

**Part Four**

**General Policies and Procedures**



## **Part Four: General Policies and Procedures**

### **Overview**

This Part of the Accreditation Handbook includes important policies and procedures, which apply to applicant, candidate, and accredited programs, as well as other relevant Commission policies and procedures for the accreditation process, including those as governing the confidentiality of program records and records retention by the Commission.

### **4.1 The Reconsideration and Appeal Processes**

The Commission's reconsideration and appeal processes are the exclusive procedures available for review and re-examination of the following Commission actions: initial denials of Candidacy or Accreditation, withdrawal of Candidacy or Accreditation, Probationary Candidacy or Probationary Accreditation.

A letter specifying any of the above official actions of the Commission shall be sent to the Chief Executive Officer of the institution and shall include a notice to the program of the right to request reconsideration or appeal of the Commission's action. A request for reconsideration must be made before an appeal is filed. An appeal may not be made without first exhausting the Commission's reconsideration procedures.

#### ***4.1.1 Reconsideration Process***

Within 15 calendar days of receipt of the official written notice of the Commission's action, the Chief Executive Officer of the institution may file in writing 14 copies of a petition for reconsideration of the Commission's action. The petition must be addressed to the Commission Chair and mailed to the Commission's Maryland office. Additional copies shall be sent directly to the Director of Professional Services and the Chair of the Commission at their respective addresses. If a petition for reconsideration is not received by the Commission's Maryland office within 15 calendar days of the program's receipt of the written notice of the Commission action, the program will have waived its right to seek reconsideration and subsequent appeal of the decision.

The program's petition for reconsideration shall request the Commission to conduct its own review of its action for the purpose of determining whether it:

a) failed to properly adhere to its published procedures or denied due process to the program and whether such failure/denial was materially prejudicial to the Commission's review of the program and/or; b) reached a decision inconsistent

with the record before the Commission at the time of its decision.

*The program's petition for reconsideration shall completely state all its procedural and/or substantive grounds for seeking reconsideration of the Commission's action, and shall indicate where it believes the Commission erred or made an omission or an oversight in its decision. The petition shall be accompanied by all evidence contained in the official record on which the program relies to support reconsideration relative to compliance with the Commission's standards, and all evidence supporting the program's assertions that the Commission failed to adhere to its published procedures or denied due process to the program.<sup>1</sup>*

The Commission shall review the petition for reconsideration at the earliest practicable time, which may include a special telephone conference call meeting of the Commission. The Commission shall act to affirm, modify, or reverse its action, or it may, at its discretion, take any other action which it believes is just and proper, which may or may not include the order of an oral hearing before one or more Commissioners and/or staff of the Commission and/or persons on the Commission's list of site visitors, as the Commission shall designate, to provide the program with an additional opportunity to present oral testimony or argument to substantiate its case for reconsideration. *Evidence to be considered by the Commission and/or hearing examiners in their deliberations on the program's petition for reconsideration relative to the program's compliance with the Commission's standards shall be expressly limited to the record that was before the Commission at the time of its decision. The procedural/substantive issues and supporting evidence, if any, addressed by the Commission and/or hearing examiners upon reconsideration shall be expressly limited to those stated or provided in the program's petition for reconsideration.*

If the Commission orders an oral hearing, it shall promptly notify the program of the decision and shall specify the date, time and location of the oral hearing. At an oral hearing on reconsideration, if any, the program has the burden of demonstrating, consistent with the grounds for reconsideration set forth in the petition for reconsideration, that the Commission failed to adhere to its published procedures or denied due process to the program and that such failure/denial was materially prejudicial to the program, or that the Commission reached a decision inconsistent with the record before the Commission at the time of its decision and that the decision was arbitrary and capricious.

As soon as practicable after the close of the oral hearing, or if there was no oral hearing after the Commission's review of the petition for reconsideration, the

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<sup>1</sup> It is a college's responsibility to ensure that its Petition for Reconsideration is complete, and that it provides all the evidence and arguments upon which the program intends to rely to support its request for reconsideration. Since the scope of any appeals under Section 4.1.2 is expressly limited to the arguments and evidence contained in the program's Petition for Reconsideration, failure to ensure an adequate record during reconsideration may impact the program should it subsequently seek to appeal a decision.

