APPENDIX 9

APPEAL OF ADVERSE ACCREDITATION DECISION(S) ACPE Standard 320

Note: all time frames are calendar days.
The ACPE appeal process for adverse accreditation decisions is designed to provide due process as defined by the U.S. Department of Education for the appeal process.

I. Policy
A. Adverse Accreditation Decisions are communicated to the center. Decisions to suspend or deny accreditation are not effective or published until the time for appeal has lapsed or until the appeal process is concluded, i.e., the Appeal Process, or if applicable, Review Process, is concluded.

B. Records maintenance
When an adverse accreditation decision is rendered, the Commission retains all materials submitted by the center until time for Appeal or Review, if applicable, has lapsed.

C. Limited Basis of Appeal
The appellant bears the burden of proof to establish the basis of the appeal to the satisfaction of the Appeal panel. An appeal must be based on the grounds that the Adverse decision was:

- arbitrary, capricious, or otherwise in violation of ACPE standards or the ACPE Accreditation Manual; or

- not supported by substantial evidence in the record on which the adverse decision was based that could have substantially altered the outcome.

D. Scope of Appeal
If grounds are established per I.C (above), the question before the Appeal Panel is: does the record on which the adverse decision was based support the decision? The veracity of the records content or process of collection is not for the Appeal Panel to assess. The panel will consider only material from the record on which the adverse decision is based.

E. Appearance at hearing
- Appellants may bring legal counsel or a support person to advise them. Only the appellant(s) will be permitted to speak at the hearing.

- A representative of the entity that rendered the adverse decision may also appear and speak, at the discretion of the entity or at the request of the panel.

- At the discretion of the panel, appellant and entity representative may be heard at separate times.

F. Final Ruling
The ruling of the Appeals Panel is final and binding for ACPE.
APPENDIX 9 cont’d

G. Responsibility for costs of appeal

1. Appellant(s) is responsible for all costs for expenses related to initiating/presenting the appeal, including travel for hearing, any support persons.

2. ACPE is responsible for costs to it associated with decisions made by the Accreditation Commission, i.e., Appeal Panel, Commission representative, legal consultation to ACPE with ACPE designated attorney(s).

3. The ACPE Executive Director authorizes all ACPE related expenses. ACPE is not responsible for unauthorized legal services.

H. Appeal Pool

The Appeal Pool will be composed of five persons from each ACPE region. Each regional group will consist of educator members and practitioners. An Appeal Panel is selected from this pool along with members of the public appointed by the ACPE Executive Director and others at the discretion of the Executive Director.

Three member appeal panels will include at least one educator, one member of the public and one practitioner.

1. Criteria
   a. ACPE supervisors, cognate group members and representatives of other disciplines.
   b. expertise in accreditation.
   c. knowledge of ACPE standards.
   d. free of any conflict of interest, including ACPE Board, officer or Executive Director; Regional Director or officer; participant in regional or national accreditation activities at time of the decision being appealed.
   e. training in judicatory or complaint and appeal processes within ACPE, a cognate group or other professional forum.

2. Selection
   a. Each region annually selects their five persons, with attention to multi-cultural and gender representation, from the region for the pool.
   b. Regional Directors submit names of these persons by December 15 for the following year.
   c. ACPE Executive Director maintains a pool of public members available to serve.

I. Recording hearings

   No audio or audiovisual recording of a hearing is allowed.
APPENDIX 9 cont’d

II Procedure/Time Lines

Time line begins with Commission’s mailing by certified mail and email the notice of accreditation action.

A. Within 30 calendar days appellant must notify ACPE Executive Director in writing at

ACPE
One West Court Square
Suite 325
Decatur, GA 30030
confidential@acpe.edu

stating grounds (limited to 1.C Limited Appeal Basis) upon which appeal is based.

B. Within 21 days of receipt of notice from appellant, ACPE Executive Director acknowledges receipt of appeal and:

- notifies appropriate Regional Director.
- notifies Commission chair.
- provides appellant the appeal pool roster.

C. Within 15 days of sending by email and certified mail the appeal pool roster, appellant may identify without cause up to three members of the pool who may not be impaneled.

