

NWCCU POLICIES | PROCEDURE FOR APPEALS

This Policy is intended to set forth the Commission's procedure for appeals. An institution that is aggrieved by an adverse action issued by the Northwest Commission on Colleges and Universities may appeal.

- a. The institution must give written notice of its intention to appeal within seven (7) days of the institution's receipt of the accreditation decision.
- b. The notice of intention to appeal shall set forth the specific grounds for the request, and shall include a statement of the reasons for each ground, along with any other relevant statements or documents the institution desires to include.
- c. The notice of intention to appeal must be filed with the President of the Northwest Commission on Colleges and Universities.
- d. Upon appeal, the prior status of the institution, if any, shall be restored pending disposition of the appeal.

The Northwest Commission on Colleges and Universities shall provide institutions the opportunity to appeal adverse actions, issuance or continuation of Show-Cause orders, and/or imposition or continuation of Probation. The Commission will provide the institution in a timely manner with written notification of the result of the appeal as well as a detailed explanation for the result.

An appeal shall be based on one or more of the following grounds:

- a. the evaluator(s) and/or the Commission made substantial errors or omissions in carrying out prescribed procedures which affected the decision of the Commission;
- b. the evidence before the Commission at the time the accrediting decision was made was materially in error;
- c. the decision of the Commission was not adequately supported by the facts before it at the time, or it was contrary to the substantial weight of evidence before the Commission.

In handling properly filed appeals, the Chair of the Northwest Commission on Colleges and Universities shall appoint a seven-member Appeal Board to consider the grievance and designate the chair. Members of the Appeal Board shall consist of representatives employed full-time by member institutions with the exception of one member who shall represent the public. At least one member of the Appeal Board shall represent an institution with similar characteristics to those of the institution filing the appeal. No member of an Appeal Board shall be a current member of the Northwest Commission on Colleges and Universities or shall have served on an evaluation committee to the aggrieved institution. Members of the Appeal Board shall be subject to the Northwest Commission on Colleges and Universities' conflict of interest policy.

The Chair of the Northwest Commission on Colleges and Universities shall set the date, time, and place of the hearing by the Appeal Board. The hearing shall be no later than one hundred twenty (120) days after receipt of the appeal and there shall be at least thirty (30) days written notice of the hearing given to the Commission and to the institution. If the institution and/or the Commission plan to call witnesses at the hearing, they shall provide the Chair of the Northwest Commission on Colleges and Universities and the opposing party with all the witnesses' names and positions at least five (5) calendar days before the hearing.

In carrying out its duties the Appeal Board shall:

- a. meet at the time and place designated by the Chair to consider the appeal;
- b. provide a hearing if the institution so requests;
- c. consider the grounds for the appeal as alleged by the institution;
- d. study the evidence submitted by the institution in support of its allegation;
- e. consider the report of the evaluation committee, the institution's response, and other supporting statements and documents;
- f. consider whether the Commission substantially followed stated policies and procedures;
- g. prepare a report of the meeting of the Appeal Board, including a final judgment of the Board, within twenty (20) days after the end of the hearing; and
- h. forward a record to the Chair of the Northwest Commission on Colleges and Universities, including a report of the hearing of the Appeal Board, the appeal filed by the applicant, and other relevant statements and documents considered by the Board.

The Chair of the Appeal Board may retain legal counsel as he/she deems appropriate and may decide any prehearing issues that may arise. Discovery such as depositions, interrogatories, and production of documents is not available to the parties except by mutual agreement. The chair of the Appeal Board shall make an initial determination of whether the Appeal Board has jurisdiction to hear the appeal.

