

NATIONAL BOARD FOR CERTIFIED COUNSELORS

APPLICATION AND CERTIFICATION

APPEALS PROCEDURES

SECTION A: INTRODUCTION

The National Board for Certified Counselors, Inc. (NBCC) sponsors professional certification programs, including the National Certified Counselor (NCC) credential and other-specialized certification programs, within the profession of counseling. The purpose of NBCC is the development, maintenance, evaluation, promotion, and administration of a rigorous, examination-based, professional credentialing program. The NBCC program is designed to assess and measure objectively the professional knowledge of counselors. NBCC requirements and eligibility standards are to be applied fairly, impartially, and consistent with applicable laws. NBCC will not discriminate against any candidate for any reason, and will grant certification without regard to a candidate's membership or non-membership in any organization or group.

In order to receive NBCC certification, each candidate must demonstrate minimum knowledge in areas tested by appropriate certification examination(s). In addition, NBCC certification candidates must satisfy all educational and experiential requirements established by the NBCC Board, and must demonstrate a past and ongoing professional commitment to the profession of counseling.

SECTION B: GENERAL PROVISIONS

- 1. Nature of the Process.** All challenges regarding actions of NBCC are governed by procedures contained in this document. These appeal procedures are the only way to resolve all NBCC application, eligibility, examination, and other certification challenges, and complaints of irregularities.

Because these informal procedures are not legal proceedings they are designed to operate without the assistance of attorneys. A party may choose to be represented by an attorney with respect to these procedures. However, parties are encouraged to communicate directly with NBCC. If a party has retained an attorney, that lawyer will be directed to communicate with NBCC through NBCC Legal Counsel. NBCC may use the services of an attorney without limitation.

- 2. Participants.** The NBCC Board of Directors, President and Chief Operating Officer (CEO), Certification Appeals Committee and any other designated or authorized representative of NBCC may be involved in deciding matters to be resolved or arising under these procedures.

3. **Time Requirements.** NBCC will make every effort to follow the time requirements noted in these appeal procedures. However, NBCC's failure to meet a time requirement will not prohibit the handling or final resolution of any matter arising under these procedures. NBCC applicants are required to comply with all time requirements specified in this document. Unless provided otherwise, time extensions may be granted by NBCC if a timely written request explaining a reasonable cause is submitted.
4. **Litigation/Other Proceedings.** NBCC may resolve a dispute arising under these proceedings when civil or criminal litigation, or other proceedings related to the dispute, are also before a court, regulatory agency, or professional body. NBCC may also continue or delay the resolution of matter and disputes in such cases.
5. **Confidentiality.** In order to protect the privacy of all parties involved in a matter under these procedures, all material prepared by, or submitted to, NBCC will be confidential. Disclosure of material prepared by or submitted to NBCC is permitted only when specifically authorized by an NBCC policy and by the President/CEO or other authorized representative. In addition, the identity of the members of the Certification Appeals Committee of the Board of Directors will remain confidential and will not be released without the specific authorization of each member. Appellants are not authorized to informally communicate with the President/CEO, members of the Certification Appeals committee or the Board of Directors.

Among other information, the NBCC Program will not consider the following materials and documents to be confidential:

- a. published certification and eligibility criteria;
- b. records and materials which are disclosed as the result of a legal requirement;
- c. at the request of an applicant, any certification information which the applicant would like made available to other credentialing agencies or bodies;
- d. all final NBCC certification appeal decisions and orders.

SECTION C: NBCC CERTIFICATION PROGRAM ACTIONS AND DECISIONS DURING THE CERTIFICATION PROCESS

1. **NBCC Actions With Regard To The Certification/Eligibility Application.** Under the supervision of the President/CEO or his/her authorized designee, NBCC will make one of the following decisions with regard to a candidate's application(s) for NBCC Certification: (a) accept the application; (b) request additional or supplemental information; or (c) reject the application on the ground(s) that the applicant does not meet the necessary eligibility requirements, or the applicant has breached an NBCC policy or rule.
2. **NBCC Actions With Regard To The Certification Examination.** NBCC shall, in accordance with established procedures, notify each applicant whether he/she has achieved a passing or failing score on the certification examination.