Commission shall issue a written report of its action(s) to the program, and the basis for those actions. If the Commission, based on substantive error, reverses its original decision, it shall place the program in one of the accreditation or candidacy classifications effective as of the date of the original adverse decision. If the Commission reverses its decision based on procedural error or denial of due process, it shall revisit the program's compliance with the Essential Requirements and Criteria following its published procedures, and the program's accredited status prior to the adverse decision shall remain in effect until the Commission's subsequent review.

#### **4.1.2 Appeal Process**

As a condition of participating in ACAOM's accreditation process, the appeal procedures set forth in this section constitute the sole, final process for challenging a Commission decision.<sup>2</sup> Should the program not be satisfied with a decision of the Commission upon reconsideration, the program may appeal that decision under the procedures set forth in this section. All appeals are addressed through *binding arbitration* conducted by an arbitrator mutually acceptable to the program and the Commission.

*The scope of the appeal is expressly limited to the substantive and procedural issues set forth in the program's petition for reconsideration and the Commission's decision upon reconsideration. Evidence introduced in an appeal is limited to the record that was before the Commission at the time of its original decision and/or admissible evidence contained in the record of the Commission's deliberations upon reconsideration.* In its appeal, the program has the burden of establishing that the Commission, in reaching its decision, failed to adhere to its published policies and procedures as set forth in this Accreditation Handbook or denied due process to the program which materially prejudiced the Commission's review of the program, that the decision was not supported by sufficient evidence in the record and was arbitrary and capricious, or that the Commission in rendering its decision abused its discretion in some way materially prejudicial to the program. Should the arbitrator find that the Commission, in reaching its decision, failed to adhere to its published policies and procedures as set forth in this Accreditation Handbook or denied due process to the program which materially prejudiced the Commission's review of the program, that the decision was not supported by sufficient evidence in the record and was arbitrary and capricious, or that the Commission abused its discretion in some way materially prejudicial to the program, the arbitrator will remand the matter to the Commission for a decision and/or actions consistent with the arbitrator's decision.

Within 15 calendar days of receipt of the official written notice of the

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<sup>2</sup> **By participating in the accreditation process, programs agree that the sole and final process for challenging an adverse Commission decision is through binding arbitration in accordance with the appeal procedures set forth in this section. No Commission decision may be challenged through any other means, including through the court system.**

Commission's decision upon reconsideration to affirm, in whole or in part, its initial decision adverse to the program, the Chief Executive Officer of the institution may file in writing 14 copies of an appeal petition. The petition must be addressed to the Commission Chair and filed with the Commission's Maryland office. Additional copies must be sent directly to the Director of Professional Services and the Chair of the Commission at their respective addresses. If an appeal petition is not received in the Commission's Maryland office within 15 calendar days of the program's receipt of the written notice of the Commission's disposition of the request for reconsideration, the program shall have waived its right to seek an appeal of the decision.

*The appeal petition must set forth all grounds for appeal, including all arguments and supporting evidence consistent with the scope of the appeal described above and the procedures set forth in this section.* The appeal petition must be accompanied by a certified or cashier's check covering the estimated costs of the appeal as further described in this section. Evidence to be provided by the program in its petition and reviewed by the arbitrator is limited to the record that was before the Commission at the time of its decision and presented in the program's petition for reconsideration. Upon filing an appeal petition, the program and the Commission will execute an agreement for binding arbitration.

As soon as practicable after receipt of a timely appeal petition, receipt of the estimated costs of the appeal, and the execution of an agreement for binding arbitration, the Commission shall propose to the program the names of three persons who would be eligible to serve as potential arbitrators for the appeal. Arbitrators must have had no prior involvement with the decision being appealed or with the process of arriving at that decision, and shall have no affiliation with the program seeking appeal. The program, within five days of notification of the arbitrators' names, shall select one name from the three presented. Should the program object that none of the three names are eligible to serve as arbitrator, the American Arbitration Association shall be utilized for the selection of an arbitrator familiar with education and educational administration. The procedures of the American Arbitration Association shall govern the arbitration process.

