain’s resigning his/her position, reaching a financial settlement or resignation from the NAJC.

7. No NAJC member who has a close relationship to one of the parties in an ethics case (complainant, victim, or respondent) or other circumstance creating bias or a potential conflict of interest shall be a member of the investigating committee or an appeals committee for that case. A member who has a potential conflict of interest or who has had a substantial conversation or interaction regarding the case with one of the parties other than contact authorized by the Ethics Committee should recuse him/herself from the case.

8. The investigation and fact-finding will proceed regardless of the respondent's willingness to cooperate. Failure to respond in a timely fashion or to cooperate otherwise with the NAJC may itself be a violation of the Code of Ethics and may subject the member to discipline.

9. The NAJC undertakes to bear the reasonable costs of investigating a complaint, including those associated with the investigating committee visiting the affected individual(s) and/or institution(s).

10. At the discretion of the Ethics Committee Chair and the NAJC President, legal counsel may be retained by the NAJC to provide advice within the process.

11. A complaint should be presented as soon as possible after an alleged violation. Once a complaint is received, the NAJC will seek a process of inquiry and considered response that is both thoughtful and timely. Within reason and where possible, the individuals and committees charged with responding to alleged ethics violations will complete their activities and communications in advance of stated deadlines.

12. When a complaint has been brought to another professional organization, institution, or jurisdiction, in addition to the NAJC, the Ethics Committee chair may choose to coordinate with or defer to the other group's investigatory and/or adjudicatory process before deciding which further steps the NAJC needs to take. The NAJC Ethics Committee may elect to accept the findings of the other forum as the basis for a decision on whether a violation occurred and/or as the basis for any discipline it imposes, without engaging itself in further investigation.

#### **D. PROCEDURES**

1. A complaint is a grievance presented in writing and signed involving an alleged violation of the Ethics Code of the NAJC. Complaints may be registered by those who consider themselves harmed by an alleged violation or by any person(s) having substantive knowledge of a violation of the NAJC Code of Ethics. A member of the Ethics Committee may file a complaint.

2. The complaint must name a person over whom NAJC has jurisdiction. The person(s) filing the complaint consents to the NAJC process and gives permission for the disclosure to NAJC investigators, adjudicators and the respondent of all information.

3. Complaints or inquiries about the complaint process are sent to the Chair of the NAJC Ethics Committee, who will initiate action according to these procedures. If the Chair has a conflict of interest or is otherwise unavailable, the NAJC President will designate an alternate.

4.a. Upon receipt of an inquiry or an informal complaint, the Chair will send the complainant a copy of the Code and Procedures, the complaint form, and information about what a complaint should contain, and remind the person the read #2 of this section.

b. Upon receipt of the complaint (usually on the NAJC form) that names an NAJC member(s) respondent(s), the complaint process commences. If the respondent named is not an NAJC member, the complainant is notified in writing that there is no jurisdiction for this process.

5. a. The Chair will send the complaint to the NAJC member respondent(s) along with a copy of the Code and Procedures, the response form and the information about what a response should contain. The respondent will have 14 business days to file a written response with the Chair.

b. The Chair, in consultation with two members of the Ethics Committee, shall determine within two weeks of the receipt of the response whether there is a sufficient cause to believe a violation of the Code occurred. If there is sufficient cause, they will determine whether an investigation should commence, or if the complaint should be addressed first through #7 of this section. The chair will notify in writing the complainant and respondent of the decision as well as details of the designated process.

6. In any case involving alleged abuse of a minor or of an elder, the Chair shall immediately report the matter to the appropriate legal authorities.

7. Dispute Resolution Options. In cases where the Chair and the two Ethics Committee members determine that the complaint might be resolved through mediation or through a *beit din*, or another avenue (e.g., NAJC Certification Commission, another association, employment or denominational forum, etc.) they may make this recommendation to the NAJC President who will give substantial deference to the recommendation.

a. If the recommendation of mediation or a *beit din* is accepted by the complainant and the respondent, the NAJC President will suggest a professional mediator or refer a *beit din* of denominational representation acceptable to both complainant and respondent. Other recommended avenues of resolution are not subject to approval of either party.

