



Complaint, Dispute, & Grievance Policy

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NABCEP COMPLAINT, DISPUTE, AND GRIEVANCE RESOLUTION POLICY

A. General Provisions

1. Scope/Purpose of Policy. In the absence of another specific or controlling policy and/or procedure, the following process is the sole and exclusive means by which any NABCEP operational or policy complaint, objection, dispute, grievance, disagreement, or similar matter (grievance matter) will be reviewed and resolved. All NABCEP organizational representatives, and candidates and certificants, accept this process policy as the appropriate and binding organizational system for the fair, equitable, orderly, and efficient consideration and settlement of such matters, without resort to governmental, court, or other outside procedures.
2. Application of Policy. This policy will apply to any grievance matter concerning an action, policy or practice of the NABCEP as a corporate body; NABCEP candidates or certificants; the NABCEP Board of Directors and Officers; NABCEP executive management and staff; NABCEP Committee members; and NABCEP volunteers and representatives acting on behalf of the NABCEP (parties).
3. Confidentiality of Process/Participation of Non-Parties. All non-final resolutions, proceedings, and materials related to this policy are confidential and private, and will be maintained securely by NABCEP and the parties. Other than the parties involved, no observers or other persons are permitted to participate in the processes established by this policy without the permission of the designated NABCEP authority, and the denial of such permission is not subject to further review or appeal.
4. Parties. The individual, group, or organization initiating a grievance matter will be identified as the grievant(s). The individual, group, or organization that is the subject of

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the grievance will be identified as the respondent(s).

5. Information and Proof Accepted. The designated NABCEP authority will receive and consider all information appearing to be relevant to the grievance matter, including any information that may be helpful to a complete understanding of the issues involved. Objections relating to the relevance of information and similar issues will be decided by the designated NABCEP authority, and such decisions are not subject to further review or appeal.
6. Failure To Cooperate/Submission of Misleading or False Information. All parties must behave in a courteous and professional manner when communicating with NABCEP representatives. Any party, including a grievant who is not associated with NABCEP, must cooperate with the designated NABCEP authority with respect to the grievance resolution process. Failure to cooperate may result in the imposition of corrective actions or sanctions by NABCEP, including the denial or acceptance of a grievance matter, or other appropriate corrective actions. Similarly, any party who submits false or misleading information to NABCEP with respect to a grievance matter may be subject to appropriate corrective action or sanction.
7. Fiduciary Responsibility and Retention of Legal Rights. Notwithstanding any provision of any corporate policy to the contrary, consistent with legal fiduciary responsibilities and NABCEP governing documents, NABCEP retains all rights and privileges to: seek any available legal remedies and relief on behalf of itself and authorized representatives; and defend itself and authorized representatives to the fullest extent permitted by law.

B. Initial Review

1. Submission of Grievance Matter. At least three (3) members of the NABCEP Appeals, Grievance, and Ethics Committee will be appointed to serve as the Grievance Committee to resolve grievance matters. Upon receipt, and in the first instance, all grievance matters will be received and considered by the Grievance Committee. In the event of a possible conflict of interest, or other appropriate basis for referral, the Grievance Committee may refer the matter to the NABCEP Chair, an appropriate manager, or another appropriate, authorized designee (Resolution Officer) for initial review and resolution.
2. Grievance Committee Review and Actions. The Grievance Committee will conduct a preliminary review of the grievance matter, including the collection and consideration of all relevant information and materials submitted by the parties or others in possession of relevant information. Following such review, the Committee may take any of the following actions:
 - a. Request or direct that one or more of the parties, or others, provide relevant documents or information necessary to consider and resolve the grievance matter;
 - b. Issue an informal resolution to the matter, or require that the parties involved submit to informal mediation of the grievance, as authorized by Section C, below;

- c. Issue a formal resolution to the matter, which will include a written, initial decision and resolution, and may include any appropriate corrective or remedial action(s) and/or disciplinary sanction(s). Among other formal resolution conclusions, the Grievance Committee may: affirm the grievance in whole or in part; or, deny and dismiss the grievance in whole or in part; or,
 - d. Refer the matter to the NABCEP Chair, or other designated Resolution Officer, for review, further referral, and/or resolution.
3. Referral to Other Resolution Officer. In the event that the Grievance Committee refers a matter to a Resolution Officer, the Committee will provide all relevant materials, including the documents and materials submitted by the parties and others in possession of relevant information. The designated Resolution Officer is authorized to exercise the same authorities granted to the Grievance Committee with regard to the review and resolution of the grievance matter.

C. Informal Mediation

1. Matters Appropriate for Mediation. The Grievance Committee or Resolution Officer may determine that a grievance matter is appropriate for informal mediation, based on the facts and circumstances of the matter. Such mediation will be intended to assist the parties in reaching a fair, informal, mutually acceptable settlement of the issues and concerns presented without resort to any formal process.
2. Designation and Role of Mediator(s). Once a matter is determined to be appropriate for mediation under this policy, the Grievance Committee or Resolution Officer, in consultation with the parties, will appoint one or more designated Mediators to supervise and oversee the mediation process, consistent with the terms of this policy. The Mediator is authorized to begin and conclude the necessary meetings, discussions, and negotiations appropriate to reaching a mediated settlement of the matter.
3. Successful Mediation. In the event that the parties reach a successful, mediated resolution of the grievance matter, the Mediator will prepare a report identifying the resolution terms, and forward the report to the parties for approval, and to the Grievance Committee or Resolution Officer for receipt.
4. Unsuccessful Mediation. In the event that the parties are unable to reach a successful, mediated resolution of the grievance matter, the Mediator will refer the matter to the Grievance Committee or Resolution Officer for resolution, consistent with Section B, above, and other controlling terms of this policy.