The Commission shall provide the arbitrator with the complete record of the Commission's proceedings in the original decision, the program's petition for reconsideration, the complete record of the Commission's proceedings upon reconsideration, the program's appeal petition and the Commission's response to the appeal petition.

The arbitrator shall complete his/her consideration of the appeal, which may, at the arbitrator's option, include an oral hearing. In the event of a hearing, both the program and the Commission may elect to be represented by legal counsel. The arbitrator shall furnish a report within 30 days of his/her designation or as soon thereafter as practicable, but no later than 90 days after he/she is designated as the arbitrator. The arbitrator shall furnish his/her report to the Chief Executive

Officer of the institution and the Commission Chair, including the decision and the reasons for his/her decision.

The arbitrator may affirm the Commission's decision or determine that the Commission, in reaching its decision, did not follow its policies and procedures as set forth in this Accreditation Handbook or denied due process to the program, and that such failure/denial was materially prejudicial to the program; that the decision was not supported by sufficient evidence in the record and was arbitrary and capricious; and/or that the Commission abused its discretion in some way materially prejudicial to the program. If the arbitrator does not affirm the Commission's decision, the arbitrator shall remand the matter back to the Commission for a decision and/or actions consistent with the arbitrator's decision. In no event shall the arbitrator directly grant, deny, or revoke Candidacy or Accreditation.

The decision of the arbitrator shall be final and shall not be reviewed in any court for any reason whatsoever. As soon as practicable after receipt of any decision of the arbitrator other than affirming the Commission's prior decision, but not later than 60 days thereafter, the Commission shall commence such proceedings as may be appropriate in accordance with the decision of the arbitrator. The Commission's decision, and the basis for the decision, which succeeds the completion of the Commission's proceedings following arbitration, shall be promptly furnished to the Chief Executive Officer of the institution.

The program shall pay by certified or cashier's check the estimated cost of arbitration, including the fee of the arbitrator, with the submission of its appeal petition. Appeal petitions unaccompanied by a certified or cashier's check in the correct amount shall not be considered filed until the certified/cashier's check is furnished. Failure to furnish the certified/cashier's check in the correct amount by the last date on which the appeal may be filed shall constitute a waiver of the right of appeal. In the event that the arbitrator overturns the Commission's decision, the Commission will reimburse the program for the costs of the arbitrator. In the event that the arbitrator upholds or affirms the Commission decision, should the actual cost of the appeal (including the Commission's legal expenses, if any) be less than the amounts advanced by the program, the difference shall be refunded to the institution. Should the actual cost be more, the difference shall be paid by the institution within ten days of notification of the difference.

#### **4.2 Effective Dates, Publicizing of Commission Actions and Adverse Actions by States or other Accrediting Agencies**

Commission actions are effective as of the adjournment of the meeting of the Commission when the decision is made. The Commission shall make public its actions in its official list of Accredited and Candidate programs, which is available upon request; on its web site; and in its biannual accreditation newsletters. The official list of Accredited and Candidate programs will be

updated within 30 days of the Commission meeting to reflect the latest decisions of the Commission, except that no change in the status of a program will be reflected in the list if, after an adverse action, the time in which the program may seek reconsideration or appeal has not yet passed, or should the program have filed a timely request for reconsideration or for appeal which has not yet been decided.

The original status of the Accredited or Candidate program shall be publicized by the Commission after an adverse action until the first of the following shall occur: 1) the time for reconsideration shall pass and no request for reconsideration shall be timely filed; 2) a petition for reconsideration is timely filed, the Commission affirms its decision upon reconsideration, and no appeal is timely filed; or 3) an appeal is timely filed and the Commission decision is affirmed.