b. Mediation or the use of a *beit din* may be most appropriate in situations where problematic communication or some other kind of dispute appear to be the central issue, rather than ethical misconduct. While no ethics proceedings will continue during mediation or *beit din* proceedings, neither party waives the option to request subsequent ethics investigation if a significant professional ethics issue remains unaddressed.

c. The NAJC may offer to bear the cost of dispute resolution. The mediator or *beit din* may subsequently recommend that responsibility for the cost of the professional dispute resolution be re-assigned to one or more of the parties.

d. Mediation or the use of a *beit din* will not be recommended in every case. It is less appropriate in situations where the parties are not peers or colleagues. It will not be recommended in cases of alleged sexual or physical abuse or harassment.

e. If mediation or a *beit din* brings about resolution of the complaint, the mediator or the *beit din* shall present a written statement to the NAJC President. Unless both parties agree or the resolution requires action by the NAJC, the terms of the resolution shall remain confidential. The terms of any resolution involving the NAJC will be restricted to the President, who may share information with the Executive Committee as well as other officers or committee chairs with a need to know.

f. If mediation, the *beit din* or other process designated does not bring about resolution of the complaint, or if issues remain over which the NAJC has concern, the matter shall be referred back to the Ethics Chair for further process.

g. Information heard during the course of mediation or *beit din* conversations cannot be used in any other part of the ethics proceedings unless the information is available and also obtained outside the mediation or *beit din* process. Neither the mediator (or *beit din*) nor the mediator's notes (or notes of the *beit din* members) nor the notes of any participant in the dispute resolution process may be sought, used or cited as evidence by any party.

8. If it is determined that there is sufficient cause to investigate the complaint, the Chair of the Ethics Committee shall within two weeks of the decision appoint an investigating committee of at least two to gather information relevant to the complaint. Both the complainant and the respondent will be contacted. At least one member of the committee shall be an NAJC member. In allegations of sexual misconduct, at least one member shall be of the gender of each party.

9. The Chair of the Ethics Committee may offer to assist in finding a trained victim advocate or other person to serve as advocate for the complainant in these procedures. The role of the advocate will be to inform the complainant about his/her role within the investigative process, and/or to be a supportive presence to the complainant when meeting with the investigating committee. The advocate may be present for support or consultation during interviews, but s/he may not speak or engage directly with the investigators or adjudicators. An attorney may not be present during investigative

interviews involving a victim, even if s/he is a victim advocate. The advocate may not be a member of the Ethics Committee, or a member of the committee investigating that case. The Chair of the Ethics Committee may also offer referrals for pastoral support to the complainant and/or victim.

10. If the respondent chaplain fails to respond to the complaint (D.5.a.) or otherwise participate, the investigation will still continue. Failure to respond or participate in a timely fashion may itself be grounds for discipline.

11. The respondent may request the assistance of a member of the association or other person to serve as advocate and assist him/her in these procedures. The advocate may be present for support or consultation during interviews, but s/he may not speak or engage directly with the investigators or adjudicators. If the respondent wishes, the National Coordinator will assist in designating an advocate for him/her. The advocate shall not be an attorney. He/she may not be a member of the Ethics Committee or a member of the committee investigating that case.

12. The victim and/or the complainant may seek legal counsel, at his/her own expense. Likewise, the NAJC member against whom the complaint has been made may seek legal counsel, at his/her own expense. Under no circumstances shall legal counsel for any of these parties be present at any investigative interview, appeal, or case discussion.

13. The National Coordinator shall offer to find spiritual support for both the chaplain and his/her family. A chaplain providing spiritual support to the respondent will not be a member of the NAJC ethics committee or board, and, as permitted by applicable law, their conversations will be held in confidence except where explicitly and mutually agreed-upon.

14. If the alleged misconduct impinges on or relates to the chaplain's work setting, the Chair of the Ethics Committee shall, subsequent to notifying the respondent, but before convening an investigation, notify the chaplain's immediate supervising superior or another appropriate officer of the chaplain's current institution of the allegations, without revealing the name of the victim, if given in confidence, or any other names given in confidence. If the chaplain is alleged to have acted unethically at a former institution, the Chair of the Ethics Committee may also, at his/her discretion, notify a professional or lay superior or another appropriate officer at any such institution. With the chaplain's consent, the substance of his/her written response will also be shared. The Ethics Committee Chair shall share information with the chaplain's immediate supervising superior on Ethics Committee time lines and procedures, including a copy of this document. The Ethics Chair shall also share information on resources available to the institution for dealing with this matter. The respondent shall be informed of this notification.