- a. The chair of the Appeal Board shall control the hearing and the presentation of the evidence. He/she shall ensure that all participants have a reasonable opportunity to be heard and to present relevant oral and written evidence. The Chair of the Appeal Board may limit the duration of a hearing dividing the available time equitably between the parties.
- b. The technical rules of evidence shall not apply, but the Chair of the Appeal Board may limit the evidence to avoid undue repetition and to ensure relevance. He/she shall rule on all questions pertaining to the conduct of the hearing.
- c. The institution's presentation during the appeal hearing shall be strictly limited to those matters raised in the appeal documents; no additional written materials or evidence unavailable to the Commission at the time of its action may be presented.
- d. Each party shall have the right to be represented by counsel or authorized spokesperson, to examine the witnesses of the other party, and to present oral and written evidence.

- e. The hearing shall be closed. A secretary shall record the minutes of the hearing. A court reporter may be present to prepare a record of the hearing at the election of either party and at the expense of the electing party. Where the hearing is closed, only necessary participants shall be present.
- f. The Appeal Board shall uphold the appeal of an institution only when it is shown with clear and convincing evidence that the institution sustained one of the grounds for appeal listed under Grounds for Appeal, items a. through c.

New Financial Evidence

No later than fifteen (15) days prior to the date the Appeal Board is scheduled to meet, the institution may file, in writing, with the Commission President, on one occasion only, financial information, which in the opinion of the institution's chief administrative officer constitutes evidence ("New Evidence") that (a) was not available to the institution at the time the Commission voted for the adverse accrediting action, and (b) is deemed to be so substantial and material that had it been available it is likely to have had a bearing on the decision of the Commission to issue an adverse accrediting action, and (c) the only remaining deficiency cited by the Commission in support of a final adverse action decision is the institution's failure to meet a Commission standard pertaining to finances.

The Commission President shall appoint a committee of not fewer than three (3) Commissioners (the New Evidence Committee) to review the New Evidence. If, in the sole judgment and discretion of the New Evidence Committee, acting by majority vote, the New Evidence is considered substantial and material to the decision and was not previously available to the institution for submission to the Commission, the Commission President, at the request of the New Evidence Committee, shall postpone any further proceedings or action until the next meeting of the Commission at which time it will consider the New Evidence, and make a further decision upon the basis of all the evidence, including the New Evidence. Should the Commission reaffirm an adverse accrediting action, including any modifications or revisions thereto, the institution shall not have the right to appeal the reaffirmation as modified or revised. The decision by the New Evidence Committee that the New Evidence is not substantial and material or that such evidence was previously available to the institution for submission to the Commission shall not be subject to appeal.

The Appeal Board shall have the authority to affirm, amend, reverse or remand the Adverse Accrediting Action and will direct the Commission to implement the decision in a manner consistent with the Appeal Board's decisions or instructions. In a decision to remand the adverse action to the Commission for further consideration, the Appeal Board must identify specific issues that the Commission must address. The Appeal Board shall inform the institution and the Commission within seven days of filing its decision with the President of the Commission. Notifications to the Commission and to the institution shall be hand delivered or sent by certified mail, return receipt requested. No later than 60 days after the decision the Commission shall inform the United States Secretary of Education and the appropriate state licensing or authorizing agency. Written notification to the public will be available within 24

hours of notifying the institution.

The request for a hearing shall be accompanied by a deposit of \$25,000.00 to the Northwest Commission on Colleges and Universities to cover necessary costs of the appeal. The costs shall include travel, meals and lodging, and other actual and necessary expenses of the Appeal Board. If the institution is represented by legal counsel at the hearing, it shall provide the name of its legal counsel to the Appeal Board at least 30 days in advance of the hearing, and the institution shall deposit an additional \$50,000.00. Upon final disposition of the appeal, the parties shall be provided a detailed written statement of their share of the costs. Any unused portion of the institution's deposit shall be refunded.

- a. If the decision of the Commission is sustained, the entire cost of the Appeal Board, and cost of Commission legal counsel, shall be borne by the institution.
- b. If the institution's appeal is upheld, the cost of the Appeal Board shall be borne equally by the institution and Commission and each shall each bear the cost of its own legal counsel.

Adopted 1988, Revised 1997, 2003, 2007, 2010, 2011, 2013