The Commission shall notify the U.S. Secretary of Education, appropriate state officials, appropriate accrediting agencies and members of the public in writing within 30 days of: (a) a decision to award initial accreditation, renewal of accreditation or candidacy; or (b) a decision by a program to withdraw voluntarily from accreditation or candidacy, or to permit its accreditation or candidacy to lapse. Notification to the U.S. Secretary of Education, and relevant state and accrediting agencies of a final decision to deny or withdraw accreditation, place an accredited program on probation, or take other adverse action against a program will occur at the same time the Commission notifies the program of such action. Written notification to the public of a final action to deny or withdraw accreditation or candidacy, place an accredited or candidate program on probation, or take other adverse action against a program shall occur within 24 hours of the date the Commission notifies the program of such action.

Within 60 days of an adverse action, the Commission shall provide to the public, upon request, a summary of the reasons for the action, along with the program's comments, if any. The Commission may disclose any adverse action to the public or to relevant state, federal or accrediting agencies, even prior to or while such action is being reconsidered or is on appeal, in those instances in which the Commission reasonably believes it is legally required to disclose such information, or where the Commission, upon the taking of adverse action, finds explicitly that there is significant risk, financial or otherwise, to the students, the public, or government funds, or that conditions at a program are so precarious as to be a serious threat to students and prospective students. In such instances, the Commission shall include in its notification that time for reconsideration or appeal has not yet expired, or that a timely filed petition for reconsideration or appeal has not yet been decided. Should the Commission notify any state, federal or accreditation agency of an adverse action, the Commission may make available to that agency material in its files pertinent to the action.

Except as otherwise provided in this section, the Commission will not grant accreditation or candidacy if the Commission receives evidence that the

institution or program is the subject of: a) a pending or final action brought by a state agency to suspend, revoke, withdraw or terminate the institution's legal authority to provide postsecondary education in the state; b) a decision of a recognized accrediting agency to deny or revoke accreditation or preaccreditation; c) a pending or final action brought by a recognized accrediting agency to suspend, revoke, withdraw or terminate the institution's accreditation or preaccreditation; or, d) probation or an equivalent status imposed by a recognized agency. If accreditation or candidacy is nevertheless granted by the Commission, ACAOM will provide to the U.S. Secretary of Education within 30 days a thorough explanation as to why the previous action or threatened action did not preclude such Commission action. In no instance will the Commission grant institutional accreditation or candidacy to an institution or program that lacks authorization under applicable state law to provide a program of education beyond the secondary level.

If a recognized institutional accrediting agency takes adverse action against an ACAOM-accredited or candidate institution or program, or places the institution or program on public probation, the Commission will promptly review the accreditation or candidacy status of the institution or program to determine whether the reasons for the adverse action impacts the quality of the program and compliance with ACAOM's standards.

### **4.3 Time Provisions**

Whenever any period for the filing of any papers or the taking of any action within this Accreditation Handbook concludes on a Saturday, Sunday, or national holiday, the period shall be extended to the next business day.

Any requirement for written notification, including official notification, shall be satisfied by a facsimile transmission.

### **4.4 Confidentiality**

Except as otherwise required under Section 4.2 of the Accreditation Procedures or the provisions of this section, school Self-Study Reports, Eligibility Reports, Annual Reports, Team Summary Reports, supplementary reports, the program's response(s), if any, reasons for denial, withdrawal or probation of candidate or accredited status, and the data contained in any of these documents, shall be kept confidential by the Commission and may not be shared with the press, the public, or any other agencies except as may be required by government regulation or as determined by the Commission (see Section 4.2). The Commission, at all times, reserves the right to share program information routinely with state, federal government, and other related accrediting agencies, and as required by law or governmental regulation. The program may provide such information to the public if it chooses. Data used for statistical purposes by the Commission shall not identify individual programs with any particular data.

#### **4.5 Document Retention**

The Commission shall retain at its Maryland office or in another location that provides reasonable Commission access, the following program review documentation:

- a. Site visit reports and program responses, if any.
- b. Program interim and annual reports.
- c. Commission action letters and relevant Commission and program correspondence.
- d. Programs' most recent Self-Study Report or Eligibility Report.
- e. Substantive change reports.

These records shall be maintained and retained by the Commission for at least two full accreditation or candidacy reviews for each ACAOM-accredited or candidate program.