The Ethics Chair will emphasize to the chaplain's superior the desirability of confidentiality, when appropriate. In sharing information with the respondent's current or former supervisor/s or colleagues, the Chair should be mindful of the need to balance

concern for the alleged victim, or other potential victims, with concern for the potential damage to the chaplain's reputation.

**15. Placement.** Should the respondent choose to use the NAJC for placement assistance while the matter is under investigation, or seek a recommendation from an NAJC member or the national coordinator, it is the obligation of the National Coordinator to inform the prospective institution of the investigation before a final decision on hiring is made. The job-seeking applicant is expected to notify the potential employer of the ethics inquiry before the employer receives notification from someone else.

**16. Expedited Suspension:**

a. Ordinarily, a chaplain under ethics investigation remains an NAJC member while his/her case is under consideration.

b. Under exceptional circumstances, including but not limited to that of a member charged with a felony or a civil violation that would effect his/her ability to function as a chaplain or that alleges an abuse of power or authority, or other situations that might pose a risk to others, the NAJC board may impose an expedited suspension of a member. Suspension is defined in the second paragraph of section D.20(d), below. Expedited suspension is not intended to prejudice the outcome of any NAJC ethics inquiry or of any other jurisdiction's ethics or legal investigation.

c. This action must be initiated either a) by the president on his/her own initiative or b) by majority vote of the executive committee, or c) by petition of five members of the Board to the President. The petition will be presented to the NAJC's immediate past president if the president is the subject of the allegations or has failed to act.

d. A special committee of at least two members will be appointed by the President, or by the immediate Past President or other officer acting in his/her stead, to make a recommendation regarding expedited suspension to the board. At the same time as such a recommendation is conveyed to the Board, the President or other officer acting in his/her stead will make a reasonable effort to notify the chaplain in question, orally or in writing, at his/her address, phone number, and/or e-mail of record.

e. Board approval. Any expedited suspension recommendation by the special committee shall be subject to a prompt consideration by the full NAJC Board. An affirmative vote by two-thirds of the eligible voting membership of the NAJC board shall be necessary to impose an expedited suspension. For this purpose, "eligible voting membership of the NAJC board" means the total number of voting members, including officers and members at large, less any who have recused themselves from this case. This requirement may be different than the number participating in a physical or telephonic board meeting.

f. The executive committee and board votes may be obtained at a meeting, by telephone, by electronic means, or in writing.

g. An expedited suspension, once approved by an affirmative vote by two-thirds of the voting membership of the NAJC board, is not subject to further appeal except as allowed in section (k) below. Such a suspension by the board shall be communicated promptly to the suspended chaplain by certified mail, as well as to the chaplain's employer(s), to other professional organizations of which the suspended chaplain is a member, and to the NAJC membership. These notices shall indicate that this membership status decision is without prejudice to the outcome of any NAJC ethics inquiry. Whether or not the chaplain is suspended from membership, a case may continue before the ethics committee with due attention to the other sections of these NAJC ethics procedures.

h. If motion for expedited suspension is not approved by two-thirds of the voting members of the board, the chaplain shall be notified by the NAJC president that his/her membership status remains unchanged, but that an ethics case may proceed. The Chair of the Ethics committee and the complainant (if any) will also be notified.

i. An expedited suspension shall remain in place indefinitely or for a term determined by the NAJC board. The board may decide that expedited suspension will remain in place pending either resolution of a court case and/or of an investigation and ruling by the NAJC ethics committee, or some other jurisdiction, or both.

j. Periodic review. The executive committee shall review the status of a continuing "expedited suspension" at least once every six months.

k. Ending expedited suspension. If the circumstances that brought expedited suspension about have substantially changed, an appeal may be considered by the NAJC board. An appeal may be brought by the Executive Committee, the suspended chaplain, or the Ethics Committee. The suspended chaplain shall have an opportunity to submit a written statement to the board before a vote on ending suspension. Ending expedited suspension requires an affirmative vote from a simple majority of the eligible voting membership of the NAJC board as defined above .1 Removal of "expedited suspension" status is similarly without prejudice to the outcome of any ethics inquiry.

