

Ask the Ethicist: Communication with Others During an Ethics Investigation

Question: I am an Academy member and have been challenged for a potential violation of the Code of Ethics. During the ongoing Ethics Committee investigation, I wish to communicate about certain aspects of the challenge and investigation with colleagues who are members of the Board of Trustees (BOT). Is this permissible?

Answer: To maintain the objectivity of an ethics investigation, the proceedings must be kept confidential. You may not contact anyone other than those directly involved: your counsel, your witnesses, the Ethics Committee Chair, and Ethics Committee staff. Any communication with the Ethics Committee Chair or staff about the investigation should be in writing.

The resolution of an ethics investigation may be jeopardized if a challenged member, or someone on his/her behalf, communicates directly with members of the BOT (whether or not the communication is an overt attempt to influence the investigation's outcome). Additionally, communicating with BOT members may potentially disqualify those BOT members from acting on an Ethics Committee recommendation.

To avoid such conflicts, the excerpt below was added to the Administrative Procedures of the Code, effective Jan. 1, 2016:

"Unauthorized oral or written communications with any member of the Ethics Committee or with any member of the Academy's Board of Trustees prior to the final resolution of a challenge (including the completion of any appeal) are strictly forbidden. Any such unauthorized communications by the challenged Fellow or Member, or by the submitter of the challenge, either directly or by proxy, shall be considered as non-cooperation with the Ethics Committee and shall be subject to the same sanctions as the failure to observe the Rules of Ethics."

If a challenged member disagrees with the outcome of an investigation and a subsequent determination by the BOT, the member may appeal. The appeal process is detailed in the Administrative Procedures of the Code of Ethics.

To read the Code of Ethics, www.aao.org/ethics-detail/code-of-ethics. **For more information or to submit a question,** contact the Ethics Committee at ethics@aao.org.