

NABCEP Appeals Policy

A. Introduction

The North American Board of Certified Energy Practitioners, Inc. (NABCEP), is a private, non-profit, professional credentialing organization that sponsors the development, maintenance, evaluation, promotion, and administration of a rigorous, examination-based certification program in the fields of renewable and sustainable energy and energy efficiency technologies. The purpose and goal of NABCEP is to assess and measure objectively the professional knowledge of renewable energy industry practitioners, and to promote the advancement of the renewable energy industry by identifying to professionals and the public those practitioners who have voluntarily met and satisfied relevant NABCEP standards.

In order to be certified by NABCEP, each Candidate must: satisfy all education and experience eligibility and credentials requirements established by the NABCEP Board of Directors; and pass a written certification examination. In addition, all individuals certified by the NABCEP must demonstrate an ongoing professional commitment to the fields of renewable and sustainable energy and energy efficiency technologies in order to maintain certification.

NABCEP eligibility standards and certification requirements are applied fairly, impartially, and consistent with applicable laws. The NABCEP will not discriminate against any Candidate or Certificant on the basis of an unlawful reason, and will grant certification without regard to a Candidate's or Certificant's membership or non-membership in any organization, association, or other group.

NABCEP Certificants and Candidates seeking certification or recertification agree that: these procedures are a fair process for resolving certification complaint or appeal matters; they will be bound by decisions made pursuant to these procedures; these procedures are governed by the principles of the law of the State of Nevada; and, these procedures do not constitute a contract between the NABCEP and the Candidate or Certificant.

B. General Provisions

1. Nature of the Process. The NABCEP is directed, administered, and supervised by the NABCEP Board of Directors. All challenges regarding actions of and by the NABCEP are governed by the comprehensive and exclusive rules contained in these procedures. This appeal process is the only way to resolve all NABCEP application, eligibility, examination, and other certification or recertification challenges, complaints, and/or claims of irregularities.

Because these informal procedures are not legal proceedings, they are designed to operate without the assistance of attorneys. While a party may choose to be represented by an attorney, Candidates and Certificants are encouraged to communicate directly with the NABCEP. If a party has retained an attorney, that attorney will be directed to communicate with the NABCEP through the NABCEP Legal Counsel.

2. Participants. The NABCEP Executive Director, the Certification Appeals Committee, the NABCEP Board of Directors, and any other authorized representative of the NABCEP, may be involved in deciding matters to be resolved or arising under these procedures.

3. Time Requirements. The NABCEP will make every effort to follow the time requirements noted in these appeal procedures. However, the NABCEP's failure to meet a time requirement will not prohibit the consideration or final resolution of any matter arising under these procedures. NABCEP Candidates or Certificants are required to comply with all time requirements specified in this document. Unless provided otherwise, time extensions or postponements may be granted by the NABCEP if a timely, written request explaining a reasonable cause is submitted, consistent with these procedures.

4. Litigation/Other Proceedings. The NABCEP may accept and 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. The NABCEP may also continue or delay the resolution of any appeal, complaint, or other matter.

5. Confidentiality. In order to protect the privacy of all parties involved in matters arising under these procedures, all material prepared by, or submitted to, the NABCEP will be confidential. Disclosure of material prepared by, or submitted to, the NABCEP is permitted only when specifically authorized by NABCEP policy, the Board of Directors, the Certification Appeals Committee, or the Executive Director.

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

- a. Published certification and eligibility criteria;
- b. Records and materials that are disclosed as the result of a legal requirement;
- c. Upon the written request of a Candidate or Certificant, any certification information concerning certification status or application materials which the Candidate or Certificant would like made available to other credentialing agencies, professional organizations, or similar bodies; and,
- d. All decisions and orders of the Board of Directors, the Certification Appeals Committee, or the Executive Director, which are considered final and closed, consistent with these procedures.

6. Failure to Disclose/Improper, False, or Misleading Representations. Where a Candidate or Certificant fails to disclose information related to certification or recertification requested by the NABCEP, or where a Candidate or Certificant makes an improper, false, or misleading representation to the NABCEP, the Executive Director, Certification Appeals Committee, the Board of Directors, or other authorized representative may penalize or discipline the individual, and/or issue corrective action related to such failure or improper representation. The NABCEP may temporarily or permanently prevent and bar an individual from being certified or recertified, or may issue any other appropriate directive(s).

Where a penalty, discipline, order, or other directive is issued by the NABCEP under this Section, the Candidate or Certificant involved may seek review and appeal under these procedures.

