As excerpted from materials provided to the Board of Directors and Council of Representatives
August 2009

Council Resolution Directing the Ethics Committee to Complete Action From the August 2005 Meeting in Time for Council to Review the Ethics Committee Recommendation at its August 2009 Meeting (NBI #34E)

Substitute Main Motion

(as originated by the movers of Council New Business Item #34E)

Council directs the APA Ethics Committee to propose language to Council that will resolve the discrepancy between the language of the Introduction and Applicability Section of the Ethical Principles of Psychologists and Code of Conduct and the Ethical Standards 1.02 and 1.03 so that these Standards can never be used to justify, or as a defense for, violating basic human rights. This process shall be completed in time for the Ethics Committee's proposed language to be acted on as part of Council's February 2010 meeting agenda;

WHEREAS when Council adopted the 2002 Ethics Code, it was not anticipated or intended that the language of Standards 1.02 and 1.03 be interpreted to mean that any psychologist in any role could use these Standards to justify, or as a defense for, violating basic human rights. Standard 1.02 addresses conflicts between ethics and law, regulations or other governing legal authority. Standard 1.03 addresses conflicts between ethics and organizational demands;

WHEREAS in 2005 Council members learned that the Introduction and Applicability Section of the Ethics code is aspirational and not enforceable. It states: "If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to this Ethics Code and take steps to resolve the conflict in a responsible manner. If the conflict is unresolvable via such means, psychologists adhere to the requirements of the law, regulations, or other governing authority in keeping with basic principles of human rights." In contrast, Standard 1.02 states, "If psychologists' ethical responsibilities conflict with law, regulations, or other governing legal authority, psychologists make known their commitment to the Ethics Code and take steps to resolve the conflict. If the conflict is unresolvable via such means, psychologists may adhere to the requirements of the law, regulations, or other governing legal authority." Standard 1.03 states, "If the demands of an organization with which psychologists are affiliated or for whom they are working conflict with this Ethics Code, psychologists clarify the nature of the conflict, make known their commitment to the Ethics Code, and to the extent feasible, resolve the conflict in a way that permits adherence to the Ethics Code";

WHEREAS, in 2005 Council directed the APA Ethics Committee to "review the discrepancy between the language of the Introduction and Applicability section of the *Ethical Principles of Psychologists and Code of Conduct* (2002) and Ethical Standard 1.02 and," requested that the Ethics Committee "make a recommendation to the Board of Directors concerning adding the words 'in keeping with basic principles of human rights' to Ethical Standard 1.02";

WHEREAS it was Council's intent in giving the Ethics Committee this charge that the Committee consider various approaches and wording in order to resolve the discrepancy;

WHEREAS, in August 2008, the movers introduced New Business Item #34E directing the Ethics Committee to suggest language that would resolve the discrepancy. The main motion suggests, as one possible approach, adding the phrase "in keeping with basic human rights";

WHEREAS in July 2009 the Ethics Committee issued its response to Council's 2005 directive in which it noted that "the language of Ethical Standard 1.03 closely tracks the language of Standard 1.02," and also reiterated a central distinction in the Ethics Code "between the Code's aspirational sections—the Introduction and Applicability, the Preamble, and the Ethical Principles—and the

enforceable ethical standards." In contrast to the general language of the aspiration sections, language in the enforceable standards "is specific and directive" and sets forth "specific obligations and specific prohibitions on psychologists' behavior";

WHEREAS in July 2009 the Ethics Committee acknowledged the discrepancy between the aspirational section of the Ethics Code (Introduction and Applicability Section) and the enforceable section, but did not propose any language to resolve it. Instead the Ethics Committee recommended against adding the one phrase, "in keeping with basic principles of human rights," to Ethical Standard 1.02 or 1.03;

WHEREAS the July 2009 response does not report that the Ethics Committee considered any other approaches or wording possibilities to resolve the discrepancy other than adding the words "in keeping with basic principles of human rights";

WHEREAS Council acknowledges and appreciates the Ethics Committee's work on this issue, however, the pressing need to resolve the discrepancy remains so that Ethical Standards 1.02 and 1.03 can never be used to justify or as a defense for violating basic human rights;

WHEREAS there is no plan, timeline or allocated funds for a revision of the entire Ethics Code;

WHEREAS the Ethics Committee received comments in last year's Call for Comments about 1.02, including concerns raised about the effects of language changes on disclosure of confidential information in response to a legal demand such as a subpoena or court order, the Ethics Committee should consider these comments as it proposes language to ensure that Ethical Standards 1.02 and 1.03 can never be used to justify or as a defense for violating basic human rights;

WHEREAS the Ethics Committee's June 2009 statement, "No Defense Against Torture," is insufficient because it solely prohibits torture and is neither contained nor referenced in the Ethics Code itself;

WHEREAS according to The Association Rules (2008) Code 20-4.1, titled, Review of the Ethics Code, "The Ethics Committee shall have the responsibility from time to time of initiating a review of the latest formally adopted version of the ethics code or any part of the code and proposing necessary changes or additions. In carrying out such a review, the Ethics Committee may set up such ad hoc committees as it finds necessary;"

THEREFORE BE IT RESOLVED that Council directs the APA Ethics Committee and the other relevant Boards, Committees and constituencies to move forward expeditiously to recommend language to Council that will resolve the discrepancy between the language of the Introduction and Applicability Section of the Ethical Principles of Psychologists and Code of Conduct and Ethical Standards 1.02 and 1.03;

BE IT RESOLVED that the language proposed for Council's action clearly communicate that Ethical Standards 1.02 and 1.03 can never be interpreted to justify or as a defense for violating basic human rights;

BE IT RESOLVED that this entire process be completed in time for the Ethics Committee to make a formal recommendation for proposed language to be acted on as part of Council's February 2010 meeting agenda.