Footnotes to section 16:

1 For example, if there are 20 voting board members, of whom two recuse themselves from a particular case, there are then eighteen members of the NAJC board eligible to vote. In this example, the affirmative votes of twelve members (two-thirds of eighteen) are required to impose expedited suspension. In this example, if seven or more eligible board members vote "no" or abstain, the motion to impose expedited suspension fails.

2 In this same example, with eighteen voting board members, an affirmative vote from ten (one more than 50%) board members is required to end expedited suspension.

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1 In this same example, with eighteen voting board members, an affirmative vote from ten (one more than 50%) board members is required to end immediate suspension. A smaller number is required to remove than impose this change in membership status.

A smaller number is required to remove than impose this change in membership status. [The preceding examples are illustrative and not part of the body of these procedures.]

**17. Investigating Committee for Complaints:**

- a. At least two members of the Investigating committee will speak first with the complainant and hear the details of her/his complaint. At its discretion, the committee may orally inform the complainant of the substance of the respondent's written response. The complainant may recommend other individuals to be interviewed by the committee.
- b. The Investigating committee will speak with the victim (if a separate person from the complainant) and hear the details of her/his experience. At its discretion, the committee may orally inform the victim of the substance of the respondent's written response. The victim may recommend other individuals to be interviewed by the committee.
- c. The Investigating committee will speak with the respondent after a. and b. and present the allegations and clarify details of her/his response. The chaplain may recommend other individuals to be interviewed by the committee.
- d. Except where one party refuses to cooperate, the designated means of communication (either face-to-face or telephonic) with the Investigative team will be the same for the complainant/alleged victim and the respondent. In-person meetings will be the generally preferred option.
- e. The Investigating committee will not ask the complainant or victim to have contact with the respondent. Parties should not initiate such with each other.
- f. The Investigating Committee may solicit testimony from others who have direct knowledge relevant to the allegations.
- g. If the Investigating committee believes it has sufficient information supporting the complaint, the Investigating committee may request the Chair of the Ethics Committee to notify and/or solicit information from a professional or lay superior or another appropriate officer of any former institution or professional association where the chaplain has served or been a member.
- h. Within four weeks of appointment the investigating committee shall present a written report to the Ethics Chair, with the relevant information and recommendations for further action (not specific sanctions).
- i. The Investigators' report, without the recommendations, will be sent by the Chair upon receipt to the complainant/victim and respondent. They each shall have fourteen business days to send a written response to the report to the ECC. The responses shall not be sent to the other party but their contents may be cited

by the Investigators or Committee in any subsequent questions they have for either party.

18. a. The Ethics Committee shall convene electronically (or in person) within four weeks of the presentation of the written report. A quorum of three members who were not part of the investigating committee plus the ECC is required. The committee will review the Investigators' report and any party's responses to it. The Investigators will convene with the committee to clarify questions about the materials but will not advocate any position. The committee may decide to solicit additional written statements from the complainant, the victim, the respondent, their advocates or other relevant sources. Anyone solicited will have five business days to respond to the Ethics Chair. The Chair will forward responses within twenty-four hours to the committee. Also, the committee may give specific questions to the Investigators for them to ask any of the above people and the Investigators will report to the Ethics Chair within five business days. If the committee determines it has sufficient evidence on which to reach its finding and any sanction, it is not required to seek further information.

b. The committee will schedule its final review of the materials and fact-finding within the 14 business days of the above convening.

19. The Ethics Committee may recommend that the respondent meet with a mental health professional who has experience in this field. This mental health professional will be chosen by the Ethics Committee for a professional assessment to be communicated to the committee. Prior to the evaluation, the respondent will sign a consent releasing the evaluation and comments to the Ethics Committee. The cost of this *assessment*, and any subsequent assessments that may be required by the Committee (unlike the cost of *therapy* that the respondent may pursue or that the Ethics Committee may suggest), is to be borne by the NAJC.

20. **Ethics Committee actions.** The Ethics Committee may take a number of actions, including but not limited to:

a. **No cause for action**—The claim is not supported by a preponderance of the evidence.

