Ethics in Behavior Analysis: An Update from the BACB

Melissa R. Nosik, PhD, BCBA-D
Deputy CEO
BACB Background

Nonprofit 501(c)(3) corporation founded in 1998

Global Mission
To protect consumers of behavior analysis services worldwide by systematically establishing, promoting, and disseminating professional standards.

National Commission for Certifying Agencies
BCBA – accredited since 2007
BCaBA – accredited since 2007
RBT – accredited since 2016
Data
New BCBAs per Year

Since 2016: 32.6%

1 of every 3
Overall # of BCaBAs per Year

Overall # of BCaBAs per Year

3,072
New BCaBAs per Year

32,226 BCBA + BCaBAs

Year: 1999 to 2018
Overall # of RBTs per Year

- 2014
- 2015
- 2016
- 2017
- 2018

Overall # of RBTs per Year:
- 2014: 0
- 2015: 10,000
- 2016: 20,000
- 2017: 30,000
- 2018: 42,435

Overall trend shows a significant increase from 2014 to 2018.
Website and Data
As of March 27, 2018, the numbers of BCBA and RBT certifications are as follows:

<table>
<thead>
<tr>
<th>Certification</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>BCBA</td>
<td>28,037</td>
</tr>
<tr>
<td>RBT</td>
<td>37,127</td>
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</tbody>
</table>
# BACB Ethics Developments

## A Summary of Ethics Violations and Code-Enforcement Activities:

### 2016-2017

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<td>Disciplinary Review Consequences</td>
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BACB Key Ethics Developments

- Conduct Guidelines
- Ethics Course (15 hrs)
- Ethics CE Required
- Disciplinary Standards & Guidelines
- Ethics Code (45 hrs)
- Ethics Code (40%)

Years:
- 2000
- 2001
- 2002
- 2003
- 2004
- 2005
- 2006
- 2007
- 2008
- 2009
- 2010
- 2011
- 2012
- 2013
- 2014
- 2015
- 2016
- 2017
Since 2016: 32.6%

1 of every 3
Practice-Related Ethics Literature: 2003-2018
BACB Disciplinary Data 2016-2017

Professional and Ethical Compliance Code for Behavior Analysts
Disciplinary System Overview

- Receives Notice
- Disciplinary Review
- BACB
- Code Compliance Committee
- Other
  - One-Time Warning
  - Declined
  - Withdrawn
  - Awaiting Determination
  - Coaching
  - Corrective Actions
Disciplinary System Overview

BACB Receives Notice
Disciplinary System Overview

BACB Receives Notice

- Disciplinary Review Committee
- Code Compliance Committee
- Other

• Coaching
• Corrective Actions
• One-Time Warning
• Declined
• Withdrawn
• Awaiting Determination
Disciplinary System Overview

BACB Receives Notice

- Disciplinary Review Committee
  - Revocation
  - Suspension
  - Eligibility Suspension
  - Restrictions
  - Advisory Warning
  - Competency Verification
- Code Compliance Committee
- Other
Disciplinary System Overview

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Code Compliance Committee
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Other
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Other
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- Withdrawn
- Awaiting Determination
Number of Code Violations per Case

Cases = 219
Violations = 478

(often multiple violations per case)
## Violation Types

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Improper or Inadequate Supervision
(68 Violations)

5.0 Behavior Analysts as Supervisors.

When behavior analysts are functioning as supervisors, they must take full responsibility for all facets of this undertaking. (See also, 1.06 Multiple Relationships and Conflict of Interest, 1.07 Exploitative Relationships, 2.05 Rights and Prerogatives of Clients, 2.06 Maintaining Confidentiality, 2.15 Interrupting or Discontinuing Services, 8.04 Media Presentations and Media-Based Services, 9.02 Characteristics of Responsible Research, 10.05 Compliance with BACB Supervision and Coursework Standards)
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10.05 Compliance with BACB Supervision and Coursework Standards.