3. **NBCC Actions With Regard To The Certification Application.** NBCC shall make one of the following decisions with regard to an applicant's Certification Application: (a) grant certification; (b) conditionally accept the application for certification, pending satisfactory completion of an NBCC Certification Examination or satisfaction of all eligibility requirements; (c) request additional information; or (d) reject the application on the ground(s) that the applicant does not meet the necessary criteria for certification, or the applicant has breached an NBCC policy or rule.

SECTION D: CIRCUMSTANCES FOR APPEAL OF AN ADVERSE NBCC CERTIFICATION PROGRAM ACTION OR DECISION

4. **Appeal Limitations.** An applicant may submit an appeal of an adverse NBCC certification program decision under the following circumstances:
 - a. The applicant was found to be ineligible to take the NBCC certification examination; or
 - b. The applicant did not pass and successfully complete the NBCC certification examination; or
 - c. The applicant failed to satisfy a NBCC certification requirement, including those related to education or experience.

SECTION E: TIME PERIOD FOR FILING INITIAL APPEAL AND REQUEST FOR REVIEW OF AN ADVERSE NBCC CERTIFICATION PROGRAM ACTION OR DECISION

An applicant may submit a written appeal and request for review of an adverse action or decision within thirty (30) days of the date of the action or decision by notifying the President/CEO in writing and stating with particularity the nature of the appeal and the specific facts and circumstances supporting the appeal, including all reasons why the action or decision should be changed or modified and all supporting documents.

SECTION F: INFORMAL REVIEW BY THE EXECUTIVE DIRECTOR

1. **President/CEO Actions.** Upon receipt, and in the first instance, appeals are subject to an informal review by the NBCC President/CEO or his/her designee. Following review of the applicant's or candidate's appeal and request for review, the President/CEO or his/her designee may take one of the following actions:
 - a. The President/CEO or his/her designee may modify the adverse action or decision, or take other appropriate action; or,
 - b. The President/CEO or his/her designee may refuse to further process the appeal because of inadequate cause or is deemed to be frivolous; or,
 - c. The President/CEO or his/her designee may refer the appeal to the Certification Appeals Committee for review and resolution.

2. **Referral Of Appeal.** In the event that the appeal is referred to the Certification Appeals Committee for resolution, the President/CEO or his/her designee will provide the Certification Appeals Committee with all materials relevant to the appeal, including the documents and materials submitted by the applicant. This may include such items as past Board rules and motions and staff written opinions.

SECTION G: FIRST APPEAL/CERTIFICATION APPEALS COMMITTEE

1. **Circumstances And Conditions Of Appeals.** In the event that the appeal has been referred to the Certification Appeals Committee for resolution, or where the applicant is dissatisfied with the final informal review and action of the President/CEO or his/her designee, the applicant may submit the appeal to the Certification Appeals Committee for resolution.

Only the following actions and decisions of the President/CEO or his/her designee may be appealed by the applicant:

- a. The applicant is ineligible to sit for the Certification Examination,
- a. The applicant's Certification Examination has been re-scored and he/she has failed to pass the examination; and
- c. The applicant has been denied certification after successfully passing the Certification Examination and has submitted a Certification Application.

SECTION H: TIME PERIOD FOR FIRST APPEAL

An applicant may file a written appeal to the Certification Appeals Committee within thirty (30) days of the date of the final action of the President/CEO or his/her designee, unless the time for filing the appeal has been enlarged by the Certification Appeals Committee upon written request of the applicant received at least fifteen (15) days prior to the appeal deadline.

SECTION I: CONTENTS OF THE APPEAL TO THE CERTIFICATION APPEALS COMMITTEE

1. **Required Information And Grounds For Appeal.** In order for an appeal to be considered by the Certification Appeals Committee, the appeal is limited to the following grounds and must contain the following information:
 - a. The identity and signature of the individual applicant submitting the appeal;
 - b. Substantial evidence of the one of the following grounds:
 - (1). The applicant's eligibility to sit for the certification examination was incorrectly reviewed and denied; or
 - (2). The certification examination was incorrectly scored, and as a direct result of the incorrect scoring the applicant receives a passing score on an NBCC examination; or
 - (3). The applicant's eligibility for certification was incorrectly or inaccurately evaluated under the qualification standards in use at the time certification

was sought, and the applicant would have qualified for certification if the applicant had been evaluated properly and accurately.