7. Party Conduct/Failure to Cooperate. All parties must behave in a courteous and professional manner when communicating with NABCEP representatives. Where a Candidate or Certificant fails or refuses to cooperate fully with the NABCEP concerning matters arising under, or related to, these procedures, and it is determined that the lack of cooperation is without good cause, the Executive Director, Certification Appeals Committee, the Board of Directors, or other authorized representative may penalize or discipline the individual, and/or issue corrective action related to such failure to cooperate. The NABCEP may temporarily or permanently prevent and bar an individual from being certified or recertified, or may issue any other appropriate directive(s).

Where a penalty, discipline, order, or other directive is issued by the NABCEP under this Section, the Candidate or Certificant involved may seek review and appeal under these procedures.

8. Professional Complaint Matters. Following notice, and a reasonable opportunity to present a response, the Executive Director, Certification Appeals Committee, the Board of Directors, or other authorized representative may temporarily or permanently prevent an individual from being certified or recertified, or may issue any other appropriate directive(s), where the Candidate or Certificant was the subject of any complaint or similar matter relating to his/her professional activities as a renewable energy industry practitioner, or where the Candidate or Certificant is the subject of matters or proceedings involving criminal charges, lesser offenses, or similar matters regardless of: when the alleged violation occurred; and, whether the professional license of the Candidate or Certificant was in good standing at the time of the NABCEP decision or action.

Where a penalty, discipline, order, or other directive is issued by the NABCEP under this Section, the Candidate or Certificant involved may seek review and appeal under these procedures.

C. Actions and Decisions Concerning the Certification Process

1. Certification Application Actions. Under the supervision of the Executive Director acting with the guidance of the Application Review Committee, the NABCEP will make one of the following determinations and decisions with regard to a Candidate's application for NABCEP certification examination eligibility: (a) accept the application; (b) request additional or supplemental information; or, (c) reject the application on the ground(s) that the Candidate does not meet the relevant certification eligibility requirements, or the Candidate has violated, or acted contrary to, a NABCEP policy or rule.

2. Certification Examination(s) Actions. The NABCEP will notify each Candidate whether he/she has achieved a passing or failing score on the Certification Examination. Where a Candidate acts contrary to NABCEP policies during the administration of any Certification Examination(s) or Section, the Candidate may be prevented from taking or completing the Examination(s), or other appropriate action may be issued.

3. Recertification Application Actions. The NABCEP will make one of the following decisions with regard to a certificant's Recertification Application: (a) grant recertification; (b) conditionally accept the Recertification Application, pending satisfactory completion of all recertification requirements; (c) request additional information; or, (d) reject the application on the ground(s) that the certificant does not meet the necessary criteria for recertification, or the certificant has violated, or acted contrary to, a NABCEP policy or rule.

D. Initial Request for Review/NABCEP Executive Director

1. Grounds for Initial Appeal (Request for Review). A Candidate or Certificant may submit to the Executive Director an initial appeal (request for review) of an adverse NABCEP action or decision based on any of the following grounds:

- a. The Candidate was found to be ineligible to take or complete the Certification Examination;
- b. The Candidate did not pass or successfully complete the Certification Examination; or,
- c. The Candidate or Certificant failed to satisfy a certification or recertification requirement, including those requirements related to qualifications, education, and experience, or was otherwise ineligible for certification or recertification.

2. Content of a Request for Review. A Candidate or Certificant may submit a written request for review of an adverse certification-related action or decision by notifying the Executive Director in writing. The Candidate or Certificant must state and explain in detail the nature of the request and the specific facts and circumstances supporting the request, including all reasons why the action or decision should be changed or modified. The Candidate or Certificant must also provide accurate copies of all supporting documents.

3. Time Period for Submitting Request for Review. In order for a request for review to be considered by the Executive Director, the written request must be received by NABCEP within thirty (30) days of the date of the adverse action.

4. Executive Director Actions. Upon receipt, all requests for review will be considered informally by the Executive Director or other authorized NABCEP representative. Following review of the Candidate's or Certificant's request for review, the Executive Director will acknowledge receipt of the request within thirty (30) days, and may take the following actions:

- a. Informal Resolution. The Executive Director will resolve and decide the matter based on the record, including relevant and credible information presented by the Candidate or Certificant. The informal resolution will include the findings of the Executive Director and a summary of the relevant facts upon which the decision is based, and may uphold or modify the adverse action or decision, or indicate other appropriate action. The Executive Director will issue the informal resolution within thirty (30) days of receipt of the request, or as soon thereafter as is practical; or,

- b. Referral of Request. The Executive Director will refer the matter to the Certification Appeals Committee for resolution as an appeal. The Executive Director will provide the Certification Appeals Committee with all relevant materials, including the documents and materials submitted by the Candidate or Certificant.

