



Review and Appeal Policies and Procedures

The National Commission on Certification of Physician Assistants (NCCPA) affords PAs the opportunity to submit a Request for Review, to be considered by the NCCPA Review Committee, related to certain adverse decisions. The Review Committee also renders initial case decisions on Exception to Policy (ETP) requests, disciplinary cases, and re-establishment requests referred by NCCPA staff.

I. Notices

A. Notice of Adverse Decision

A PA who has received an adverse decision will be sent a prompt written notice. The notice will state the reason(s) for the adverse decision and will inform the PA whether the PA has the right to seek review by filing a timely written Request for Review with NCCPA.

B. Notice of Referral

A PA will be sent prompt written notice if the PA's case is being referred to the Review Committee for an initial decision.

II. Requests for Review

A. Decisions Subject to Review by the Review Committee

1. Adverse Decisions on Administrative Matters based on:

- a. Denial of an Exception to Policy request
- b. Denial of a request for special testing accommodation(s)
- c. Denial of a timely examination grievance.

2. Reportable Adverse Disciplinary Decisions

- a. Censures
- b. Revocations

3. Denial of a re-establishment request following non-permanent revocation of initial eligibility or certification

B. Decisions Subject to Initial Decision by the Review Committee

NCCPA may refer the following cases to the Review Committee for initial decision without charging an additional review fee:

1. Exception to Policy requests relating to extensions to eligibility for initial certification
 2. Disciplinary cases for which NCCPA staff recommend permanent revocation of eligibility, certification, or PA-C Emeritus status
 3. Re-establishment requests for which NCCPA staff recommend denial of reestablishment for reasons related to the initial revocation decision
- C. Decisions Not Subject to Review by the Review Committee
1. Receipt of a failing score on an NCCPA exam
 2. Requests to waive eligibility requirement to take the initial certifying exam
 3. Automatic revocation of certification or eligibility for certification unless the individual can show that the specific conditions required for automatic revocation have not been met
 4. Non-reportable disciplinary decisions (Letters of Concern)
 5. Administrative Suspensions
 6. Any other request that does not qualify for review under the Policies and Procedures for Exception to Policy Requests
- D. Criteria and Timeframes
1. Submission Criteria related to Adverse Decisions:
 - a. Requests for Review must be submitted in writing and postmarked within 30 calendar days after the date of the notice of adverse decision
 - b. Must contain the following:
 - i. A statement of why the PA believes that the adverse decision was improper
 - ii. Any supporting documentation that the PA wishes to have considered as part of the review
 - c. A review fee in the form of a check for \$100.00 made payable to NCCPA for reviews pertaining to an adverse decision; there is no fee associated with an initial case review
 - d. If a written Request for Review related to an adverse decision is not postmarked within 30 calendar days, the initial adverse decision shall constitute the final decision of NCCPA on the matter and will not be subject to further review or appeal absent extraordinary circumstances, as determined solely by NCCPA.
 2. Submission Criteria for Initial Case Decisions:

- a. Exception to Policy requests must be submitted in writing and in accordance with published policies and procedures governing the Exception to Policy process.
 - b. Re-establishment requests must be submitted in writing and must meet the requirements stipulated in the *Policy and Procedures for Disciplinary Matters*.
- 3.** A qualifying Request for Review will be considered at one of the Review Committee's quarterly meetings. Cases are reviewed based on the order of receipt. In its discretion, NCCPA may temporarily extend a PA's certification through the date of the Review Committee decision if the PA's certification would otherwise lapse prior to the date of the assigned Review Committee meeting.
- 4.** In connection with any review or appeal, NCCPA will communicate directly with the PA and, if applicable, the PA's legal counsel. No non-attorney representative may communicate with NCCPA on a PA's behalf except pursuant to a properly scoped Power of Attorney or legal guardianship document, or, upon a showing of extenuating circumstances (e.g., disability) preventing the PA from directly communicating with NCCPA about the review or appeal, pursuant to a written, signed, and notarized authorization for the non-attorney representative to communicate with NCCPA on the PA's behalf.

III. Composition of the NCCPA Review Committee

- A. The voting members of the Review Committee consist of no fewer than five current or former members of the NCCPA Board of Directors, the majority of whom are certified PAs. Certified PAs who are not current or former Board of Director members may be appointed to the Review Committee in a non-voting, advisory capacity.
- B. NCCPA Review Committee members do not participate in discussions of, or vote on, any review or appeal in which the member has or has had a substantial personal or professional relationship with the PA at issue or otherwise has a disqualifying conflict of interest under NCCPA's applicable conflict of interest policies for Board or Committee members.
- C. No member of the Review Committee shall participate in the review of a Discretionary Appeal.