- c. All objections, corrections, and facts, the applicant believes to be relevant to the appeal, including all documents and exhibits in support of the appeal.
- d. The names, addresses, and telephone numbers of people who can provide-relevant information regarding the appeal.

SECTION J: REQUESTS FOR HEARING OF FIRST APPEAL/IN-PERSON, TELEPHONE AND RECORD HEARINGS

1. **In-Person And Telephone Hearings.** Within fifteen (15) days of submitting an appeal, an applicant may request, in writing, an informal, in-person, or telephone hearing before the Certification Appeals Committee. Any request for an in-person or telephone hearing must contain the following information:
 - a. If the applicant requests a hearing by telephone, the telephone number where the applicant can be reached on the day and at the time scheduled for the hearing;
 - b. If the applicant intends to appear at the hearing with an attorney or other representative, the name, address, and telephone number of such representative;
 - c. If the applicant intends to present others at the hearing, the names, addresses, telephone numbers, and a summary of the information to offered by such witnesses; and
 - d. Copies of any and all documents or other information the applicant wants to submit concerning the appeal.
2. **Appeal Hearings On The Written Record.** In the event that the applicant does not request an in-person or telephone hearing, the appeal will be decided based on the appropriate written record, as determined by the Certification Appeals Committee

SECTION K: FIRST APPEAL HEARINGS

1. **Scheduling Of Appeals.** Within forty-five (45) days of receipt of a proper, written appeal, the Certification Appeals Committee will schedule a date and time for consideration of the appeal, generally not later than one-hundred twenty (120) days after receipt of the appeal, and notify the applicant of the appeal date and time.
2. **Hearing Officer.** The President/CEO or his/her designee or other authorized NBCC representative will preside over and conduct each appeal hearing.
3. **Collection And Receipt Of Information.** The Hearing Officer will conduct an informal hearing in order to collect and weigh all of the available information. The Hearing Officer and the Certification Appeals Committee will consider all relevant information. The relevance of information as well as questions related to procedural issues will be decided by the Hearing Officer. These decisions are not subject to further appeal.
4. **Applicant Presentation.** The applicant may make an oral or written presentation and

will respond to questions asked by the Hearing Officer or members of the Certification Appeals Committee.

5. **Legal Counsel.** NBCC Legal Counsel may be present at an appeal hearing and may conduct the hearing with the Hearing Officer at the discretion of the Hearing Officer. Legal or other representatives of the appealing party do not have such privilege and are bound by the determinations and rulings of the Hearing Officer and NBCC Legal Counsel.
6. **Witnesses.** All witnesses will be excluded from the hearing except during presentation of their information. Hearings are confidential and private. No observers are permitted without special permission from the Hearing Officer.
7. **Hearing Record.** A taped, written, or other record of the hearing, as determined by the Hearing Officer, will be made by the Hearing Officer, or another person designated by the Hearing Officer.
8. **Expenses.** The applicant will be responsible for her/his own expenses associated with the appeal, including all expenses associated with his/her or witness attendance at the hearing. NBCC will bear other general costs of conducting the hearing, including costs associated with the activities of NBCC representatives, and staff.
9. **Closing Of Hearing Record.** The hearing and appeal record will be closed following the conclusion of the hearing, unless otherwise directed by the Hearing Officer. The applicant, the Hearing Officer, the President/CEO or his/her designee, or a member of the Certification Appeals Committee may request that the record remain open for up to thirty (30) days for the purpose of receiving additional information relevant to the appeal. The Hearing Officer may deny requests to keep records open and such a denial is not subject to appeal.

SECTION L: FIRST APPEAL DECISION

1. **Decision Of The Certification Appeals Committee.** Following the close of the appeal record, the Certification Appeals Committee will review the record of the appeal, including the action or decision of the President/CEO or his/her designee, the information and materials received from the applicant, and resolve and decide the appeal. The appeal decision will include the findings of the Certification Appeals Committee and a summary of the relevant facts upon which the decision is based. The appeal decision will be prepared and issued under the direction of the President/CEO or his/her designee and/or the Hearing Officer within thirty (30) days, after the closing of the record, or as soon thereafter as is practical.