E. Appeal/Certification Appeals Committee

1. Certification Appeals Committee. At least three (3) members of the NABCEP Appeals, Grievance, and Ethics Committee will be appointed to serve as the Certification Appeals Committee to resolve appeals or referred matters. Subject to the limitations set forth in these procedures, the Certification Appeals Committee will hear and resolve a first appeal where: the matter has been referred by the Executive Director; or, a Candidate or Certificant is dissatisfied with the final informal review and action of the Executive Director, and requests an appeal consistent with these procedures.
2. Grounds for Appeal. In order for an appeal to be considered by the Certification Appeals Committee, the appeal submission must contain substantial information supporting at least one of the following grounds:
 - a. The Candidate's eligibility to sit for the Certification Examination(s), or other eligibility for certification, was denied incorrectly;
 - b. The Candidate's Certification Examination(s) was scored incorrectly, or was not credited with an appropriate response to particular questions, and as a direct result of the incorrect scoring the Candidate is entitled to receive a passing score on the examination(s);
 - c. The Candidate was barred or otherwise prohibited incorrectly from taking the Certification Examination(s) or from becoming certified; or,
 - d. The Certificant's Recertification Application was incorrectly rejected under the relevant recertification standards, and the Certificant would have qualified for recertification if the correct standards had been applied, or the certificant was otherwise incorrectly found ineligible for recertification.
3. Content of Appeal. In order for an appeal to be considered by the Certification Appeals Committee, the appeal submission must contain the following information:
 - a. The identity and signature of the Candidate or Certificant submitting the appeal;
 - b. A detailed explanation of the reasons and basis for the appeal, as defined and limited by Section E.2, above
 - c. All objections, corrections, and factual information the Candidate or Certificant believes to be relevant to the appeal;
 - d. The names, addresses, telephone numbers, and email addresses, if available, of any persons with factual information relevant to the appeal, and a clear description of the factual information available from these persons; and,
 - e. Copies of any and all relevant documents, exhibits, or other information the Candidate or Certificant wants to submit in support of the appeal.
4. Time Period for Submitting Appeal. A Candidate or Certificant seeking to present an appeal must submit a written, signed appeal, consistent with the requirements of these procedures, to the Certification Appeals Committee within thirty (30) days of the date of the final action and decision of the Executive Director. Upon written request by the Candidate or Certificant received at least ten (10) days prior to the appeal deadline, the Certification Appeals Committee Chair may, in his or her discretion, extend the time period for filing the appeal. Denials of time extension requests are not subject to appeal. Appeals received beyond given time periods will not be reviewed or considered by the Certification Appeals Committee, except upon a written request showing good cause, as determined by the Certification Appeals Committee.
5. Appeal Deficiencies. The Certification Appeals Committee Chair may require the Candidate or Certificant to clarify, supplement, or amend an appeal submission.
6. Appeal Rejection. If the Certification Appeals Committee Chair determines that an appeal does not meet the appeal requirements or otherwise warrant further formal review, consistent with the requirements set

forth in these procedures, the appeal will be rejected. The Certification Appeals Committee Chair will notify the Candidate or Certificant of the rejection, as well as the reason(s) for the rejection, by letter within twenty-one (21) days of the determination. Appeal rejection determinations are not subject to appeal.

7. **Appeal Hearing Requests.** In the first appeal submission, the Candidate or Certificant may request to participate in the informal hearing. In the event that the Candidate or Certificant does not request to participate in the hearing, the appeal will be resolved and decided based on the appropriate written record, as determined by the Certification Appeals Committee.

8. **Scheduling of Appeal Hearing.** Within forty-five (45) days of receipt of a complete and proper written appeal, the Certification Appeals Committee will schedule a hearing date and time for appeal consideration, generally not later than one-hundred twenty (120) days after receipt of the appeal, and will notify the Candidate or Certificant of the hearing date and time. Where the Candidate or Certificant has requested participation in the hearing, the Candidate or Certificant may be required to provide additional information concerning hearing presentation requirements prior to the hearing date. The Certification Appeals Committee will conduct an informal hearing designed to review and consider all of the available proof and information, including the record of the initial request for review and the materials submitted by the Candidate or certificant.

9. **Decision of the Certification Appeals Committee.** The Certification Appeals Committee will resolve and decide the appeal based on the record, including relevant and credible information presented by the Candidate or Certificant, NABCEP policies, and, if applicable, the action or decision of the Executive Director. The Certification Appeals Committee Decision will include the Committee findings and a summary of the relevant facts upon which the decision is based, and may uphold or modify the decision of the Executive Director, or indicate other appropriate action. The Certification Appeals Committee will issue the Decision within thirty (30) days of the end of the appeal review, or as soon thereafter as is practical.

