

**POLICY AND PROCEDURES FOR THE APPEAL OF ADVERSE ACCREDITATION ACTION AFFECTING
INSTITUTIONAL ACCREDITATION OR CANDIDATE FOR ACCREDITATION STATUS FOR THE
COMMISSION ON INSTITUTIONS OF HIGHER EDUCATION**

Approved by the NEASC Board of Trustees on May 15, 2014

SECTION 1. Right of Appeal. An institution shall have the right to appeal an adverse accrediting action made by the Commission on Institutions of Higher Education ("Commission") which is adverse to the institution's accreditation. For purposes of this policy an adverse accrediting action includes probation, denial of candidacy for accreditation, withdrawal of candidacy for accreditation, denial of accreditation, or withdrawal of accreditation.

The accreditation status of the institution shall not change until all rights of appeal pursuant to this Policy and Procedure are exhausted or extinguished.

Actions regarding adverse accrediting actions and the review of those decisions shall be carried out in a timely and expeditious manner so as to insure protection of the public interest and the institution.

SECTION 2. Adverse Accrediting Action. After the Commission approves for an adverse accrediting action, if no notice of intent to appeal is filed as provided in Section 3 below, the adverse accrediting action becomes final. The Commission shall, no later than fourteen (14) days after the adverse accrediting action is approved, notify the institution, the United States Secretary of Education and the appropriate state licensing or authorizing agency of its final decision. The notification shall be in writing and shall specify the standards and/or criteria not met. Within twenty four (24) hours of notifying the institution of a final adverse accrediting action the Commission shall provide written notice to the public of the final adverse accrediting action. A copy of this Policy and Procedure shall be provided to the institution along with the notice of the adverse accrediting action.

SECTION 3. Notice of Intent to Appeal and Filing the Appeal. An institution may appeal the adverse accrediting action of the Commission by filing a notice of intent to appeal no later than seven (7) days following receipt of the written notice of the Commission's adverse accrediting action. See Section 4 for the grounds for an appeal. A notice of an intent to appeal shall be filed only with the prior authorization of the governing board of the institution. The notice of intent to appeal shall be delivered by certified mail, return receipt requested, to the President of the Association. The notice of intent to appeal shall contain a statement of the ground(s) on which the appeal will be made but need not provide evidence in support of the appeal.

Within fifteen (15) days of filing a notice of intent to appeal, the institution shall file copies of its written appeal in person or by certified mail, return receipt requested, with the President of the Association who shall promptly transmit copies of the written appeal to the Commission. The written appeal shall set forth the institution's evidence and its argument in support of its appeal. There shall be no required format for the written appeal. The institution may retain legal counsel to assist it in the preparation of its appeal. At the time of filing the written appeal the institution shall advise the NEASC President whether it shall present oral arguments at the appeals hearing, and if so, with or without legal counsel. In the event the institution determines not to attend the appeals hearing, then the Commission shall likewise not send representatives to the hearing, and the Appeals Committee shall be authorized to decide the appeal based upon the written submissions of the parties.

Within fifteen (15) days following receipt by the Commission from the NEASC President of the written appeal, the Commission shall submit its response in writing to the President with a copy to the institution.

In the event the Commission has more than one appeal pending, the Commission may request from the NEASC President an extension of the time for the submission of its response to a newly filed appeal. The institution shall be notified of any such extensions. The decision to grant an extension shall be in the sole discretion of the President.

SECTION 4. Grounds for Appeal. The grounds on which an appeal may be taken are (a) departure by the Commission from the procedures established by written policy or agreement or by recognized custom which is of such significance as to affect materially the Commission's adverse accrediting action; (b) the citing by the Commission of factually incorrect information as basis for its decision which is of such significance as to affect materially the Commission's adverse accrediting action; (c) bias, as evidenced by a demonstrable intent on the part of evaluators, the Commission, or the Commission's professional staff to prejudice the evaluation or other review of the institution's status of accreditation, such bias being of such significance as to affect materially the Commission's adverse accrediting action; or (d) the adverse accrediting action is arbitrary and capricious.

SECTION 5. Appeals Panel. Upon receipt of notice from the President of the Association that an appeal has been filed, the Commission President shall provide the NEASC President a list of individuals to be appointed to the appeals panel. The appeals panel shall consist of not fewer than five (5) nor more than seven (7) persons. The appeals panel shall have at least one member from the general public with an interest in or knowledge of higher education. The other members shall represent the academic expertise of institutions of higher education, (such as a professor, department chair, or academic dean or provost) or administrative expertise of institutions of higher education (such as president/chief operating officer, treasurer, director of finance or vice president of administration). Members of the appeals panel will be provided with the Commission's Policy on Conflict of Interest and will verify that they do not have a conflict of interest in considering the appeal.

The President of the Association shall notify promptly the institution and confirm to the Commission President the names of the members of the appeals panel and the date and place of the hearing. The NEASC President shall transmit a copy of the institution's appeal documents and the Commission's response to each member of the Appeals Committee in advance of its meeting.

SECTION 6. Appeals Review. After consultation with the appeals panel and the Commission, the NEASC President shall establish a date and place for the appeals hearing which shall be no later than sixty (60) days after the filing of the notice of intent to appeal with the NEASC President, provided, however that in extraordinary circumstances, the time may be extended by the mutual agreement of the institution and the chairperson of the appeals panel. The NEASC President or his/her designee shall serve as the staff for the appeals panel.