Behavior analysts ensure that coursework (including continuing education events), supervised experience, RBT training and assessment, and BCaBA supervision are conducted in accordance with the BACB’s standards if these activities are intended to comply with BACB standards (See also, 5.0 Behavior Analysts as Supervisors)
Violation Examples

- Supervision contract is not followed
- Supervisor is disorganized and the trainee suffers as a result
- Supervisor does not know the supervision requirements or has not completed them
- Supervisor does not follow BACB Experience Standards
Prevention

- Design systems for providing supervision in your work environment
- Document the supervision plan in the contract
- Supervisor should use self-management and time-management strategies
- Address problems when they are minor
- Don’t avoid difficult conversations with the trainee
- Identify corrective actions and document them
Resources

Refining Supervisory Practices in the Field of Behavior Analysis: Introduction to the Special Section on Supervision

Linda A. LeBlanc¹ · James K. Luiselli²

Volume 9, Issue 4, December 2016
Resources

Taking Full Responsibility: the Ethics of Supervision in Behavior Analytic Practice

Tyra P. Sellers¹ · Shahla Alai-Rosales² · Rebecca P. F. MacDonald³

5.01 Supervisory Competence: “Behavior Analysts Supervise Only Within Their Areas of Defined Competence”

This subcode of 5.0 instructs the supervisor to provide supervisory activities that are inline with the supervisor’s area of competence. This directly aligns with code 1.02, indicating that a behavior analyst’s clinical, teaching, and research activ-
Resources

Recommendations for Detecting and Addressing Barriers to Successful Supervision

Tyra P. Sellers¹ • Linda A. LeBlanc² • Amber L. Valentino²
# Recommendations for Detecting and Addressing Barriers to Successful Supervision

Tyra P. Sellers\(^1\) • Linda A. LeBlanc\(^2\) • Amber L. Valentino\(^2\)

## Table 1: Resources for addressing issues during supervisions

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<th>Persistent supervision issue</th>
<th>Potential indicators</th>
<th>Assessment and intervention ideas and resources</th>
</tr>
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<tr>
<td>Disorganization and poor time management</td>
<td>- Difficulty retrieving needed materials</td>
<td>- Assess if global issue or related to specific skill (as this may require specific skill or confidence building in the primary area of concern)</td>
</tr>
<tr>
<td></td>
<td>- Frequently late to meetings/appointments</td>
<td>- Assess potential barriers with PDC-HS (Carr et al., 2013; Ditzian et al., 2015)</td>
</tr>
<tr>
<td></td>
<td>- Frequently missing deadlines, asking for extensions or removal of tasks</td>
<td>- Assign supervisee relevant readings: Allen (2015); Bailey &amp; Burch (2010); Covey (2004); Daniels (2013a, b)</td>
</tr>
<tr>
<td></td>
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<td>- Print, review, and post productivity infographic (Ganesh, 2015)</td>
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<tr>
<td></td>
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<td>- Review and teach use of common organizational and calendaring tools (e.g., Google Calendar, iCal, Outlook)</td>
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<td></td>
<td></td>
<td>and tips (create recurring events, color code calendar events, set reminders, use “to do” tools, use location-linked reminders in iPhone, create relevant folders for emails, flag by level of importance)</td>
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<td>Poor interpersonal skills</td>
<td>- Too much/not enough eye contact, facial expressions, vocal inflection</td>
<td>- Questionnaires and observation scales (Bedwell et al., 2014)</td>
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<td></td>
<td>- Dominating conversations or not engaging enough</td>
<td>- Assess function of behavior and relevant skill deficits</td>
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<td></td>
<td>- Poor body language/posture</td>
<td>- Review recommendations for effective interpersonal skills (Hoover et al., 1988)</td>
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<td>- Frequent arguing, disrespectful language, rigidity</td>
<td>- Select and teach interpersonal skills (Bedwell et al., 2014; Klein et al., 2006)</td>
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Tyra P. Sellers¹ · Linda A. LeBlanc² · Amber L. Valentino²

Appendix A  Potential Study Guide for Journal Clubs

1. List three different behavioral indicators that issues may be present in the supervisory relationship.
2. List and describe the five steps to take in repairing a defective relationship due to problematic supervisor behavior.
3. List common barriers to effective organizational and time management skills.
4. List and describe three reasons that defective interpersonal skills might develop.
5. What are two recommendations for addressing issues related to difficulty accepting feedback?
Resources

The Analysis of Verbal Behavior
2010, 26, 133–145

Crucial Issues in the Applied Analysis of Verbal Behavior: Reflections on Crucial Conversations: Tools for Talking When the Stakes Are High

Thomas S. Critchfield, Illinois State University
# Violation Types

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Failure to Self Report
(67 Violations)

