



Appeals Board Training

An Overview of the Appeals Policy

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Appeals Board Member Responsibilities



USDE Appeals Regulation

- A program must have an opportunity to appeal any adverse action prior to it becoming final.
- The appeal must take place at a hearing before a three-member appeals panel that:
 - Does not include CNME members who were participated in making the decision;
 - Is subject to the CNME conflict of interest policy;
 - Has the authority to affirm, amend, or remand the adverse action taken by the CNME board (i.e., the appeals panel is not advisory); and
 - A decision to affirm or amend the adverse action must be implemented by the appeals panel or CNME board, provided that the implementation is consistent with the decision.



USDE Appeals Regulation, Cont'd

- ❑ The program has the right to employ counsel.
- ❑ The CNME must notify the program in writing of the result of the appeal and the basis for that result.
- ❑ The CNME must provide for a process, in accordance with written procedures, by which a program may—before the CNME reaches a final adverse action decision—seek review of new financial information, provided that certain conditions are met (e.g., the financial information was unavailable until after the CNME's adverse action was taken).



Appealable Adverse Actions

A naturopathic medicine program may appeal any of the following adverse actions within 30 days of having received notice of the action from the executive director:

- ❑ The denial, withdrawal, revocation, suspension or termination of candidacy; or
- ❑ The denial, withdrawal, revocation, suspension or termination of accreditation.



Basis for the Appeal

The following are the acceptable grounds for an appeal by a program:

- ❑ There were errors or omissions in carrying out prescribed procedures on the part of the evaluation team or the Council;
- ❑ There was demonstrable bias or prejudice on the part of one or more members of the evaluation team or the Council's Board of Directors that significantly affected the decision;
- ❑ The evidence before the Council at the time of the decision was materially in error;
- ❑ The decision of the Council was not adequately supported by the facts before it at the time, or it was contrary to the substantial weight of evidence before the Council; and/or
- ❑ There is new financial information.



Role of the Appeals Board

- ❑ Select a member to serve as chair;
- ❑ Meet at the time and place designated by the executive director to consider the appeal;
- ❑ Provide for a hearing if the appellant has so requested;
- ❑ Consider the grounds for the appeal as stated by the appellant program;
- ❑ Study the evidence submitted in writing by the program in support of its appeal;




Role of the Appeals Board, Cont'd

- Consider the report of the evaluation team, Council reports and decision letters, the program's response, and any other supporting or relevant statements and documents;
- Compare the Council's policies and procedures with the procedures followed in arriving at the adverse action;
- Prepare a report of the meeting of the Appeal Board, including the final decision of the Appeal Board, within ten calendar days after the meeting/hearing; and
- Forward the record of the Appeal Board's meeting and the decision of the Appeal Board to the Council's executive director, including a summary report of the Appeal Board's meeting, the appeal documents filed by the program, and other statements and documents considered by the Appeal Board.



Appeal Hearing Procedures

- The chair ensures that all participants have a reasonable opportunity to be heard and to present all relevant oral and written evidence.
- Technical rules of evidence do not apply to the hearing; the Appeal Board chair may limit the evidence to avoid undue repetition and ensure relevance. The chair rules on all issues regarding conduct of the hearing.
- The Council and the appellant both have the right to be represented by counsel or an authorized spokesperson, to examine the witnesses of the other party, and to present oral or written evidence.
- The hearing is conducted in closed session with only participants present. A secretary, selected by the Appeal Board from outside its ranks, records the hearing minutes (however, either party may request a court reporter).

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- As an appellate proceeding, the Appeal Board is limited to the existing record from prior proceedings and no new evidence may be admitted. However, if the final adverse action was based on failure to meet a financial standard, the Appeal Board may consider new financial information that bears materially on the financial deficiencies at issue.



Any questions and/or comments?