If there is cause for action, one of the following may be implemented:

b. **Advisory** — This is an educational message to the chaplain for an inadvertent or minor violation. It may include recommendations.

c. **Reprimand** — This action is a significant reproof or rebuke of a member. It is based upon an assessment that the reprimand is adequate such that the unethical or inappropriate actions will not reoccur and where the committee feels that the member can continue to function as a chaplain. A reprimand may include probation.

d. **Suspension, subject to approval of the NAJC Board:** This is a recommendation for discontinuation of membership privileges in the NAJC for a fixed period of time. This action is taken in a case where there is a major ethics violation and the continued functioning of the chaplain may be threatening to the well being of the chaplain or others, but where a period of therapy or other treatment and *teshuvah* may result in his/her future return to the active chaplaincy. Suspension is automatically combined with probation.

“Suspension”, in the context of this Code, is a temporary status designation that, while in force, discontinues membership privileges (including voting, participating in committees, receiving or accessing job listings and job placement services, accessing members-only web pages and group e-mails) and the privilege of attending or addressing the NAJC’s annual convention, *Y’mei Iyyun*, or other official NAJC meetings and events open to members and/or the general public. The person under suspension may not take any active role in the NAJC. Suspended members may continue to receive regular mailings such as NAJC newsletters and journals.

e. At the end of a period of suspension, the Ethics Committee shall review the case and issue a recommendation to the Board as to action, including but not limited to a) ending suspension without conditions; b) ending suspension with a continuing period of probation, supervision, or other conditions; or c) continuing suspension, with or without conditions. Ending suspension will be based on an estimation that the chaplain has made progress during the period of suspension and can function safely as a chaplain. Ending suspension will take a vote of a majority of those participating in a Board meeting.

e. **Expulsion, subject to approval of the Board:** This step is recommended when, in the judgment of the Ethics Committee, the chaplain cannot continue to function as a member of the NAJC. It may also be taken based on a criminal conviction (felony or serious misdemeanor), or major civil penalty in a court of law related to a member’s functioning as a chaplain.

## 21. **Probation:**

a. Probation is a condition that may be appended to Reprimand and that will be required with Suspension. The Ethics Committee will monitor compliance. The Ethics Committee may require formal expression of *teshuvah* (repentance) including but not limited to financial restitution, apology, or psychological treatment (in-patient or out-patient) or limitations on employment settings as conditions of probation.

b. The key criterion for ending probation will be the Ethics Committee’s estimation that it is reasonably sure that the violation will not recur, and that the member’s continued service as a chaplain does not pose a threat to the well being of the chaplain or others.

- c. The length of the probation may be extended if deemed appropriate by the Ethics Committee. Likewise, at any time during the probationary period the Ethics Committee may require a different action based on new information, a new understanding of previous information, non-compliance with the terms of probation or non-cooperation with the Ethics Committee.
- d. Probation may continue beyond the length of a period of suspension but may not extend beyond three years without a review by the Ethics Committee. Probation, an extension of probation, or its conditions may be appealed by the chaplain under probation to the Executive Committee.
- e. As part of probation, the Ethics Committee may require a course of therapy or remediation by a professional approved by the Ethics committee.
- f. When a colleague is under probation, there is to be both an intake and final evaluation (with possibly intermediate evaluations) by a qualified professional, other than the chaplain's own therapist, chosen by the Ethics Committee. The chaplain must waive confidentiality so that evaluation reports can be made to the Ethics committee. These evaluations are to be made available to the chaplain if he/she requests. The NAJC is financially responsible for these evaluations. The chaplain is responsible for the cost of ongoing personal therapy or other course of remediation. If financial assistance is needed, application can be made to the National Coordinator.
- g. **End of Probation.** At the end of a period of probation, the Ethics Committee shall review the case and take action, including but not limited to a) ending probation without conditions; b) continuing probation with specified conditions. The chaplain will be notified of any decision.