10.02 Timely Responding, Reporting, and Updating of Information Provided to the BACB.

Behavior analysts must comply with all BACB deadlines including, but not limited to, ensuring that the BACB is notified within thirty (30) days of the date of any of the following grounds for sanctioning status: (a) A violation of this Code, or disciplinary investigation, action or sanction, filing of charges, conviction or plea of guilty or nolo contendre by a governmental agency, health care organization, third-party payer or educational institution. Procedural note: Behavior analysts convicted of a felony directly related to behavior analysis practice and/or public health and safety shall be ineligible to apply for BACB registration, certification, or recertification for a period of three (3) years from the exhaustion of appeals, completion of parole or probation, or final release from confinement (if any), whichever is later; (See also, 1.04d Integrity)
(b) Any public health- and safety-related fines or tickets where the behavior analyst is named on the ticket;
(c) A physical or mental condition that would impair the behavior analysts’ ability to competently practice; and
(d) A change of name, address or email contact.
Examples of Violations

- Felony Convictions
- Incarceration
- Mental Health Problems
- Insurance, Licensure Board, or Professional Association Investigations or Sanctions
Prevention

- Teaching about this requirement
- Identifying the activities that require reporting
- Reporting changes in supervisory status immediately
- Reporting investigations immediately
- Being aware of licensure board reporting requirements
- Being aware of professional insurance liability reporting requirements
Resources

NOTICE OF ALLEGED VIOLATION

Policy

All BACB candidates, certificants, registrants, authorized continuing education (ACE) providers, and verified course sequences (VCSs) must provide behavior-analytic services in an ethical manner.

In situations where behavior-analytic services are not provided in an ethical manner, the BACB has a system for concerned individuals to file a Notice of Alleged Violation to alert the BACB of the alleged ethical violation(s).

The BACB cannot provide legal advice under any circumstances. There are a number of resources available for anyone seeking guidance related to ethics on our ethics resources page.

Filing a Notice of Alleged Violation (Notice)

Before filing a Notice, you will need to:

1. Review the Professional and Ethical Compliance Code for Behavior Analysts (Compliance Code) to determine if the incident(s) could be considered a violation by the BACB.*

2. Identify the incident date or the point at which you could have reasonably known about the incident. Typically, notices must be filed within 6 months of the incident date; BACB staff, however, have the discretion to extend the deadline if doing so would not impede the ability of the subject of the notice to respond.

*Note: To avoid retaliatory actions against those who report ethical violations to the BACB, the BACB will not allow the subject of an active Notice to file a Notice against another behavior analyst or RBT until 60 (sixty) days from the completion of their matter (i.e., 60 days following the issuance of a BACB warning, completion of
Public health- and safety-related fines or tickets **must be reported** to the BACB in the following circumstances:

- The incident or fine may indicate a physical or mental condition that could impact the competent delivery of services
- The incident or fine is evidence of another Compliance Code violation (e.g., a citation for negligently leaving a client unattended)
- The incident involved the operation of a motor vehicle and the fine was greater than $750
- A client was present during the incident (regardless of the amount of the fine)
- You were required to report the incident to your professional liability insurance provider
- You were required to report the incident to a client’s third-party payer
- You were required to report the incident to a governmental regulatory board

Public health- and safety-related fines or tickets **do not need to be reported** to the BACB in the following circumstances:

- The incident does not name the behavior analyst as the “violator” (e.g., parking tickets, camera-based speeding tickets)
- The incident occurred at the location where behavior-analytic services are delivered but did not involve a client (e.g., a citation for violation of wage and hour restrictions, unemployment compensation claims)
- The incident involved the operation of a motor vehicle and named the behavior analyst, but did not involve any of the following:
  - a fine over $750
  - a client present during the incident or put at risk because of the incident
  - evidence of another Compliance Code violation

We hope you find this guidance useful. If you are ever unsure of whether an incident must be reported to the BACB, please email reporting@bacb.com for additional assistance.
Procedural note: Behavior analysts convicted of a felony directly related to behavior analysis practice and/or public health and safety shall be ineligible to apply for BACB registration, certification, or recertification for a period of three (3) years from the exhaustion of appeals, completion of parole or probation, or final release from confinement (if any), whichever is later; (See also, 1.04d Integrity)

The following are examples of scenarios that do not need to be reported to the BACB:

- Credit or tax hearings;
- Parking tickets (identified in 10.02[b] of the Compliance Code);
- Family court proceedings (i.e., divorces, custody hearings);
- Employer layoffs and actions that do not evidence competency or safety concerns (e.g., staff reductions);
- Diagnosis and treatment of conditions not likely to impair competent delivery of services.

We conclude with a quick note about 10.02(d). Certificants must report to the BACB all changes, including addresses, phone numbers, email, other contact information, or BCaBA and RBT supervisor status. These changes can be made through the BACB Gateway or by contacting us directly.

