

# NWCCU POLICIES | PROCEDURE FOR APPEALS

---

An institution that is aggrieved by an adverse decision of the Northwest Commission on Colleges and Universities (“NWCCU”) may file a written appeal.

## **Adverse Decisions that may be Appealed**

1. Denial of Candidacy or Initial Accreditation;
2. Denial of Accreditation;
3. Termination of Candidacy or Accreditation.

## **Grounds for Appeal**

1. There were errors or omissions in carrying out prescribed procedures on the part of the evaluation team or NWCCU;
2. There was bias or prejudice on the part of one or more members of the peer review evaluation team or NWCCU which materially affected NWCCU’s decision;
3. The procedures used to reach the decision were contrary to NWCCU’s By-laws, Standards for Accreditation, Eligibility Requirements, or Policies; or
4. NWCCU’s decision was arbitrary, capricious, or not supported by substantial evidence in the record upon which NWCCU took action.

## **Appellate Procedures**

1. The appellant institution must serve an electronic copy of the notice of appeal upon NWCCU within fourteen (14) calendar days of receipt of the notice of adverse decision, along with a \$25,000.00 deposit to cover costs of appeal including travel, meals, lodging, and other expenses of the Appeal Board. If the appellant institution intends to be represented by legal counsel at the hearing, it must identify legal counsel at least fourteen (14) calendar days following selection of the hearing date.
2. The notice of appeal must be signed by the President, Chancellor, or Chief Executive Officer of the appellant institution. The notice of appeal must set forth the specific grounds for the appeal, a statement of the reasons for each ground, attach supporting documents, and state whether the appellant institution requests an opportunity to call witnesses and make an oral presentation in support of the appeal.
3. Once a notice of appeal is served upon NWCCU by the appellant institution, the prior accreditation status of the appellant institution shall remain in effect until a decision on the appeal is made by the Appeal Board.
4. Discovery such as depositions, interrogatories, and production of documents is not available to the parties except by mutual agreement.

## **Selection of the Appeal Board**

Within twenty-one (21) calendar days of NWCCU’s receipt of the notice of appeal, the Chair of the NWCCU Board of Commissioners will appoint a Chair and four additional members to the Appeal Board. Members of the Appeal Board must consist of experienced peer review evaluators employed full-time

by member institutions and one member who shall represent the public. At least one member of the Appeal Board must represent an institution with characteristics similar to those of the appellant institution. No member of the Appeal Board may be a current member of the NWCCU Board of Commissioners or may have served on a peer review team evaluating the appellant institution during the past ten (10) years. Members of the Appeal Board must attest to NWCCU's conflict of interest policy, agree to keep confidential all information gained as part of their service on the Appeal Board, and agree not to make use of such information for any other purpose.

### **Chair of Appeal Board**

Within fourteen (14) calendar days of the appointment of the Appeal Board, the Chair of the Appeal Board shall set the date and time of the hearing. The date of the hearing shall be no later than one hundred twenty (120) calendar days after selection of the Appeal Board. The Chair has discretion to determine the location and duration of the hearing with consideration to the complexity of the issues and the convenience, resources and cost to the parties in order to conduct the appeal in a fair and cost-efficient manner. The Chair will administer oaths, decide procedural matters, rule on admissibility of evidence, and preside over the hearing. The Chair may retain legal counsel as deemed appropriate.

### **Designation of Record by NWCCU**

Within fourteen (14) calendar days of receipt of the notice of appointment of the Appeal Board, NWCCU must deliver an electronic copy of the record of the adverse decision to the Chair of the Appeal Board and to the appellant institution.

### **Administrative Record**

The administrative record includes the notice of appeal and supporting documents, the report of the peer review evaluation team, all documents considered by NWCCU in rendering the adverse decision on appeal, witness testimony, and written submissions of the parties.

### **Witnesses**

Any party that plans to call a witness at the hearing must provide the name, position, and written summary of the expected testimony to the Chair of the Appeal Board and the opposing party at least thirty (30) calendar days before the hearing. Each party shall have the right to question witnesses. Members of the Appeal Board may question witnesses. No post-hearing submissions may be presented by the parties unless requested by the Appeal Board.

### **Hearing Memoranda**

Fourteen (14) calendar days before the hearing, the parties must submit an electronic copy of a memorandum of authorities in support of their respective positions on the appeal.