D. Appeals to the Board of Directors

1. Form of Board of Directors Appeals/Time Requirements. In the event that a party is dissatisfied with a grievance resolution, the party may request Board of Directors review

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of the appeal by a written communication to the Chair, consistent with the requirements of this policy. Such appeal communication must be received by NABCEP within thirty (30) days of the date upon which the appealing party received the resolution of the matter, or the resolution will be final and binding upon all parties.

2. Contents of Appeal Communications to the Board of Directors. In order to be considered, an appeal communication to the Board of Directors must provide the following information in an appropriate, clear and detailed manner:
 - a. A statement of the grounds of the appeal, which specifically explains the basis of the appeal;
 - b. A statement that describes the portion or portions of the grievance resolution disputed by the party, including a specific description of any findings, conclusions, or remedial actions which the party challenges or believes to be in error;
 - c. A statement that describes the findings, conclusions, or remedial actions that the party seeks from the Board of Directors;
 - d. References to all Board of Directors or corporate policies and rules that the party believes may apply to the appeal and the resolution of the grievance matter; and,
 - e. Accurate copies of any written documents or other materials that the party believes are relevant to, and support, the appeal;
3. Board of Directors Review and Decisions. The Board of Directors will review an appropriate appeal in closed session and, thereafter, resolve and decide the appeal based on the record. The Board will consider the relevant information and include a summary of its findings in the appeal decision. The Board may affirm, modify, or reverse a grievance matter resolution based on its findings. The Board will issue its final appeal decision to the parties.
4. Finality of Board Decisions and Resolutions. All Board appeal decisions and resolutions will be final and binding on all parties. No additional or further appeals are permitted.

E. Resolution and Appeal Hearings

1. Hearing Authorizations. A party may request that a grievance matter review and resolution, or Board of Directors appeal, include an informal telephone, or when appropriate, in-person hearing. Such request must be made in a timely manner and prior to the issuance of a grievance or appeal resolution, and must include a statement of the reasons that the party believes support the use of a hearing process. The decision to grant or deny a hearing request will be made by the Grievance Committee, Resolution Officer, or the Board of Directors, as appropriate (designated NABCEP authority), and is not subject to appeal.

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2. Hearing Process. Any hearing authorized or convened under this policy will be informal, and designed to collect and weigh the available, relevant information and proof. The designated NABCEP authority conducting the hearing will have full authority and responsibility to convene, preside over, continue, and conclude the hearing in a fair, objective, and efficient manner.
3. Hearing Schedule and Location. Each hearing convened under this policy will be scheduled by the designated NABCEP authority in consultation with the parties. Each hearing will be held by telephone, or at a site determined by the designated NABCEP authority.
4. Hearing Notice and Participation. The designated NABCEP authority will schedule the hearing and notify the parties in writing at least thirty (30) days prior to the scheduled hearing date. Any hearing may proceed to a conclusion whether or not the parties are present. Each party will be given the option to participate in the hearing and will be required to indicate the following at least twenty-one (21) days before the scheduled hearing:
 - a. Whether the party intends to participate in the hearing; if such participation is via telephone, the telephone number where the party is to be reached during the hearing;
 - b. Whether the party intends to participate in the hearing with an attorney or other representative, and if so, the name, address and telephone number of such attorney or representative;
 - c. Whether the party intends to present witnesses at the hearing, and if so, the name, address and telephone number of each witness and a brief summary of the content of proposed witness testimony; and,
 - d. Whether the party intends to present and refer to any documentary information or other written proof during the course of the hearing, and if so, the party must provide a copy of each document and a brief description of the relevance of the material prior to the hearing.
5. Responsibilities and Rights of the Parties. In addition to other responsibilities and rights, the parties may do, or be required to do, the following:
 - a. Participate in the hearing and be present during the testimony of all witnesses;
 - b. Present witnesses, written information and argument on their behalf;
 - c. Review or inspect all oral or written information presented in the case; and,
 - d. Comply with all lawful requirements or directives issued by the designated NABCEP authority, consistent with the terms of this policy.

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6. Witnesses. All witnesses will be excluded from the hearing except during their presentation of information. However, a party may request that a witness remain present during all or part of the hearing. The designated NABCEP authority will rule on any request, and the ruling will not be subject to appeal.
7. Hearing Expenses. Parties will be responsible for their own expenses associated with the hearing, including costs associated with transportation, witnesses, legal counsel, and the like. NABCEP will bear all general hearing expenses and other grievance matter costs, including costs associated with the participation of NABCEP representatives.
8. Closing of the Hearing Record. The record of each hearing will be closed following the conclusion of the hearing, unless otherwise directed by the designated NABCEP authority. Any party may request that the record remain open for thirty (30) days for the purpose of receiving additional documentary information or similar materials. The designated NABCEP authority will rule on any request, and the ruling will not be subject to appeal.