

NACCAS Rules of Practice & Procedure
January 2017

Part 6 – Complaint Procedure

**Sub-Part A - Complaints against Candidate, Applicant
and Accredited Schools**

Section 6.0 **Purpose of Complaint Procedure**

Any institution accredited by NACCAS is expected to comply with NACCAS *Standards and Criteria*, *Rules of Practice and Procedure*, *Policies* and other accreditation requirements throughout the period of accreditation granted. Complaints are a way the Commission monitors this continuing compliance.

The Commission shall receive and process any complaint that sets forth facts that reasonably suggest an accredited school or an initial applicant or institution in candidate status may not be in compliance with NACCAS *Standards and Criteria* or that the school may be in violation of other Commission requirements. Complaints shall be processed by NACCAS in an expeditious manner.

Where issues of educational quality or compliance with NACCAS' accreditation requirements are not central to the complaint, the Commission shall have a system to refer the complaint and/or the complainant to the appropriate state or federal agency or private entity with jurisdiction over the subject matter of the complaint or special expertise and authority in the matter.

The Commission will not intervene on behalf of individuals in cases of disciplinary action or dismissal, or act as a court of appeals in such matters as admission, graduation, fees, and similar points of issue, unless the context suggests unethical or unprofessional actions that seriously impair or disrupt the educational services of a candidate or an accredited institution.

Section 6.1 **Parties Who May File a Complaint**

- (a) General: A complaint may be filed by any party who has good reason to believe that an accredited school or an initial applicant or institution in candidate status has violated NACCAS *Standards and Criteria* or other accreditation requirements including, but not limited to, students and former students of the school, prospective students, governmental agencies with responsibility for activities of cosmetology or massage schools, members of the public, and other accredited schools.
- (b) Student complainants:
 - (1) In accordance with NACCAS' *Standards and Criteria*, schools must have a policy and procedure for handling student complaints and inform the students in writing of same. The notice must be included in the school's catalog, handbook, other published materials, and/or otherwise prominently displayed in the school.
 - (2) NACCAS shall not consider a student complaint until all procedures and remedies within the institution have been exhausted.

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- (3) A student complainant must show that the institution's complaint procedure has been followed and state why the matter is considered still unresolved when he/she submits a complaint to NACCAS.

Section 6.2 **Filing and Content of Complaint**

- (a) A complaint need not be submitted on NACCAS' official complaint form, but must be in writing and must contain all information required on that form and as attachments to that form. The form is available on the NACCAS website, www.naccas.org or by request. The complaint must be submitted to the Executive Director of the Commission and signed by the complainant.
- (b) A complaint must:
 - (1) State the basis for any allegations of noncompliance with NACCAS' Goals of Accreditation, *Standards and Criteria, Rules of Practice and Procedure*, or other Commission requirements.
 - (2) Contain all relevant names and dates and briefly describe the actions forming the basis of the complaint.
 - (3) Be accompanied by copies of any documents or materials that support the allegations, when available.
 - (4) Include a release from the complainant(s) authorizing the Commission to forward a copy of the complaint, including the identity of the complainant(s), to the institution.

Complaints that are filed seeking redress for an individual grievance cannot be kept confidential, since information must be obtained from the school to address the individual's allegations.

- (c) 21 days: If additional information is necessary, a complaint form shall be sent to the complainant. The complainant shall have twenty-one (21) calendar days to return the completed complaint form. If the completed form is not returned within twenty-one (21) calendar days, the complaint shall be considered to be abandoned and will not be pursued by NACCAS.

Section 6.3 **Processing a Complaint**

- (a) 10 days: Receipt of the complaint shall be acknowledged to the complainant in writing by the Executive Director of NACCAS within ten (10) business days of receipt.
- (b) When a complaint meets the requirements of [Section 6.2](#) (above), the complaint shall be referred to a committee established pursuant to [Section 8.16](#) (see page 122) of these *Rules*.