F. Final Appeal/NABCEP Board of Directors

1. **NABCEP Board of Directors.** The NABCEP Board of Directors, or a panel of three (3) or more Board Directors designated to represent the Board of Directors, will resolve each final appeal. Subject to the limitations set forth in these procedures, the Board of Directors will hear and resolve a final appeal where a Candidate or Certificant is dissatisfied with the Certification Appeals Committee Decision, and submits an appropriate appeal consistent with these procedures.

2. **Grounds for Final Appeal.** In order for an appeal to be considered by the Board of Directors, the appeal submission must contain substantial information supporting at least one of the following grounds. The grounds upon which a final appeal may be based are strictly limited to the following:

- a. **Procedural Error:** The Certification Appeals Committee Decision misapplied a procedural rule contained in these rules, and the rule misapplication significantly prejudiced the Candidate or Certificant with respect to the outcome of the appeal decision;
- b. **New or Previously Undiscovered Information:** Following the issuance of the Certification Appeals Committee Decision, the Candidate or Certificant located relevant information and facts that were not previously available and that would have significantly affected the outcome of the Certification Appeals Committee Decision in the Candidate's or Certificant's favor;
- c. **Misapplication of Certification Standards:** The Certification Appeals Committee Decision misapplied the relevant certification or recertification standards, and the misapplication significantly prejudiced the Candidate or Certificant and the outcome of the appeal decision; or,
- d. **Contrary to the Information Presented:** The Certification Appeals Committee Decision clearly is contrary to the most substantial information in the record.

With respect to the grounds listed in Sections 1.a. and 1.c., above, the Board of Directors will consider only arguments that were previously presented to the Certification Appeals Committee.

3. **Contents of Final Appeal.** In order for an appeal to be considered by the Board of Directors, the appeal submission must contain the following information:

- a. The identity and signature of the Candidate or Certificant submitting the appeal;
- b. A detailed explanation of the reasons and basis for the appeal, as defined and limited by Section F.1, above;
- c. All objections, corrections, and factual information the Candidate or Certificant 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 any persons not previously identified with factual information relevant to the appeal, and a clear description of the factual information available from these persons; and,
- e. Copies of any and all relevant documents, exhibits, or other information the Candidate or Certificant wants to submit in support of the appeal.

4. **Time Period for Submitting Final Appeal.** A Candidate or Certificant seeking to present a final appeal must submit a written, signed appeal, consistent with the requirements of these procedures, to the Board of Directors within thirty (30) days of the date of the Certification Appeals Committee Decision. Upon written request by the Candidate or Certificant received at least ten (10) days prior to the appeal deadline, the Board Chair or authorized representative may, in his or her discretion, extend the time period for filing the appeal. Denials of time extension requests are not subject to appeal. Appeals received beyond given time periods will not be reviewed or considered by the Board of Directors, except upon a written request showing good cause, as determined by the Board of Directors.

5. **Final Appeal Deficiencies.** The Board Chair or authorized representative may require the Candidate or Certificant to clarify, supplement, or amend an appeal submission.

6. **Final Appeal Rejection.** If the Board Chair or authorized representative determines that an appeal does not meet the final appeal requirements or otherwise warrant further formal review, consistent with the requirements set forth in these procedures, the appeal will be rejected. The Board Chair or authorized representative will notify the Candidate or Certificant of the rejection, as well as the reason(s) for the rejection, by letter within approximately twenty-one (21) days of the determination. Appeal rejection determinations are not subject to appeal.

7. **Scheduling of Final Appeal Hearing.** Within sixty (60) days of receipt of a complete and proper written appeal, the Board of Directors will schedule a hearing date for appeal consideration, generally not later than the next or second regularly scheduled Board meeting, and will notify the Candidate or Certificant of the date. The Board of Directors will conduct an informal hearing designed to review and consider all of the available proof and information, including the record of the first appeal and the materials submitted by the Candidate or Certificant.

8. **Final Appeal Decision of the Board of Directors.** The Board of Directors will resolve and decide the appeal based on the record, including relevant and credible information presented by the Candidate or Certificant, NABCEP policies, and the action or decision of the Certification Appeals Committee. The Final Appeal Decision will include the findings of the Board of Directors and a summary of the relevant facts upon which the decision is based, and may uphold or modify the decision of the Certification Appeals Committee, or indicate other appropriate action. The Board of Directors will issue the Final Appeal Decision within thirty (30) days of the end of the appeal review, or as soon thereafter as is practical.

G. Finalizing and Closing Appeals

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 Executive Director, the Certification Appeals Committee, or the Board of Directors, and the allowable time period for the filing of an appeal under these procedures and rules has passed or lapsed; or,
- b. The appeal has been withdrawn or terminated by the Candidate or Certificant.