We hope you find this guidance useful. If you are ever unsure of whether an incident must be reported to the BACB, please contact us for additional assistance.
Resources
SUBMIT LEGAL DOCUMENTATION

Document Submission Information:

The BACB cannot provide legal advice under any circumstances. There are a number of resources available for anyone seeking guidance related to ethics on our ethics resources page.

The following types of documents can be submitted here:

- Accommodations Requests
- Accommodations Questions
- Disciplinary Appeal Requests
- Self-Reporting
- Intellectual Property Inquiry
- Notice of Alleged Violation
- RBT Warning Response
- Response to Notice of Alleged Violation
- Sanction Fulfillment

Note: Please condense all of your information into no more than 2 files and then upload them through this contact form.
## Violation Types

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Professionalism and Integrity
(66 Violations)

1.04 Integrity
1.05 Professional and Scientific Relationships
Professionalism and Integrity
(66 Violations)

1.04 Integrity
1.05 Professional and Scientific Relationships

7.0 Behavior Analysts’ Ethical Responsibility to Colleagues
7.01 Promoting an Ethical Culture
7.02 Ethical Violations by Others and Risk of Harm
Examples of Violations

- Communication with clients and families
- Professional interactions and relationships with co-workers, clients, supervisees
- Practicing within scope of competence
- Use of nonbehavioral treatment approaches
- Discrimination or harassment towards trainees or clients
Prevention

- Self-evaluate your scope of competence and seek supervision if necessary
- If dually credentialed, clearly identify interventions that are not being recommended in your capacity as a behavior analyst
- Model professional interactions
- Identify warning signs and monitor for indicators of potential dual or damaged relationships.
- Offer a reporting and resolution system within your agency
Resources

Teaching and Maintaining Ethical Behavior in a Professional Organization
Matthew T. Brodhead and Thomas S. Higbee
Utah State University
How to Identify Ethical Practices in Organizations Prior to Employment

Matthew T. Brodhead¹ • Shawn P. Quigley² • David J. Cox³
# How to Identify Ethical Practices in Organizations Prior to Employment

Matthew T. Brodhead¹ · Shawn P. Quigley² · David J. Cox³

## Table 1  Sample interview topics and questions

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<td>Professional development. How does the organization support my access to the behavior-analytic literature and formal professional development? Purpose: To understand how the organization supports ongoing professional development, through continuing access to professional literature and professional conferences (Carr &amp; Briggs, 2010). Training and supervision. Describe the systems that are in place to help employees engage in ethical behavior and avoid unethical behavior. Purpose: To identify systems the organization has in place to teach and maintain ethical behavior within that organization (Brodhead &amp; Higbee, 2012). Training and supervision. Describe the organizational practices for supervising all employees. Purpose: To evaluate the extent to which supervision practices align with the BACB © Code (Sellers, Alai-Rosales, &amp; MacDonald, 2016). Training and supervision. How are interpersonal problems, between supervisors and supervisees, addressed within the organization?</td>
<td>1.03; 7.0; 7.01; 5.01–5.07</td>
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<tr>
<td>Non-sexual dual or exploitive relationship</td>
<td>14</td>
</tr>
<tr>
<td>Use of non-evidence-based, behavior-analytic assessments/interventions</td>
<td>14</td>
</tr>
<tr>
<td>Violation of federal or state rules and regulations</td>
<td>11</td>
</tr>
<tr>
<td>Harmful reinforcers, punisher, restraints, and/or excessive force</td>
<td>10</td>
</tr>
<tr>
<td>All other reasons</td>
<td>51</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>238</strong></td>
</tr>
</tbody>
</table>
Actions Taken - DRC

Cases = 86

- Revocation: 8
- Invalidated Credential: 1
- Suspension: 9
- Restrictions: 10
- Eligibility Suspension: 5
- Corrective Action: 41
- Advisory Warning: 12

Most Restrictive → Least Restrictive
Addressing an Ethics Violation
REVIEW:
Is the observed “misbehavior” a Code violation?

CONTACT:
Attempt to resolve the issue with the subject (7.02).

RESOLVED?