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Section 6.4 **Notice of the Complaint and Responses Thereto**

- (a) 10 – 21 days: When a complaint meets the requirements of [Section 6.2](#) (see page 100), the Executive Director of NACCAS shall notify the school named in the complaint that a complaint has been filed. The Executive Director shall provide the school with either a copy of the complaint or a summary of the allegations set out in the complaint as directed by the committee to which the complaint was referred. The notice shall also identify the NACCAS *Standards and Criteria, Rules of Practice and Procedure*, accreditation objectives, or other Commission requirements which were allegedly violated.
 - (1) 10 days: Within the 10 days after NACCAS receives a complaint, the Executive Director shall encourage an informal resolution or settlement of the dispute.
 - (2) 21 days: If an informal resolution is not reached, a formal written complaint must be sent to the school and NACCAS shall advise the school that it has twenty-one (21) days from the date of receipt of the notice to submit a response to the complaint.
- (b) The response of the school to the complaint shall set forth all defenses the school intends to assert and shall be accompanied by any documents or other materials which support the position of the school.
- (c) The Executive Director of NACCAS, the designated committee or the Commission may, at any time, request additional information from the complainant or the school deemed necessary for the resolution of the dispute. A reasonable time limit (usually 21 calendar days) for replying to such requests may be imposed and neither the Executive Director of NACCAS, nor the committee, nor the Commission need consider information not submitted in a timely fashion.
- (d) Reasonable time - usually 21 days: The notice of the filing of the complaint, the school's responses, and any other information concerning the complaint proceeding shall be sent by certified mail, return receipt requested.

Section 6.5 **Taking Action on a Complaint**

- (a) The designated committee or the Commission shall review the complaint and the institution's response and shall take one of the following actions:
 - (1) Encourage an informal resolution or settlement of the dispute; or
 - (2) Determine that the complaint (together with the supporting documentation provided by the complainant) is insufficient to establish that the institution is out of compliance with NACCAS' Standards, Rules and/or other accreditation requirements, in which case the designated committee or the Commission shall either (i) close the complaint or (ii) defer action and request that the complainant and/or the institution produce additional information; or

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- (3) Close the complaint on one or more of the following grounds:
- (i) That the complaint, if submitted anonymously, consists of allegations that cannot be adequately investigated by NACCAS or adequately responded to by the institution without knowledge of the complainant's identity; or
 - (ii) That the allegations of the complaint do not related to any NACCAS Standard, Rule or other accreditation requirement with which the institution may be out of compliance; or
 - (iii) That the institution has shown current compliance with the NACCAS Standards, Rules and/or other accreditation requirements implicated by the allegations of the complaint.
 - (iv) Determine that the institution is not in compliance with one or more of NACCAS Standards, Rules and/or other accreditation requirements and, if this determination is made by the designated Committee, refer the matter to the Commission for appropriate action.
- (b) If the institution is determined to be not in compliance with one or more of NACCAS Standards, Rules, and/or other accreditation requirements, the Commission shall take one or more of the actions authorized in [Part 8](#) (see page 112) of these Rules.
- (c) The complainant, if known, shall be notified in writing of the designated committee's or the Commission's decision under Section 6.5(a), see page 101 and, to the extent consistent with the Commission's obligations under [Section 11.0](#), see page 140, of these Rules, the reasons for that decision.
- (d) A complainant whose complaint has been closed under Sections 6.5(a)(2), 6.5(a)(3)(i) or 6.5(a)(3)(ii) may file a new complaint which meets the requirements for a complaint set out in [Section 6.2](#) (see page 100).

Section 6.6 **Reporting of Complaints Received**

A record of the complaint, response, and other relevant information shall be filed in the school file. The Executive Director shall submit, at each meeting of the committee designated to handle complaints, a detailed report on each complaint that was resolved without the Commission's intervention. The Executive Director shall submit at each Commission meeting the following information: (1) Number of complaints received since the previous Commission meeting, (2) status of complaints, and (3) a breakdown of the types of complaints received.