D. Within 30 days following appellant’s challenges, or no response from appellant, ACPE Executive Director, in consultation with Regional Director:

1. appoints a three member appeal panel, including at least one educator, one member of the public, and one practitioner and whose members have no personal/professional conflict of interest in the particular appeal.

2. designates one member as Panel Chair.

3. sends appeal materials to Panel:

   a. statement of appellant of grounds for appeal.
   b. record of the decision.
   c. additional documentation as needed to clarify the appeal grounds.
APPENDIX 9 cont’d

E. Panel Chair convenes Panel by video conference or telephonic means to determine if I.C. criteria for an Appeal Hearing have been met.

1. If in the judgment of the Panel the criteria are not met, the appeal is dismissed and the decision stands.

2. The Panel Chair informs the Executive Director in writing and the Executive Director informs the appellant, Regional Director and Accreditation Commission Chair.

3. There is no appeal of the Panel’s decision.

4. If the Panel determines one or more criteria are met, the Panel Chair:

   a. establishes date and place of Hearing;
   b. notifies the Executive Director who notifies the appellant, Regional Director and Accreditation Commission Chair;
   c. Executive Director sends the appellant any of the above materials (3 b-d) he/she does not have.

F. Within 15 days of ACPE sending by certified mail and email the E.4.b notification, appellant may submit to Appeal Panel documentation citing additional I.C. grounds for the Appeal; comment is limited to commentary on the written record. Documentation may not include new evidence, materials or information developed after the decision.

G. Within 30 days of E (Panel determines one or more criteria are met), the panel holds a hearing. It will:

1. uphold the original decision or

2. remand the decision to the Accreditation Commission for further action.
   a. Panel must identify specific issues to be addressed by the Accreditation Commission;
   b. provide specific instruction to the appellant and Accreditation Commission, including but not limited to:
      • waiver of fees,
      • submission of new materials,
      • other matters as befits a just and equitable outcome in the opinion of the Appeal Panel.

   In a decision implemented by or remanded to the original decision-making body, that body must act in a manner consistent with the Appeal Panel’s decision or instruction. Note: if more than one decision is involved in the Appeal, the panel may sustain, remand or vacate one or more decisions and take other action(s) on the remainder.

3. vacate the decision (See H. following).
APPENDIX 9 cont’d

H. Within 30 days of a decision being vacated, the Commission convenes a five person Review Panel, including two members of the Appeal Panel, two Commission members appointed by the Commission chair (cannot have been on original regional accreditation committee or site visit team), and one person appointed by the ACPE Executive Director.

1. Appellant has right to peremptorily challenge one member of the Review Panel within five days of notification by email.
2. Review Panel members must not have personal or professional conflict of interest (see I. H.1.d).
3. Review Panel is authorized to act on behalf of the Commission.
4. Decision of the Review Panel is final and binding on ACPE and its members and affiliates.
5. Within 45 days of formation, the Review Panel reviews all relevant documents and makes a decision.
6. Within seven days, the Review Panel submits its decision in writing to the ACPE Executive Director who sends it to the Commission chair and appellant.

I. The Review Panel accepts the original determination of jurisdiction for Appeal. The Review Panel considers afresh those portions of the Commission’s decision that the Appeal Panel vacated and makes its own decision and gives directions, as necessary, regarding those portions. If the entire decision was vacated, the Review Panel acts accordingly. It may use the materials available to the Commission in its original decision and those available to the Appeal Panel. It may seek testimony (oral and/or written) and request additional materials from anyone or source it believes will help it reach a just and fair decision on the issue of Accreditation for the respondent-program.

J. After receipt of Appeal or Review Panel’s findings by all parties, disposition of the appeal may be published. See 2016 Accreditation Manual Part Two I. H. re: Commission notifications to the U.S. Secretary of Education and appropriate state agencies.

K. Within 30 days following the Hearing, Appeal or Review Panel, whichever last occurs, the Panel Chair(s) consults with the Accreditation Commission Chair to address any procedural issues found not in compliance with ACPE Standards or Accreditation Manual.