FILE A REPORT:
- A NAV with the BACB
- Other reporting requirements

INFORM:
Take information learned back to your trainees and colleagues.
Professional and Ethical Compliance Code for Behavior Analysts
Detrimental Reliance

**Legal Detriment.** A change in position by one to whom a promise has been made, or an assumption of duties or liabilities not previously imposed on the person, due to the person's reliance on the actions of the one who makes the promise.
ABAI Science, Practice, and Education Hotline

As the field gains in stature, behavior analysts increasingly need access to consultation services and advice on a wide variety of issues related to science, practice, education, and association services. ABAI understands that members need immediate responses to their pressing questions, and is pleased to serve members with the ABAI Hotline. The Hotline is your link to professionals in the field who are equipped to provide advice and consultative services on a wide variety of subjects, including ethics and ethical questions, billing and insurance reimbursement, evidence-based practices, scientific research, working in schools, assessing and treating serious maladaptive behaviors, specific clinical applications, and much more.
REVIEW:
Is the observed “misbehavior” a Code violation?

I

YES

CONTACT:
Attempt to resolve the issue with the subject (7.02).

RESOLVED?

FILE A REPORT:
- A NAV with the BACB
- Other reporting requirements

INFORM:
Take information learned back to your trainees and colleagues.
7.02 Ethical Violations by Others and Risk of Harm

(a) If behavior analysts believe there may be a legal or ethical violation, they first determine whether there is potential for harm, a possible legal violation, a mandatory reporting condition, or an agency, organization, or regulatory requirement addressing the violation.

(b) If a client’s legal rights are being violated, or if there is the potential for harm, behavior analysts must take the necessary action to protect the client, including, but not limited to, contacting relevant authorities, following organizational policies, and consulting with appropriate professionals, and documenting their efforts to address the matter.

(c) If an informal resolution appears appropriate, and would not violate any confidentiality rights, behavior analysts attempt to resolve the issue by bringing it to the attention of that individual and documenting their efforts to address the matter. If the matter is not resolved, behavior analysts report the matter to the appropriate authority (e.g., employer, supervisor, regulatory authority).
1.04 Informal Resolution of Ethical Violations

When psychologists believe that there may have been an ethical violation by another psychologist, they attempt to resolve the issue by bringing it to the attention of that individual, if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved. (See also Standards 1.02, Conflicts Between Ethics and Law, Regulations, or Other Governing Legal Authority, and 1.03, Conflicts Between Ethics and Organizational Demands.)
REVIEW:
Is the observed “misbehavior” a Code violation?

CONTACT:
Attempt to resolve the issue with the subject (7.02).

FILE A REPORT:
- A NAV with the BACB
- Other reporting requirements

INFORM:
Take information learned back to your trainees and colleagues.
NOTICE OF ALLEGED VIOLATION

Policy

All BACB candidates, certificants, registrants, authorized continuing education (ACE) providers, and verified course sequences (VCSs) must provide behavior-analytic services in an ethical manner.

In situations where behavior-analytic services are not provided in an ethical manner, the BACB has a system for concerned individuals to file a Notice of Alleged Violation to alert the BACB of the alleged ethical violation(s).

The BACB cannot provide legal advice under any circumstances. There are a number of resources available for anyone seeking guidance related to ethics on our ethics resources page.

Filing a Notice of Alleged Violation (Notice)

Before filing a Notice, you will need to:

1. Review the Professional and Ethical Compliance Code for Behavior Analysts (Compliance Code) to determine if the incident(s) could be considered a violation by the BACB.

2. Identify the incident date or the point at which you could have reasonably known about the incident. Typically, notices must be filed within 6 months of the incident date; BACB staff, however, have the discretion to extend the deadline if doing so would not impede the ability of the subject of the notice to respond.

Note: To avoid retaliatory actions against those who report ethical violations to the BACB, the BACB will not allow the subject of an active Notice to file a Notice against another behavior analyst or RBT until 60 (sixty) days from the completion of their matter (i.e., 60 days following the issuance of a BACB warning, completion of

Submit Legal Documentation

In This Section

Notice of Violation
- File a Notice
- Ethics Code
- Ethics Resources
- Submit Legal Documentation
- Ethics-Related Newsletters
- Contact Us
REVIEW: Is the observed "misbehavior" a Code violation?

If YES:

CONTACT: Attempt to resolve the issue with the subject (7.02).

If NO:

FILE A REPORT:
- A NAV with the BACB
- Other reporting requirements

If YES:

INFORM: Take information learned back to your trainees and colleagues.
Annual demand for individuals holding BCBA/BCBA-D certification has increased approximately 800% from 2010 to 2017.
US Licensure of Behavior Analysts

[Map showing the progression of licensure across the U.S. from 2009 to 2018]

- **Licensure**
- **No Licensure**
Thank you