



CONSORTIUM

FOR ADVANCED PRACTICE PROVIDERS

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The Appeals Policy and Procedure

The purpose of this policy is to clearly describe the grounds for appeal and the Appeal process.

8.0 Appealable Decisions and Grounds for Appeal

Appealable Decisions: The only accreditations decisions that may be appealed are:

- *Denial of Initial Accreditation*
- *Denial of Renewal of Accreditation*
- *Rescinding of accreditation*

These decisions are also referred to as “Adverse Actions” in this Policy.

Grounds for Appeal: Dissatisfaction with a decision is not sufficient grounds for an appeal. To be considered, an appeal must allege the following grounds:

1. *That the Accreditation Commission, when rendering the decision being appealed:*
 - a) *Did not follow its established policies and/or procedures, and/or*
 - b) *Made a substantive error or errors, such as a factual error, mistake, or misinterpretation; and*
2. *That the Accreditation Commission’s failure to follow established policies and procedures and/or commission of a substantive error or errors materially affected the outcome of the accreditation decision. The phrase “materially affected the outcome” means that the decision being appealed would not have been made but for the alleged failure to follow policies and procedures and/or the substantive error or errors.*

8.1 Appeal Process

8.1.1 Role of the Appeal Panel

The role of the Appeal Panel is to conduct a hearing, make findings of fact and render a decision regarding the program’s challenge to the Accreditation Commission’s Adverse Action. The Appeal Panel has authority to make the following decisions: to affirm, amend or remand Adverse Actions of the Accreditation Commission. In a decision to remand an Adverse Action back to the Accreditation Commission, the Appeal Panel will identify specific issues that must be addressed. If the Appeal Panel sends an Adverse decision back to the Accreditation Commission for reconsideration, the Accreditation Commission must act in a manner consistent with the Appeal Panel decisions and instructions.

8.1.2 Submitting an Appeal

After the Accreditation Commission has rendered an appealable decision, the Commission must provide written notification to the program of that decision and must inform the program of its right to appeal in accordance with this Policy. The appeal letter must also inform the program of the date by which the program must submit its notice of intent to appeal the decision. That due date will be set by the Commission and will be at least thirty (30) days following the date of the decision. In order to begin the appeal process, a formal notice of intent to appeal (“initial appeal letter”) notifying the Accreditation Commission of the program’s intent to appeal must be submitted to the Chair of the Accreditation Commission no later than the specified due date. The initial appeal letter must be signed and dated by the chief executive officer of the sponsoring organization that sponsors the training program. The initial appeal letter must specify the grounds for appeal and must contain a statement of facts alleged to support the specified grounds. Additionally, a nonrefundable Appeal Fee of \$1,500 must be included with the initial appeal letter. The initial appeal letter may not exceed five pages in length. Information beyond that limit will not be considered.

Upon receipt of the program’s initial appeal letter and fee, the Chair of the Accreditation Commission will determine whether the grounds presented for appeal are within the purview of the Commission and notify the program representative in writing within thirty (30) days of receipt that the appeal request has either been accepted or rejected. If the decision is to reject the appeal, the reasons for that rejection will be stated.

The decision of the Chair of the Accreditation Commission is final and cannot be appealed. If paid already, the Appeal Fee will be refunded in full if the Chair of the Accreditation Commission finds no grounds for appeal have been stated, but is nonrefundable after the Chair provides notice that the appeal has been accepted.

If the Chair of the Accreditation Commission determines that the appeal may proceed, the program will be so notified in writing.

Within thirty (30) days of the postmarked date of notification that the appeal may proceed, the program must submit:

1. *Any and all documents relevant to the grounds for appeal that the program wishes to be reviewed by the Appeal Panel, and*
2. *A list of witnesses, if any, which the program plans to call to address the Appeal panel along with summaries of the topics each witness will be asked to address.*

An appeal may not include information that was not made available to the Commission during the site visit or regarding changes to the program that occurred after the Accreditation’s Commission decision. Information of this type that is submitted along with an appeal will not be reviewed or considered. The only exceptions are:

1. *That programs may include documentation not previously available from external investigations (such as licensing, regulatory, or professional body investigations) related to a program’s ability to meet and maintain the Accrediting Commission’s Accreditation Standards*
2. *New financial information if that financial information:*

- (i) Was unavailable to the program until after the decision subject to appeal was made.*
- (ii) Is significant and bears materially on the financial deficiencies identified by the Accreditation Commission. The criteria of significance and materiality are determined by the agency.*
- (iii) Is the only remaining deficiency cited by the Accreditation Commission in support of a final Adverse Action decision.*

The program may seek the review of new financial information described above only once and any determination by the agency made with respect to that review does not provide a basis for an appeal.

8.1.3 Standard of Review and Burden of Proof on Appeal

The burden of proof is upon the program to establish its stated grounds for appeal by a preponderance of the evidence. The term “preponderance of the evidence” means evidence establishing that it is more likely than not that the stated grounds for the appeal is true.

8.2 Composition of the Appeal Panel

The Appeal Panel will consist of up to five individuals, including individuals who are: (1) an educator, (2) a practitioner, (3) a representative of an accredited program and (4) a public member. No member of the Commission may serve on the Appeal Panel, and no member of the Appeal Panel may have been a part of or involved in making the decision that is being appealed. The Appeal Panel will be selected and convened on an ad hoc basis by the Executive Director who will brief the Panel members on the process and their role. Conflict of interest protocols will be carefully enforced.

8.3 Appeal Hearing Process

Once an appeal is received by the Accreditation Commission, the staff will use reasonable efforts to redact personal and program identifying information from the appeal and related documents and from the program’s Accreditation Commission’s Accreditation file before forwarding the documents to the Appeal Panel. Prior to the hearing, the Appeal Panel may request additional factual information about the appeal from the Accreditation Commission, the site visitor(s), and/or the program. Once obtained, that information will be shared with both parties.