### **Conduct of the Hearing**

The hearing is not a judicial proceeding. Court rules of evidence do not apply. The appellant institution shall have the burden of proof in seeking to reverse or remand the adverse decision by NWCCU. The appellant institution's presentation must be strictly limited to those matters

raised in the notice of appeal. If the appellant institution failed to present available information at the time NWCCU made the adverse decision, it may not submit that information in support of its appeal. No additional written materials or evidence, unavailable to NWCCU at the time of its decision on appeal, may be presented by the appellant institution. The only exception is where an institution's accreditation is being withdrawn solely for financial reasons. In this case, the appellant institution may present new information relating to changes in the appellant institution's financial status since the adverse decision. Updated financial information may only be offered if it was not available to the appellant institution or to NWCCU at the time NWCCU made the adverse decision and the Appeal Board determines that had the new financial information been available, it is likely to have had a bearing on NWCCU's decision.

If an appellant institution presents new information to the Appeal Board regarding its financial status, it must provide the information to the Chair of the Appeal Board and to NWCCU at least thirty (30) calendar days in advance of the hearing, along with verification of its accuracy by a certified public accountant. NWCCU shall have an opportunity to provide a statement as to whether such information is new and whether it might have had a bearing on NWCCU's decision. The Chair of the Appeal Board may rule on the introduction of the new financial information. If an objection to the Chair's ruling is made by either party, the full Appeal Board will make a final decision on admissibility.

The appellant institution will have the initial burden of going forward with its contentions concerning NWCCU's adverse decision. NWCCU will have the opportunity to present witnesses and documents in response to contentions of the appellant institution.

The hearing is closed to the public with only necessary participants present. The hearing, but not the discussions and votes of the Appeal Board, will be recorded. A party that requests a transcript must bear the cost of transcription.

### **Decision of the Appeal Board**

Decisions of the Appeal Board are by majority vote. The Appeal Board may affirm or reverse the adverse decision. The Appeal Board may uphold the appeal of the appellant institution only when it is shown by clear and convincing evidence that the appellant institution proved one or more of the grounds listed in the notice of appeal. The Appeal Board may remand the adverse decision to NWCCU for further consideration if it is determined that NWCCU failed to follow its written procedures or there was an error in its proceedings and that the failure or error was a significant factor that led to NWCCU's decision. In such a case, the Appeal Board must identify the specific procedures that NWCCU did not follow or must address the error in the proceedings with specific instructions to NWCCU to review the decision on appeal, taking into consideration the findings of the Appeal Board.

The Appeal Board will render its decision in writing within fourteen (14) calendar days of the conclusion of the hearing. If post-hearing submissions were requested by the Appeal Board, the decision will be rendered within fourteen (14) calendar days of the additional submissions. If no hearing was requested by the parties, the decision will be made within thirty (30) calendar days of receipt of the written submissions. The Appeal Board will prepare a summary of its reasons in support of its decision. The decision of the Appeal Board is deemed a final accreditation action of

NWCCU and shall not be subject to further review. NWCCU must notify relevant federal and state authorities of the decision in accordance with existing law.

### Costs of Appeal

Upon final disposition of the appeal, the Appeal Board shall submit a statement of costs. If expenses of the appeal exceed the deposit, the appellant institution will be assessed the additional amount and must make payment within fourteen (14) calendar days of receipt of the assessment. If expenses of the appeal are less than the deposit, the difference will be refunded within fourteen (14) calendar days by NWCCU to the appellant institution.

### Timetable for Appeals

Timeline	Party Responsible	Detail
Within fourteen (14) calendar days of receipt of adverse decision	Appellant Institution	Must serve notice of appeal
At least fourteen (14) calendar days after selection of hearing date	Appellant Institution	Must make additional deposit if represented by legal counsel at hearing
Within twenty-one (21) calendar days of NWCCU's receipt of the notice of appeal	Chair of the NWCCU Board of Commissioners	Appointment of Appeal Board
Within fourteen (14) calendar days of appointment of Appeal Board	Chair of the Appeal Board	Selection of date of the hearing
Within fourteen (14) calendar days of the appointment of the Appeal Board	NWCCU	Delivery of the record of the adverse decision
At least thirty (30) calendar days before the hearing	Parties	Identification of witnesses
Fourteen (14) calendar days before the hearing	Parties	Service of memoranda of authorities
At least thirty (30) calendar days in advance of the hearing	Appellant Institution	New information regarding financial status
Within thirty (30) calendar days of receipt of the written submissions	Appeal Board	If no hearing requested by the parties, the Appeal Board must render its decision
Fourteen (14) calendar days following conclusion of the hearing	Appeal Board	The Appeal Board must render its decision
Fourteen (14) calendar days following receipt of post-hearing submissions	Appeal Board	The Appeal Board must render its decision.

Adopted 1988, Revised 1997, 2003, 2007, 2010, 2011, 2013, June 2020