IV. Review Committee Notices

- A. Preliminary Notice:
 - 1. When a Request for Review or an initial case decision qualifies for consideration by the Review Committee, NCCPA shall notify the PA in writing of the date and time the Review Committee will review the case.
- B. Hearing Notice:
 - 1. Prior to the Review Committee meeting, PAs are notified of the date and time of the Committee meeting and the hearing rules. PAs are also asked to confirm:

- a. Whether the PA would like to appear telephonically at the hearing;
 - b. Whether the PA is being represented by legal counsel or by an authorized non-attorney representative;
 - c. The telephone number to be used to reach the PA or the PA's representative during the telephonic hearing.
2. The PA's written and signed response to the hearing notice must be submitted to NCCPA at least 20 days prior to the Review Committee meeting for a Request for Review to be considered at the meeting by the Review Committee. Responses may be submitted by mail (if postmarked at least 20 days prior to the Review Committee meeting) or sent electronically, by facsimile or as an attachment to an email.

V. The Review Committee Record

A. The Review Record

1. The Review Committee shall consider the following, which shall constitute the Review Record, as applicable:
 - a. The Notice of Adverse Decision issued by NCCPA
 - b. The initial exception to policy or re-establishment request
 - c. Any associated disciplinary information required for an initial case decision
 - d. The PA's Request for Review
 - e. Any supporting documentation submitted by the PA or prepared by NCCPA staff
 - f. The Review Summary prepared by NCCPA staff
 - g. The Review Committee also may, at its discretion, request or receive and review additional information, including any information that is part of the PA's NCCPA record or information obtained from a third party. If the PA makes supplemental written submissions in advance of the Review Committee meeting, those will be shared with the Review Committee and will be made part of the Review Record. If NCCPA obtains additional information from a third party relevant to their case, that information will be shared with the PA and it will be made part of the Review Record.

2. A copy of the Review Summary shall be provided to the PA at least 14 calendar days before the meeting of the Review Committee. NCCPA will provide the Review Summary to the PA via USPS certified mail. If the PA will be represented at the hearing by legal counsel or by an authorized non-attorney representative, NCCPA will also forward the Review Summary to the PA's representative. Any materials in the Review Record that have not been submitted by or previously shared with the PA will also be provided to the PA and, if applicable, to the PA's representative.

VI. Review Committee Meetings

A. Review of Cases Without an Telephonic Participation by the PA

If the PA opts not to participate telephonically, the Review Committee will reach a determination based on the Review Record before it.

B. Telephonic Hearing

If a PA initially indicates that the PA would like to participate telephonically, but neither the PA nor the PA's representative is able to participate in the telephonic hearing, the PA should notify NCCPA in advance of the Review Committee meeting and the Review Committee will consider the PA's case without the PA's participation

1. When a PA elects to participate telephonically in the Review Committee meeting, the following procedures will occur during the meeting:
 - a. The Review Committee will call the PA or the PA's representative at the telephone number provided by the PA, within a stipulated timeframe communicated to the PA by NCCPA in advance of the Review Committee meeting. If the PA is not available at the time of the initial call, NCCPA will make one additional attempt during the Review Committee meeting to contact the PA or the PA's representative. If NCCPA cannot reach the PA or the PA's representative on the second attempt, the Review Committee may proceed to decision on the case without the appearance of the PA.
 - b. The PA or the PA's authorized non-attorney representative shall be given fifteen (15) minutes to make a statement summarizing the PA's position.
 - c. The PA's legal counsel, if any, may use a portion of the PA's allotted fifteen minutes to make an opening or closing statement.
 - d. At the conclusion of the PA's statement, members of the Review Committee, NCCPA's legal counsel, and/or NCCPA staff may ask the PA to respond to questions.
 - e. The Review Committee shall not be bound by technical rules of evidence usually employed in legal proceeding, but may consider any evidence it deems appropriate

2. All expenses incurred by the PA in connection with the telephonic hearing and the Review Committee consideration of the PA's case shall be borne by the PA.

VII. Review Committee Decisions

Based on its review of the Review Record and the PA's statement during the telephonic hearing, if any, the Review Committee will determine, by majority vote of those members present, which, if any, action is appropriate under the circumstances.