SECTION M: FINAL APPEAL TO THE BOARD OF DIRECTORS

1. **Grounds For Final Appeals.** If an applicant chooses to appeal the first appeal decision, a final appeal may be taken to the Board of Directors. The grounds for such an appeal

are limited to the presentation of new or previously undiscovered information that is directly relevant to the applicant's eligibility, and which, if accepted, could result in the applicant being eligible for certification.

SECTION N: TIME PERIOD FOR FINAL APPEAL

An applicant may file a written appeal to the Board of Directors within thirty (30) days of the date of the first appeal decision of the Certification Appeals Committee. Any appeals received beyond this date will not be reviewed or considered by the Board of Directors.

SECTION O: CONTENTS OF FINAL APPEAL TO THE BOARD OF DIRECTORS/GROUNDS FOR FINAL APPEAL

- 1. Grounds And Required Information For Appeal.** In order for a final appeal to be considered by the Board of Directors, the appeal is limited to the following grounds and must contain the following information:
 - a. The identity and signature of the applicant submitting the appeal;
 - b. Substantial support for, and evidence of, one of the following grounds:
 - (1). Information and facts indicating that a procedural rule was misapplied in the first appeal decision by the Hearing Officer and the Certification Appeals Committee;
 - (2). Evidence of new or previously undiscovered information and facts which were not reasonably available to the applicant prior to the first appeal hearing and decision, and which could have significantly influenced the outcome of the first appeals hearing in the applicant's favor;
 - (3). Facts demonstrating that the first appeal decision is contrary to the most substantial information presented at the hearing.
 - c. With respect to the grounds listed in sections 1(b)(1) and 1(b)(3), above, the Board of Directors will only consider arguments which were previously presented to the Certification Appeals Committee.

SECTION P: FINAL BOARD OF DIRECTORS APPEAL PROCESS

- 1. Scheduling Of Final Appeal.** Within sixty (60) days of receipt of a proper written appeal, the Board of Directors will schedule a date, usually not later than the next regularly-scheduled Board meeting, on which to consider the appeal, and notify the applicant of the date the appeal will be considered.
- 2. Appeal Review.** The Board of Directors will conduct an informal hearing designed to review and consider all of the available information, including the record of the first appeal and the materials submitted by the applicant.
- 3. Written Presentation To The Board.** The applicant may submit a written presentation to the Board of Directors which fully explains any claims, arguments and objections concerning the appeal and which addresses the grounds for appeal set forth in Section

N.1, above.

4. **Applicant Appearances Before The Board.** At least thirty (30) days prior to the date scheduled for a final appeal, an applicant may request the opportunity to appear before the Board of Directors. The Chair or the President/CEO or his/her designee will determine whether a request to appear before the Board is accepted. In the event that a request to appear is accepted, the Board of Directors may limit the appearance in any manner, or may require the applicant to present certain information or materials. Denials of requests to appear before the Board are not appealable.

SECTION Q: FINAL DECISION OF THE BOARD OF DIRECTORS

1. **Decisions of the Board of Directors.** Following the review of a final appeal, the Board of Directors will decide the appeal. The Board will consider all relevant information and include a summary of its findings in the appeal decision. The Board will issue its final appeal decision within thirty (30) days of the closing of the review of the appeal, or as soon thereafter as is practical.

SECTION R: FINALIZING AND CLOSING APPEALABLE MATTERS

1. **Conditions For Closing The Appeal.** An appeal will be closed and all proceedings ended when any of the following occurs:
 - a. An appeal has been resolved and decided by the President/CEO or his/her designee, the Certification Appeals Committee, or the Board of Directors, and the allowable time period for the filing of an appeal, pursuant to these procedures and rules, has lapsed; or
 - b. The appeal has been withdrawn or terminated by the applicant.

Approved by the NBCC Board of Directors: October 1997.

Amended: March 1, 2008.

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