Sub-Part B - Complaints Against NACCAS Evaluators

Section 6.7 **Requirements**

- (a) Complaints regarding the conduct of an evaluator while acting on behalf of NACCAS shall be in writing, signed by the complainant and submitted to the Executive Director, who shall forward them to the Commission Chair.
- (b) The complaint shall:

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- (1) State the name of the evaluator;
 - (2) Contain relevant dates;
 - (3) Briefly describe the actions forming the basis of the complaint;
 - (4) Be accompanied by copies of relevant documents; and
 - (5) Any other documents or materials that support the allegations must also accompany the complaint.
- (c) The Chair shall refer the complaint to the Executive Committee, or encourage an informal resolution between the complaining party and the evaluator.
- (d) If the complaint is referred to the Executive Committee, that Committee shall notify the evaluator, in writing, of the allegations and inform the complaining party that the complaint is under consideration by the Executive Committee. The evaluator will have an opportunity to respond and/or request a hearing before the Executive Committee. The Committee or the Commission shall conduct an investigation of the allegations.
- (e) An evaluator who does not respond to complaint allegations will automatically be deleted from the list of NACCAS evaluators.
- (f) Where an evaluator responds, but is deemed not to be in compliance with the NACCAS [*Evaluator Code of Ethics*](#) (found within the Independent Contractor Agreement) and other requirements as stated in the Guidelines for On-Site Evaluation teams, he/she will be notified in writing that he or she has been deleted from the list of NACCAS evaluators.

Sub-Part C - Complaints Against NACCAS Staff Members

Section 6.8 **Complaints Against NACCAS Staff Members**

- (a) **30 Days After Incident:** Complaints regarding the conduct of a Commission staff member shall be in detail, in writing or typed, signed by the complainant, and submitted to the Executive Director within 30 days of the incident from which the complaint arises. If the complaint regards NACCAS' Executive Director it shall be submitted to the chair of NACCAS within these same timelines. The complaint shall state the name of the staff member, and contain relevant dates, briefly describe actions forming the basis of the complaint that could constitute a violation of NACCAS' [*Code of Ethics*](#) (found on the NACCAS website under "Other Key Documents") allegedly violated by the staff member, and identify all witnesses. Complainant must make a diligent effort to obtain witnesses. Witnesses must submit their statements, in writing and signed, within 30 days after being personally notified of the complaint. A complaint based upon written evidence should be accompanied by copies of relevant documents. Any other documents or materials that support the allegations should accompany the complaint. The complaint shall be handled through employee evaluation procedures established in NACCAS' Employee Manual.

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- (b) Complaints and witnesses, witness statements, or documents in support of a complaint not submitted within the above deadlines shall be barred by limitation. Complaints against NACCAS staff members and proceedings under this Section of the *Rules* shall be held in the strictest confidence, in accordance with NACCAS' [Code of Ethics](#) (found on the NACCAS website under "Other Key Documents").

Section 6.9 **Complaints Against the Commission or Commissioners**

- (a) Within 20 days after incident: Any party intending to lodge a complaint with the Commission regarding the conduct of a Commissioner or of the Commission shall notify the Commission of its intent to file such complaint. The notice of intent to file complaint shall be typed and shall briefly describe the action(s) forming the basis of the complaint and the date(s) upon which those actions occurred.
- (b) Within 45 days after incident:
- (1) Complaints regarding the conduct of a Commissioner or of the Commission shall be submitted on the Section 6.9 Complaint Form in detail, typed and in English, signed by the complainant, and submitted to the Chair or First Vice Chair of the Commission, if the complaint is concerning the Chair.
 - (2) The complaint shall state the name of the Commissioner(s) against whom the complaint is lodged, and contain relevant dates, briefly describe the actions forming the basis of the complaint which the complainant believes constitutes a violation of the NACCAS [Code of Ethics](#) or [NACCAS Policy on Diversity](#) (found on the NACCAS website under "Other Key Documents") or a violation of due process.
 - (3) The complaint shall identify all witnesses.
 - (4) A complaint based upon written evidence should be accompanied by copies of relevant documents. Any other documents or materials that support the allegations should accompany the complaint. Complainant must make a diligent effort to obtain witnesses.
 - (5) Members of the Board of Commissioners shall be barred from bringing any complaint arising from Commission action on a corporate matter, if such Commissioner has not first complied with the requirements of [Article III, Section IX](#) (see page 242) of the *By-Laws* of NACCAS.
- (c) Except in the case where the complaint is against the Commission itself, the Commission shall appoint a preliminary review panel of three Commissioners, which panel shall be selected by lot from among all Commissioners not named by the complaining party as persons against whom the complaint is being lodged (which list of non-named Commissioners shall be confirmed by the Commission's in-house counsel). The complaint shall be referred to the preliminary review panel, or to NACCAS' outside counsel if the complaint is against the Commission itself, to determine whether or not the complaint includes allegations of violations of NACCAS' [Code of Ethics](#) or [NACCAS](#)