A. Administrative Matters

1. The Review Committee's decision on administrative matters will:
 - a. Affirm, Modify or Reverse the Adverse Administrative Decision Decision issued by NCCPA staff;
 - b. Render an initial decision on Exception to Policy or Exam Grievance request referred by NCCPA staff;
 - c. Constitute the final review and decision of NCCPA on the matter;
 - d. Not be subject to Discretionary Appeal to the NCCPA Board of Directors absent extraordinary circumstances as determined solely by NCCPA; and
 - e. May require a PA to return a signed agreement, within ten (10) calendar days, as a condition of the Review Committee's decision. Where the Review Committee's decision is conditioned on the PA's agreement to certain terms, the Review Committee will also specify an alternative decision that shall become effective if the PA declines to accept the conditions or fails to satisfy the specified conditions.

B. Disciplinary Matters and Re-establishment

1. The Review Committee's decision on disciplinary matters and reestablishment will:
 - a. Affirm, modify, or reverse the Adverse Disciplinary Decision issued by NCCPA staff or render an initial disciplinary or re-establishment decision on cases referred by NCCPA staff;
 - b. Be in accordance with NCCPA's *Policies and Procedures for Disciplinary Matters*;
 - c. Afford the opportunity for a Discretionary Appeal for reportable disciplinary decisions, as more fully described in Section IX of this policy; and
 - d. May impose conditions on the PA in certain cases. In the event of a decision that requires the PA to return a signed agreement as a condition of the Review Committee's decision, the Review Committee will also specify an alternative decision that shall become effective if the PA declines to accept the conditions within the specified timeframe or fails to satisfy the specified conditions.

VIII. Review Committee Notifications

A. Notification of Review Committee Decision:

1. Administrative Matters

For Exception to Policy, exam accommodations and exam grievance cases:

- a. The PA will be notified in writing of the Review Committee's decision within 30 calendar days of the Review Committee meeting.
- b. If recommended by the Review Committee, the notification may also include an agreement to be signed by the PA and returned to NCCPA as a condition of the decision.

2. Disciplinary Matters and Re-establishment

- a. The PA will be notified in writing of the Review Committee's decision within 30 calendar days of the Review Committee meeting.
- b. If the Review Committee determines that no adverse action should be taken, NCCPA shall issue a written Notice of Review Committee Decision advising the PA that no adverse action shall be taken, and the matter will be closed.
- c. If the Review Committee determines that a re-establishment request is denied, NCCPA shall issue written Notice of Review Committee Decision advising the PA that the request was denied. The Review Committee may deny a re-establishment request on a non-permanent basis or may determine to impose permanent revocation of eligibility for certification. If the re-establishment request is denied or the PA's eligibility for certification is permanently revoked, the PA may accept the disciplinary action or may submit a timely request for Discretionary Appeal
- d. If the Review Committee determines that a non-reportable disciplinary action, such as the issuance of a Letter of Concern, will be taken, NCCPA will issue a written Notice of Review Committee Decision and Letter of Concern to the PA.
 - i. The Notice of Review Committee Decision will describe the basis for and nature of the disciplinary action and the applicable section of the *Code of Conduct* and/or NCCPA's *Policies and Procedures for Disciplinary Matters*.
 - ii. The Notice of Review Committee Decision will inform the PA that the decision is a non-reportable action, is not subject to further Review or Discretionary Appeal, and is the final decision of NCCPA.
- e. If the Review Committee determines that a reportable disciplinary action should be taken, such as a Letter of Censure or a revocation of eligibility or certification, NCCPA shall issue a written Notice of Review Committee Decision to the PA.

- i. The Notice of Review Committee Decision will describe (a) the basis for disciplinary action (b) the applicable section(s) of NCCPA's *Code of Conduct and/or Policies and Procedures for Disciplinary Matters*, and (c) the reportable disciplinary action taken in the matter.
- ii. The Notice of Review Committee Decision will also inform the PA that the PA may accept the disciplinary action or, in some instances, may submit a timely request for Discretionary Appeal in accordance with NCCPA's *Review and Appeal Policies and Procedures*. If the PA does not submit a timely written request for Discretionary Appeal in accordance with NCCPA's *Review and Appeal Policies and Procedures*, the decision of NCCPA shall be the final decision of NCCPA on the matter and will not be subject to any subsequent Review or Discretionary Appeal absent extraordinary circumstances, as determined solely by NCCPA.
- iii. The Notice of Review Committee Decision shall also inform the PA that after a final adverse disciplinary decision has been reached, NCCPA may, as deemed appropriate, report the disciplinary action and the underlying facts thereof to interested parties. Such reporting may include providing a copy of the Final Decision Letter to the Federation of State Medical Boards, any state licensing authority with which the PA holds or has held a license to practice as a PA, the federal government, the PA's employer and other interested parties, including individuals seeking information about the PA's certification status, as solely determined by NCCPA. The decision and the basis for the decision also may be published on NCCPA's website.