The NEASC President will secure legal counsel for the appeals panel. Before the beginning of the appeals hearing, the appeals panel will be trained by legal counsel on matters pertinent to their duties and responsibilities.

Evidence in support of the appeal shall be limited to that evidence presented to the Commission prior to making its adverse accrediting action except as hereinafter provided. The appeals panel shall consider evidence bearing only upon the grounds specified for the appeal. Additional written materials or evidence not presented to the Commission at the time of its original decision as a part of its review (or of its decision following a remand as provided below) may not be presented to the appeals panel. Other than at the appeals hearing, the appeals panel shall not meet with representatives of either the institution or the Commission. The decision of the appeals panel shall be determined by majority vote. In the event of a tie vote, the appeal shall be deemed denied. The appeals panel shall meet in executive session to reach its decision following the close of hearing.

Appeals hearings shall not be conducted as if they were judicial proceedings.

Rules of evidence, pre-hearing discovery, the right to subpoena witnesses, and the right to cross examine witnesses shall not be permitted, provided however, members of the appeals panel may ask questions of the institutions and the Commission's representatives present at a hearing.

The institution appealing an adverse accrediting action shall bear the burden of proof and may be represented by legal counsel at the hearing to present or assist in the presentation of the institution's appeal. The Commission may be represented by legal counsel at the hearing.

The chairperson of the appeals panel may limit the presentations of the institution and the Commission to one half hour each, provided however, the time for presentations and questioning may be extended to either or both parties as determined in the sole discretion of the chairperson.

The order of presentation shall be first, the institution and second, the Commission. Within the sole discretion of the chairperson as to time and scope, the appeals panel may permit the institution to present final comments and/or arguments following the Commission's presentation.

Nothing herein shall be deemed to require either the institution or the Commission to make any oral presentation at the appeals panel hearing and the failure to do so shall have no bearing or relevance in reaching a decision by the appeals panel.

The appeals panel decision shall contain the panel's ruling together with the reasons therefore as well as any additional information deemed pertinent by the Committee and shall be the only written decision of the panel.

The appeals panel decision shall be filed by the appeals panel with the NEASC President on or before the tenth (10th) day following the close of the hearing.

The appeals panel shall have the authority to affirm, amend, reverse or remand the Adverse Accrediting Action and will direct the Commission to implement the decision in a manner consistent with the appeals panel's decisions or instructions. In a decision to remand the adverse action to the Commission for further consideration, the appeals panel must identify specific issues that the Commission must address. The appeals panel shall inform the institution, the Commission, and the Board of Trustees of NEASC of its decision within seven (7) days of filing its decision with the NEASC President. The Commission shall inform the United States Secretary of Education and the appropriate state licensing or authorizing agency. Notifications to the Commission, the institution, and the Trustees shall be hand delivered or sent by certified mail, return receipt requested.

SECTION 7. Costs. At the time the institution submits its notice of intent to appeal, it shall also submit to the NEASC President a deposit of \$50,000 payable to the Association, to be held by the Association and applied against certain costs of the appeals process as follows: costs of travel, meals, telephone, correspondence, meeting rooms, legal counsel and any other costs directly attributable to the work of the appeals panel incurred by its members and reimbursed or paid directly by the Association following its policies. At the conclusion of the appeals process, the NEASC President shall compute these costs, deducting the total amount from the deposit and remit to the institution any remaining sum along with an accounting of how the funds were spent. In the event the costs exceed the

amount of the deposit, the institution will be responsible for the balance. The institution shall be responsible for its own costs and expenses.

SECTION 8. Limitations. If an institution fails to file its notice of intent to appeal or its written appeal within the time specified, or it fails to provide its deposit against costs, the appeal shall fail and the Commission's adverse accrediting action shall be considered final.

SECTION 9. New Evidence. No later than fifteen (15) days prior to the date the appeals panel is scheduled to meet, the institution may file, in writing, with the Commission President on one occasion only, information including, but not limited to, financial information, which in the opinion of the institution's chief administrative officer constitutes evidence ("New Evidence") that (a) was not available to the institution at the time the Commission voted for the adverse accrediting action, and (b) is deemed to be so substantial and material that had it been available it is likely to have had a bearing on the decision of the Commission to issue an adverse accrediting action. The Commission President shall appoint a committee of not fewer than three (3) Commissioners (the New Evidence Committee) to review the New Evidence. If, in the sole judgment and discretion of the New Evidence Committee, acting by majority vote, the New Evidence is considered substantial and material to the decision and was not previously available to the institution for submission to the Commission, the NEASC President, at the request of the New Evidence Committee shall postpone any further proceedings or action until the next meeting of the Commission at which time it will consider the New Evidence, and make a further decision upon the basis of all the evidence, including the New Evidence. Should the Commission reaffirm an adverse accrediting action, including any modifications or revisions thereto, the institution shall not have the right to appeal the reaffirmation as modified or revised. The decision by the New Evidence Committee that the New Evidence is not substantial and material or that such evidence was previously available to the institution for submission to the Commission shall not be subject to appeal.