## 22. **Communication of Decision:**

- a. The final decision of the Ethics Committee—or of the Board, in cases where suspension or expulsion have been approved—will be immediately shared with personal letters to the complainant, the victim, and the accused. The Executive Committee and National Coordinator of the NAJC shall also receive written notice of final decisions. No public notice including, in most circumstances, to the chaplain's lay or professional superior(s) will be given until after the 30-day period for filing an appeal has passed or until an appeal has been finalized. An advisory or reprimand shall not be publicized to the NAJC membership by name, although the general circumstances may be described in the Ethics Committee's annual report. It is at the respondent's option as to whether a finding of no cause for action/exoneration will be publicized to the membership.
- b. Suspension or expulsion shall be communicated by name to the NAJC membership, to the chaplain's employer or immediate supervisor, and to the appropriate representative of other chaplaincy and professional organizations of which the chaplain is a member, and Jewish chaplaincy agencies in the chaplain's areas of residence and practice. If the chaplain is a rabbi, the President of the NAJC shall share information regarding

suspension or expulsion with the Board of Rabbis in the chaplain's areas of residence and practice. If the chaplain is a rabbi or cantor, the President of the NAJC shall also share information regarding suspension or expulsion with the national or continental rabbinic/cantorial organization and any other professional chaplaincy organization with which the chaplain is affiliated.

c. **Employment inquiries.** A chaplain who is currently suspended or expelled is expected to reveal this information to prospective employers in chaplaincy or related settings. If an inquiry is received by the National Coordinator from a prospective employer regarding the chaplain who has been suspended or expelled, the National Coordinator shall confirm the chaplain's membership status; and she/he may reveal the nature of the ethics violation upon which the suspension or expulsion was based. If such an inquiry is received by an NAJC member, the member shall refer the prospective employer to the National Coordinator. If the National Coordinator is informed that a suspended or expelled chaplain has applied for a chaplaincy position, the National Coordinator shall inform the prospective employer of the chaplain's membership status.

d. If suspension is removed by the NAJC at a later date, the NAJC president shall inform all NAJC members and the above bodies unless the chaplain concerned specifically asks that information not be shared.

### 23. **Appeal:**

a. Any decision of the Ethics Committee may be appealed on the grounds specified in paragraph (c) below by the respondent or the complainant/victim. Appeals must be filed in writing to the NAJC Executive Committee within thirty days of receipt of the decision of the Ethics Committee.

b. The Executive Committee will appoint three NAJC members to consider the appeal. Members of the Appeals Committee shall not be members of the Ethics Committee, Board, or Investigating Committee in that case, but will be former members of the Ethics Committee, former Board members or NAJC members trained in the Ethics processes of the NAJC or another association with similar standards and processes.

c. **Grounds for Appeal.** Appeals will be considered only when (i) significant new information becomes available that was not reasonably available at the time of the Ethics Committee decision and that could have substantially altered the outcome, and/or (ii) an allegation is made of material procedural error or material procedural violation of the NAJC ethics code which could have substantially altered the outcome.

d. The Appeals Committee will review the appeal request and the written record to determine compliance with the procedures in the NAJC Code of Ethics.

e. If the Appeals Committee finds insufficient grounds to sustain an appeal, it shall report this to the Executive Committee and to the Ethics Committee.

- f. If the Appeals Committee determines there is significant new information available which could have substantially altered the outcome, it shall not decide on the merits but refer the case back to the Ethics Committee for a reconsideration within 30 days.
- g. If the Appeals Committee finds material procedural error or material procedural violation of the NAJC ethics code which could have substantially altered the outcome, it shall deliver a recommendation to the Executive Committee, which will render a final decision by majority vote within eight weeks of the Board's receipt of the appeal; or, at its discretion, if there has been no charge of intentional unfairness or taint, it shall refer the case back to the Ethics Committee for a reconsideration within 30 days.

24. **Consultation.** The Chair of the Ethics Committee may seek advice at any stage from professionals and others who have expert knowledge useful in the particular case at hand.

25. **Variation in timetable.** The timetable above serves as a guideline to provide a prompt and fair inquiry. The Ethics Committee Chair may extend a deadline above if necessary. Any substantial delay or change in the timetable will be communicated by the Ethics Committee, in writing, to all the affected parties.