3. Effective Date of the Decision

A DECISION BY THE REVIEW COMMITTEE ON ADMINISTRATIVE MATTERS AND NON-REPORTABLE DISCIPLINARY CASES SHALL BECOME EFFECTIVE AS OF THE DATE THAT CONSTITUTES THE FINAL DECISION OF NCCPA AS PROVIDED HEREIN. A DECISION BY THE REVIEW COMMITTEE ON REPORTABLE DISCIPLINARY OR RE-ESTABLISHMENT CASES SHALL BECOME EFFECTIVE 31 DAYS AFTER ISSUANCE OF THE NOTICE OF REVIEW COMMITTEE DECISION, UNLESS THE PA FILES A REQUEST FOR DISCRETIONARY APPEAL AND THE REQUEST IS GRANTED. IF THE PA FILES A REQUEST FOR DISCRETIONARY APPEAL AND THE REQUEST IS DENIED, THE REVIEW COMMITTEE DECISION SHALL STILL BECOME EFFECTIVE 31 DAYS AFTER ISSUANCE OF THE NOTICE OF REVIEW COMMITTEE DECISION, EVEN IF THAT DATE HAS ALREADY PASSED.

IX. The Discretionary Appeal Process

A. Decisions Subject to Discretionary Appeal

A PA who has received notice of a reportable disciplinary Review Committee decision or a denial of a re-establishment request may file a written request to appeal the decision to the NCCPA Board of Directors.

1. Decisions Subject to Discretionary Appeal:
 - a. Adverse reportable disciplinary decision that was reviewed and affirmed or modified by, the NCCPA Review Committee

- b. Denial of a re-establishment request, related to prior non-permanent revocation
 - 2. Decisions NOT Subject to Discretionary Appeal:
 - a. Review Committee decision on administrative matters, including initial ETP decisions
 - b. Review Committee decision that is non-reportable
 - c. Any decision that was NOT initially taken by, or reviewed and affirmed or modified by, the NCCPA Review Committee
- B. Requesting a Discretionary Appeal
 - 1. The PA's Request for Discretionary Appeal:
 - a. Must be in writing and be postmarked within 30 calendar days after the date of the notice of the Review Committee decision.
 - b. Must state with specificity the grounds on which the physician assistant is requesting the appeal.
 - c. If a Request for Discretionary Appeal is not postmarked within 30 calendar days of the Notice of Review Committee Decision, the Review Committee Decision shall constitute the final decision of NCCPA on the matter and shall not be subject to further Review or Appeal absent extraordinary circumstances, as determined solely by NCCPA.
 - d. Timely and sufficient requests to file a Discretionary Appeal that do not present Valid New Information will be forwarded to the Chair of NCCPA's Board of Directors for further consideration.
 - 2. Valid New Information

The information submitted in the Request for Discretionary Appeal must be limited to that submitted to the Review Committee.

 - a. New information shall not be considered on appeal. If such information was not available at the time of the Review Committee's review, but becomes available within 30 calendar days after the date of the notice of the Review Committee's decision ("Valid New Information"), the physician assistant may submit such Valid New Information.
 - b. If it is determined that Valid New Information has been submitted, the matter shall be remanded back to the Review Committee for reconsideration and shall not be forwarded to the Chair of NCCPA's Board of Directors.
- C. Role of the Chair of the NCCPA Board of Directors

1. The Chair of the Board of Directors shall consider a timely Request for Discretionary Appeal of an adverse decision that is subject to discretionary appeal, if the specific grounds on which the PA has requested the appeal raise a question of a procedural error or an arbitrary and capricious decision by the Review Committee. Only in such circumstances shall the Chair grant the appeal.
2. If the Chair determines that the specific grounds on which the physician assistant has requested an appeal do not raise a question of (i) a procedural error or (ii) an arbitrary and capricious decision by the Review Committee, the Chair shall deny the request for Discretionary Appeal.
3. If the Chair determines that the specific grounds on which the physician assistant has requested an appeal do raise a question of either (i) a procedural error or (ii) an arbitrary and capricious decision by the Review Committee, the Chair shall approve the request for Discretionary Appeal and shall forward the request for Discretionary Appeal to the NCCPA Board of Directors for consideration of the appeal.

The decision to grant or deny a request for Discretionary Appeal before the NCCPA Board of Directors is at the sole discretion of the Chair of the Board of Directors, who shall seek advice of counsel in making that decision.

