

Title: Disciplinary Policy & Procedures
Approved: March 23, 1996
Amended: November 15, 2010

Policy:

The National Commission for Certifying Agencies (NCCA) will accept and process complaints pertaining to violations of its Standards for Accreditation and/or its policies and procedures in accordance with this Disciplinary Policy & Procedures. Violations may also include false information or misrepresentation provided in an application for accreditation or reaccreditation, or in connection with the maintenance of accreditation. When NCCA determines that violations have occurred, NCCA may impose sanctions that include, but are not limited to, one or a combination of the following:

1. written reprimand
2. mandatory correction
3. probation
4. suspension of accreditation
5. revocation of accreditation
6. reaccreditation ineligibility

Relevant documentation considered in the course of the disciplinary process and a record of any action taken will be placed in the certification program's permanent NCCA file, and will be available for review by NCCA should subsequent complaints be received or for other appropriate review. A summary of probation, suspension, revocation, and reaccreditation ineligibility actions, upon final action as provided in this document, will be published in an official National Organization for Competency Assurance (ICE) publication.

Actions taken under this document do not constitute enforcement of the law, although referral to appropriate government agencies may be made in certain situations. Individuals bringing complaints are not entitled to relief or damages by virtue of this process, and complainants requesting such relief will not be considered. No one who has any personal involvement in the potential violations or any conflict of interest will be permitted to participate in the review of the matter.

Procedure:

1. Complaints of alleged violations may be submitted by any interested party, or may be self-initiated by NCCA or ICE. The complainant's identity shall remain confidential, unless legal requirements mandate disclosure or the complainant waives confidentiality protection.
2. Complaints must be in writing and provide details, with appropriate supporting documentation if possible, of how a particular standard, policy or procedure is being or was violated by an accredited certification program.

3. Preliminary Review: The NCCA Chair and the ICE Executive Director will determine, within twenty-one (21) days of receipt of a complaint, if there are sufficient grounds to warrant an investigation.
 - a. No Further Investigation Indicated: The NCCA Chair and ICE Executive Director may determine, in their sole discretion, that the complaint and accompanying information 1) contain facially unreliable or insufficient information, 2) are patently frivolous or trivial, or 3) plainly do not constitute a violation and warrant no further action, in which case no investigation will be undertaken.
 - b. Further Investigation Indicated/Certification Program Notified: If there appear to be sufficient grounds to warrant investigation, a subcommittee of the NCCA consisting of the NCCA Co-Chair, the Public Member, and one Commission member, appointed by the Chair, will review the complaint and determine whether any violations may have occurred. Written notice of the investigation will be provided to the certification program identifying any potential violations, and may be accompanied by appropriate documents or other evidence of the potential violation and a copy of the NCCA Disciplinary Policy & Procedures. The subcommittee also may request additional information. Notice to the certification program will be by certified mail, return receipt requested.
 - c. Notice to Complainant: The complainant will be informed of the action taken, i.e., 1) there are no grounds for further investigation, or 2) the complaint will be investigated.
4. Certification Program Response: The certification program will have thirty (30) days from receipt of the notice of the potential violations to respond by submitting any requested information, refuting or admitting to the facts or the substance of the allegations, or proposing remedies.
5. Subcommittee Review of Response: If the information provided and the proposed remedies resolve the complaint to the satisfaction of the subcommittee, 1) the resolution of the matter will be documented in writing and signed by representatives of the certification program and NCCA, 2) a report of the resolution will be made to the NCCA at its next regularly scheduled meeting, 3) the complainant will be informed of the resolution, and 4) the certification program will be notified of the resolution within sixty (60) days, by certified mail, within receipt of the information by the NCCA.
6. Full Commission Review: If the certification program's response is unsatisfactory to the subcommittee, the subcommittee will prepare a written analysis and recommendation for NCCA. The full NCCA will then review the complaint, the certification program's response, and the subcommittee analysis and recommendation at the first NCCA meeting occurring fifteen (15) or more days after receipt by the ICE Executive Director of the subcommittee's analysis. The NCCA will determine by majority vote whether the certification program committed any violations and will specify any appropriate actions to be taken by the program. Written notice of the NCCA determination will be sent to the certification program by certified mail, return receipt requested, within twenty-one (21) days after the meeting. If there is no reconsideration requested within thirty (30) days after receipt of the notice by the certification program of the NCCA determination, the

complainant will be informed of the action taken and the action will be published in the next official ICE publication.

7. **Reconsideration Process:** If the certification program does not accept the NCCA decision, it may request a reconsideration of the decision by the NCCA. The reconsideration request must be received in writing by the ICE Executive Director at least thirty (30) days prior to the next regularly scheduled NCCA meeting for the matter to be considered at that meeting.

The certification program may present such reconsideration information either in person at the NCCA meeting or through a written submission. The certification program will bear its own costs for reconsideration.

If the reconsideration is conducted in person, the process will not constitute a trial proceeding. No witnesses, cross examination of witnesses, rules of evidence, or other trial-type proceeding will be applicable. The NCCA may, on advice of its counsel, provide orderly operating guidelines to govern the proceeding. All decisions of the NCCA as to such procedural matters will be final. Up to forty-five (45) minutes will be scheduled for an certification program's oral presentation.

The certification program's oral presentation may be made by one or several persons, but in no case will more than three (3) representatives, designated-in-advance, be allowed to enter the meeting room. Names of the representatives must be received by the ICE Executive Director at least fifteen (15) days prior to the meeting.

The volunteer or staff representatives of the certification program should make the formal oral presentation of the certification program's position to the NCCA. While the certification program's legal counsel may be one of the three representatives, because of the informal nature of this proceeding, legal counsel must act only and strictly in an advisory role during the presentation. In closed session, either following such oral presentation or to consider a written submission, the NCCA will determine if it affirms or modifies its previous decision. If an in-person presentation is not requested, the NCCA may make its determination by a telephone conference call. Within twenty-one (21) days after the meeting, written notice of the NCCA's determination on the issues presented for reconsideration will be sent to the certification program by certified mail, return receipt requested.

If the certification program does not request a final appeal review within thirty (30) days after receipt of the notice by the certification program of the NCCA determination, the complainant will be informed of the action taken and the action will be published in the next official ICE publication.

8. **Final Appeal Process:** If the certification program does not accept the reconsideration decision, it may appeal to the ICE Board of Directors. The appeal request must be in writing and received by the ICE Executive Director within thirty (30) days of receipt by the certification program of the NCCA's notice of determination on the reconsideration. No additional information may be provided, and the ICE Board will consider only information in the certification program's file as reviewed by NCCA. The ICE Board will not consider changes to the certification program's response subsequent to those considered by the NCCA during its reconsideration hearing.

The ICE Board will, at its next regularly scheduled meeting, review the information in the certification program's file and, based on majority vote, determine only a) whether there are any material errors of fact, and b) whether the NCCA properly applied its published Standards of Accreditation, policies and procedures in making its determination. If the ICE Board determines that there were material errors of fact or the NCCA did not properly apply its published standards, policies or procedures, it may either overturn any part of the NCCA determination or remand the matter to NCCA with instructions as to reconsideration of the matter. Otherwise, the ICE Board will confirm the NCCA determination.

9. All decisions of the ICE Board are final and non-appealable.
10. The certification program will be informed of the final action by notice sent by certified mail, return receipt requested, within twenty-one (21) days of the Board meeting.
11. The complainant will be informed of the final action of the investigation. All complaints that result in a disciplinary sanction will be published in the next official ICE publication.
12. NCCA, through the ICE Executive Director, may take reasonable steps to ensure that any determination and required remedial actions are complied with by the certification program.