26. Confidentiality is crucial. However, when it is deemed to be in the best interest of protecting the public, the NAJC, and its members, the Chair of the Ethics Committee or the President may respond to inquiries about allegations regarding a specific NAJC member. The Chairperson may reveal: a) that an investigation of the alleged violation is underway; b) that the investigation has been resolved but is confidential; or c) that the member has been suspended or expelled. Except as specified in Sections D.15 Placement, D.22 – Employment and D.27 - Record-keeping, and for the exchange of information with other professional associations or jurisdictions for the purposes of coordination within the context of or in response to an ethics inquiry, as addressed in Section C.12, no other details are to be revealed.

#### 27. **Record-keeping**

- a. Records of all formal ethics proceedings and appeals shall be placed in locked files in the office of the National Coordinator. The record will include the written complaint and response, a copy of the Ethics Code and procedures in place at the time of the proceeding, any official minutes of the proceedings, stated conclusions, summary of deliberations, and any sanctions. A duplicate, back-up paper or electronic copy of this file may be stored at a secure, off-site location determined by the National Coordinator. A notation of the record's existence will be kept by the National Coordinator, in addition to a summary listing of ethics cases and their outcomes that resides with the Ethics Committee Chair. All other copies of the proceedings, and all personal notes of Investigating, Ethics, and Appeals Committee members will be

destroyed at the conclusion of a case including any appeals, as determined by the Ethics Chair.

- b. Access to the record will be only by order of legal process or at the discretion of the President and/or National Coordinator, except as noted in paragraphs (c) and (d), below.
- c. Requests for access by a certifying or licensing body or Jewish professional association responsible for the respondent will be given substantial deference and generally permitted.
- d. Those NAJC Ethics Committee or Executive Committee members charged with reviewing a respondent's record for the purpose of verifying compliance with the terms of his/her probation or other matters directly related to an ethics case shall have access to the relevant materials in the record.
- e. The respondent shall be notified when requests for access, per paragraph (b) or (c), have been granted.

#### **E. ADJUSTMENTS TO ETHICS COMMITTEE**

1. If some ethics committee members are unavailable or recuse themselves there may be an insufficient number of members to address a case. In this case, the committee is authorized to add temporary ethics committee member(s) from the following categories: a) former NAJC ethics committee members; b) former NAJC officers, who are no longer voting board members; c) NAJC members who are former or current members of ethics committees of other professional organizations.
2. A currently serving ethics committee member whose term expires during the course of an ongoing case may have his/her term temporarily extended by the president until the conclusion of the case, even if this results in a higher total number of ethics committee members.
3. Such temporary members (section 1 and 2) will have the same rights and responsibilities as other members during their term of service. Their temporary service will terminate with the conclusion of the particular case.

#### **F. FOLLOW-UP**

1. **Support for NAJC members.** The NAJC undertakes a particular responsibility to a chaplain who is the victim of unsubstantiated rumors, and will endeavor to provide support to the victimized chaplain and assist in the healing of the affected parties.
2. **Support for victims.**

- a. If there is a finding of unethical behavior by a chaplain, the NAJC will endeavor to offer continuing concern and spiritual support to the victim and organization, even after the conclusion of formal proceedings.
- b. The president of the NAJC should consult with the chair of the Ethics Committee, the investigating committee, and the victim's advocate on appropriate ways of offering continued contact and support.

## **G. AUTHORITY, AMENDMENT, AND REVIEW**

1. This Code is adopted under the NAJC constitution and bylaws, particularly Section X on Ethics Code.
2. The part of this Code entitled "Procedures of Addressing Alleged Breaches of Professional Ethics" is defined as an administrative document that can be amended as needed by the NAJC board, with due notice to the membership of any changes.
3. The NAJC membership meeting grants the board the authority to make necessary editorial changes in the document as a whole or clarifications of definitions that are in keeping with the basic intent of these procedures.
4. The Ethics Committee may from time to time recommend any necessary revisions or amendments to this code to the board or to the NAJC membership meeting.
5. Periodic review. No less than five years after the adoption of the Code of Ethics and/or these Procedures, and every five years thereafter, the Code and these Procedures shall be reviewed by a special Ethics Code Review committee designated by the NAJC president, to recommend to the board (and ultimately, where appropriate, the membership) any necessary amendments or clarifications. This committee shall consult with the Ethics Committee and former members of the committee for their experience and suggestions, as well as with other NAJC members.