If the Chair of the Board of Directors has a conflict of interest in the matter that would, in the view of the Chair or of legal counsel, interfere with the Chair's ability to reach an unbiased decision on whether to grant or deny a request for Discretionary Appeal, the request for Discretionary Appeal shall be directed to the Immediate Past Chair of the Board for decision. If the Immediate Past Chair also has a disqualifying conflict of interest in the matter, the request for Discretionary Appeal shall be directed to the Chair Elect of the Board of Directors for decision. If the Chair Elect also has a disqualifying conflict of interest in the matter, the question of whether to consider a request for Discretionary Appeal shall rest with the Board itself. Determinations of whether a conflict of interest of the Immediate Past Chair or the Chair Elect is disqualifying shall be referred to the Chair, with advice by legal counsel.

A DECISION TO DENY A REQUEST FOR A DISCRETIONARY APPEAL SHALL CONSTITUTE THE FINAL DECISION OF THE NCCPA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER REVIEW OR APPEAL. UPON SUCH DENIAL, THE DECISION OF THE REVIEW COMMITTEE SHALL BECOME EFFECTIVE AS OF 31 DAYS AFTER ISSUANCE OF THE NOTICE OF REVIEW COMMITTEE DECISION, EVEN IF THAT DATE HAS ALREADY PASSED.

D. Role of the NCCPA Board of Directors

1. If a Request for Discretionary Appeal has been granted, the appeal will be reviewed by the Board of Directors at its next regularly scheduled meeting occurring at least 30 calendar days after receipt of the Request for Discretionary Appeal. The Board of Directors' review shall be limited to a determination of whether (1) a procedural error contributed to the Review Committee's decision or (2) the Review Committee's decision was arbitrary and capricious.
2. Any member of the Board of Directors who was a member of the Review Committee and participated in prior consideration of the Review Committee's Decision shall not participate in deliberations regarding, or vote on, the matter. The Chair may participate in the deliberations regarding the matter and may vote on the matter.

E. Board of Directors Review and Deliberations

1. The Board of Directors shall consider the Review Record, the Review Summary, the Notice of Review Committee Decision, the minutes of the Review Committee's meeting concerning the case, and the Request for Discretionary Appeal. The Board of Directors also shall receive and review a statement from the Chair of the Review Committee that took the adverse disciplinary action. The foregoing shall constitute the Discretionary Appeal Record. No appearance by the PA or the PA's representative will be allowed, nor will the submission of information other than in the Discretionary Appeal Record be considered by the Board.
2. The Board of Directors shall base its review solely on the Discretionary Appeal Record and shall limit its review to consideration of whether (1) a procedural error contributed to the Review Committee's decision and/or (2) the Review Committee's decision was arbitrary and capricious.

F. Board of Directors' Decision

1. The Board of Directors' Decision:

Based on the above considerations, the Board of Directors shall determine by majority vote of those members present which of the following actions to take:

- a. Ratify, reverse or modify the Review Committee's Decision

A DECISION BY THE BOARD OF DIRECTORS TO RATIFY, REVERSE, OR MODIFY AN ADVERSE DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NCCPA ON THE MATTER.

- b. Remand the matter back to the Review Committee for correction of the a procedural error that contributed to the Review Committee's decision.

IF THE REVIEW COMMITTEE, ON REMAND, CORRECTS THE PROCEDURAL ERROR BUT REACHES THE SAME DECISION, THAT DECISION SHALL CONSTITUTE THE FINAL DECISION OF THE NCCPA ON THE MATTER AND SHALL NOT BE SUBJECT TO FURTHER APPEAL.

2. Notice of Board of Directors Decision:
The physician assistant shall be notified in writing of the final decision, including the reasons therefore, within 14 calendar days after the Board of Directors reaches its decision. The Notice shall state the effective date of the decision or whether the decision is remanded for further consideration by the Review Committee.
3. Effective Date of Decision:

A DECISION BY THE BOARD OF DIRECTORS SHALL BECOME EFFECTIVE AS OF THE DATE IT CONSTITUTES THE FINAL DECISION OF THE NCCPA AS PROVIDED HEREIN. ALL SANCTIONS SHALL BE IMPOSED AS OF THE EFFECTIVE DATE OF A DECISION.

X. Submissions to NCCPA

Whenever there is a requirement for a written notice, request or other writing to be submitted to the NCCPA, such writing should be addressed to the following:

Review and Appeals Department
National Commission on Certification of Physician Assistants
12000 Findley Rd.
Suite 100
Johns Creek, Georgia 30097
Tel: (678) 417-8100
Fax: (678) 417-8135
Email: reviewandappeals@nccpa.net

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The procedures set forth above for the review and appeal of Adverse Decisions may be subject to an expedited schedule when deemed necessary by NCCPA.

Monitoring: This policy will be reviewed every third year in August beginning in 2019 and monitored by a report from President/CEO annually in November.

Last Revised: August 2019