8.3.1 Conduct of the Hearing

The Appeal Panel Chair, after consultation regarding possible dates with the Chair of the Accreditation Commission and the appealing program’s representative, shall notify the two parties in writing of the date, time, and location of the hearing. The hearing must be scheduled within sixty (60) days of the date on the written notification of the formation of the Appeal Panel; however, this time may be extended by the Chair of the Commission if required by extraordinary circumstances.

The Consortium’s Executive Director will provide the members of the Appeal Panel with copies of all documents used by the Commission in reaching its decision and copies of the appeal request and supporting documents (Notice of Intent to Appeal, Appeal Materials, and Witness

Summaries) properly submitted by the program. Prior to the hearing, the Appeal Panel members will review all documents that have been provided to them.

At the sole discretion of the Accreditation Commission, the hearing may be held either at a single location where all parties are physically present or may be held by synchronous electronic means that includes audio and video such that all parties can see and hear each other.

The Appeal Panel Chair shall call the hearing to order. The Chair shall announce the purpose of the hearing, state the decision of the Accreditation Commission which is being appealed, read the grounds for appeal, declare the standard of review, and explain the hearing procedures to be followed, including time limits for presentations. The Appeal Panel Chair shall be responsible for conducting an orderly meeting and all rulings from the Chair regarding procedures shall be final.

The appealing program and the Accreditation Commission may have any representative present they deem appropriate, including legal counsel; provided, however, the Appeal Panel Chair may limit the number of representatives who may attend a hearing as she or he deems appropriate given space available at the hearing location. All proceedings will be audio recorded by the Accreditation Commission and a copy of the audio recording will be provided to the appealing program upon request.

The Appeal Panel is empowered to impose time limits within which the appealing program and the Accreditation Commission must complete presentation of their respective cases, including all witness testimony and questioning of the opposing party; provided, however, the appealing program will be allowed no more than 120 minutes for presentation of its case.

The Appeal Panel Chair shall recognize one representative of the appealing program who will be given the opportunity to state the case of the program. Witnesses may be asked to present information to the panel on behalf of the program. Following the witness' presentation one Accreditation Commission representative (or legal counsel) and all Appeal Panel members will be given the opportunity to ask questions of the witness.

The Appeal Panel Chair shall then recognize one Accreditation Commission representative who will be given the opportunity to state the case of the Accreditation Commission. Witnesses may be asked to present information to the panel on behalf of the Accreditation Commission. Following the witness' presentation, one program representative (or legal counsel) and all Appeal Panel members will be given the opportunity to ask questions of the witness.

At the conclusion of the presentation of the case by both parties, one representative from the appealing program and one representative from the Accreditation Commission will be given the opportunity to make final remarks.

8.4 Appeal Panel Decision

The Appeal Panel shall issue a decision within fifteen (15) days of the conclusion of the hearing and written copies shall be sent to the Chair of the Accreditation Commission and the appealing program's chief executive officer, with a copy to the appealing program's representative who

initiated the hearing.

The decision may be one of the following:

1. *To affirm the Adverse Action;*
2. *To amend the Adverse Action and direct the Accreditation Commission to grant accreditation;*
3. *To remand the decision to the Accreditation Commission for reconsideration with recommendations for appropriate action. The Appeal Panel must identify specific issues that must be addressed by the Accreditation Commission.*

With the exception of a decision to remand for reconsideration, all other decisions of the Appeal Panel are final. The Accreditation Commission will issue written notification of the appeal outcome and final determination, including the justification for the decision. This communication will outline the basis on which the decision was reached. No further appeals will be permitted.

8.5 Accreditation Commission Process Following Remand

When a decision is remanded, the Accreditation Commission shall reconsider its previous decision at its next regularly scheduled meeting in accordance with all instructions given to it by the Appeal Panel. Reconsidered Accreditation Commission decisions are final and no further appeal process is available.

Nothing in this policy limits the authority of the Accreditation Commission to agree to reconsider a decision without the necessity of a hearing or any part thereof and/or extending a period of accreditation if it deems that to be appropriate. After a detailed review of the program's appeal in accordance with the instructions provided to it by the Appeal Panel, the Accreditation Commission determines the outcome of the remanded appeal by majority vote. The possible outcome is dependent on the type of appeal and may include:

- *Upholding the Accreditation Commission's previous decision;*
- *Overturning the Accreditation Commission's previous decision and granting accreditation or rescinding revocation of accreditation*
- *Overturning the Accreditation Commission's previous decision, with a revisit required, prior to rendering a final decision.*

After the Accreditation Commission has reconsidered the decision being appealed, the outcome of the reconsideration will be communicated, in writing to the program including the justification for the decision, and that decision is final.

8.6 Voluntary Withdrawal of Accreditation by the Program

A program may voluntarily surrender its accreditation status at any time during the appeal process, so long as the surrender is communicated to the Accreditation Commission prior to the Appeal Panel's decision. Voluntary withdrawal will result in termination of the appeal process and a waiver of any right to completion of the appeal.

8.7 Fee for Appeal

All costs of the appeal must be borne by the appealing program, except that the Accreditation Commission and the appealing program will each pay the costs associated with obtaining their own legal advice, preparing their case, and sending their representatives and witnesses to the hearing. Costs chargeable to the appealing program may include, but are not limited to, travel costs for the Appeal Panel members, telephone calls, duplicating costs, recording expenses, and hearing room rental or charges for a virtual hearing. The Accreditation Commission will initially pay all expenses, deducting the appealing program's share from the Appeal Fee until it is exhausted, and bill the appealing program for any portion of its share that exceeds the Appeal Fee.