

# NWCCU POLICIES | APPEALS PROCEDURE

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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 Appeals 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 Appeals Board.
4. Discovery such as depositions, interrogatories, and production of documents is not available to the parties except by mutual agreement.

## **Selection of the Appeals 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 Appeals Board. Members of the Appeals 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 Appeals Board must represent an institution with characteristics similar to those of the appellant institution. No member of the Appeals 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 Appeals Board must attest to NWCCU's conflict of interest policy, agree to keep confidential all information gained as part of their service on the Appeals Board, and agree not to make use of such information for any other purpose.

### **Chair of Appeals Board**

Within fourteen (14) calendar days of the appointment of the Appeals Board, the Chair of the Appeals 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 Appeals 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 Appeals Board, NWCCU must deliver an electronic copy of the record of the adverse decision to the Chair of the Appeals 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 Appeals 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 Appeals Board may question witnesses. No post-hearing submissions may be presented by the parties unless requested by the Appeals 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 Appeals 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 Appeals Board regarding its financial status, it must provide the information to the Chair of the Appeals 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 Appeals 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 Appeals 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 Appeals Board, will be recorded. A party that requests a transcript must bear the cost of transcription.

### **Decision of the Appeals Board**

Decisions of the Appeals Board are by majority vote. The Appeals Board may affirm, amend, or remand the adverse decision. A decision to affirm or amend the adverse decision may be implemented by the Appeals Board. In the event of a decision to remand the adverse decision to the Board of Commissioners for further consideration, the Appeals Board must explain the basis of the decision that differs from the adverse decision by the Board of Commissioners. Upon remand, the Board of Commissioners must act in a manner consistent with the Appeals Board's decisions or instructions.

The Appeals 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 Appeals 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 Appeals Board will prepare a summary of its reasons in support of its decision. The decision of the Appeals 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 Appeals 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

<b>Timeline</b>	<b>Party Responsible</b>	<b>Detail</b>
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 Appeals Board
Within fourteen (14) calendar days of appointment of Appeals Board	Chair of the Appeals Board	Selection of date of the hearing
Within fourteen (14) calendar days of the appointment of the Appeals 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	Appeals Board	If no hearing requested by the parties, the Appeals Board must render its decision
Fourteen (14) calendar days following conclusion of the hearing	Appeals Board	The Appeals Board must render its decision
Fourteen (14) calendar days following receipt of post-hearing submissions	Appeals Board	The Appeals Board must render its decision.

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