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[Policy on Diversity](#) (found on the NACCAS website under “Other Key Documents”) or the requirements of due process.

- (d) The independent panel shall be organized in accordance with [Section 6.10](#) (see below) of these *Rules* (titled “Independent Panel”) and advised by a panel advisor who holds a mediator certificate from the Virginia Supreme Court or an American Arbitration Association credential, or the equivalent.

Section 6.10 **Independent Panel**

- (a) An Independent Panel shall be made up of the following:
- (1) One member of the Commission, or former Commissioner, for whom no conflict or perception of a conflict exists with any of the parties to the complaint, to be selected by the Chair;
 - (2) One panelist with no current or past relationship to NACCAS (prior service on an Independent Panel excepted), to be selected by NACCAS’ outside general counsel; and
 - (3) One panelist selected by the other two, who also has no current or past relationship to NACCAS. This third panelist shall be selected from a list of at least three potential panelists provided by the panel advisor.
- (b) The Independent Panel shall:
- (1) Invite submission of evidence (documents, witness statements, other) from the complainant to further substantiate allegations of violations of the [Code of Ethics](#) or [NACCAS Policy on Diversity](#) (found on the NACCAS website under “Other Key Documents”) or requirements of due process.
 - (2) Provide the complained-against party with specifics on the alleged violations and provide opportunities for a response / defense.
 - (3) If either party requests a hearing, the Independent Panel shall hear the complaint allegations with witness statements and other evidence and hear the defense in detail.
- (c) Where the allegations of the complaint have been substantiated or where the Independent Panel has determined that the complaint was filed vexatiously, the action taken by the Independent Panel shall be final and unappealable. Actions the Independent Panel shall take are:
- (1) Dismissal of the complaint;
 - (2) Reprimand;
 - (3) Order attendance at a training or counseling seminar related to the offense by one or both of the parties;

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- (4) In the case of a complaint against an individual Commissioner, order the complained-against Commissioner to remedy or resolve the condition giving rise to the complaint; or
 - (5) Removal from the Board of Commissioners of either the complainant, complained-against Commissioner, or both.
- (d) The decision of the Independent Panel shall be rendered within ninety (90) days of its formation and it shall be final, unappealable, and made part of the official record of the Commission. Complaints and witnesses, witness statements, or documents in support of a complaint not submitted within the above deadlines shall be barred by limitation. Complaints against Commissioners and proceedings under this Section of the *Rules* shall be memorialized in a record maintained by the NACCAS Secretary. Complaints and the records on complaints shall be held in the strictest confidence, in accordance with NACCAS' [*Code of Ethics*](#) (found on the NACCAS website under "Other Key Documents")

Section 6.11 **Costs.** The cost of the Independent Panel shall be paid by the Commission.

Related Documents

The following documents may be helpful to you in understanding the requirements of this part of the NACCAS *Rules*. They are available on the NACCAS website at www.naccas.org in the *NACCAS Handbook*.

[*NACCAS By-Laws*](#) (see page 234) and [*Code of Ethics*](#) (found on the NACCAS website under "Other Key Documents")

[*Complaint Form – Complaints Against Schools*](#) (found on the NACCAS website under "Applications and Forms")

[*Complaint Form – Complaints Against the Commission or Commissioners*](#) (found on the NACCAS website under "Applications and Forms")

[*Directions for Responding to Complaints \(Vol. 2\)*](#) (found on the NACCAS website under "Other Key Documents")

[*Policy #V.01*](#) (see page 38) Internal Grievance Procedure Policy