

27 NCAC 01D .1009 REINSTATEMENT HEARING: PROCESS FOR DETERMINING A MATTER INVOLVING THE QUESTION OF REINSTATEMENT

When the matter before the panel is one involving the question of whether a suspended member shall be reinstated following a suspension for noncompliance with the rules, the panel shall proceed as follows:

- (1) Examination of the Basis for Determination That Deficiency Not Cured - The panel first shall examine the written information transmitted by the board to the committee and shall determine whether that information provides a basis for the board's determination that the deficiency for which the member's license was suspended had not been cured at the time the board made its determination.
- (2) When There Is No Basis for Determination That Deficiency Not Cured - If the written information from the board provides no basis for a determination that the suspended member's deficiency had not been cured at the time the board made its determination, the panel shall determine that the deficiency had been cured and shall report to the committee a recommendation that the suspended member be reinstated.
- (3) When There Is Some Basis for Determination That Deficiency Not Cured - If the written information from the board provides some basis for a determination that the suspended member's deficiency had not been cured at the time the board made its determination, the panel shall consider all information submitted to the panel or to the board by the member bearing on the issue of whether the deficiency had been cured at the time the board made its determination.
- (4) Assessing the Information on the Issue of Cure:
 - (a) Based upon all the information before it, the panel shall determine whether it is persuaded that the suspended member's deficiency had not been cured at the time the board made its determination.
 - (b) In assessing the information on cure, when the board's determination that the deficiency had not been cured is based upon its finding that credits essential to cure were acquired in a course or program that was not properly accredited or approved, the panel shall give that finding and any rebuttal information from the member the consideration described in Rule .1006(f) of this Section.
- (5) When the Panel Determines That the Deficiency Had Not Been Cured - If the panel is persuaded that the suspended member's deficiency had not been cured at the time the board made its determination, it shall determine that the deficiency had not been cured and shall report to the committee a recommendation that the suspended member not be reinstated.
- (6) When the Panel Determines That the Deficiency Had Been Cured - If the panel is persuaded that the suspended member's deficiency had been cured at the time the board made its determination, it shall determine that the deficiency had been cured and then shall consider all information submitted to the panel or to the board by the member and all information submitted by the board to the panel bearing on the issue of whether the reinstatement fee had been paid at the time the board made its determination.
- (7) When the Panel Determines That Reinstatement Fee Had Been Paid - If the panel is not persuaded that the reinstatement fee had not been paid at the time the board made its determination, the panel shall determine that the fee had been paid and shall report to the committee a recommendation that the member be reinstated.
- (8) When the Panel Determines That Reinstatement Fee Had Not Been Paid - If the panel has determined that the reinstatement fee had not been paid at the time the board made its determination, the panel shall determine that the fee had not been paid and shall report to the committee a recommendation that the member not be reinstated.
- (9) When the Member Submits Information Indicating Remedial Intervening Events - When a suspended member submits information indicating that, after the board's determination and prior to the hearing before the panel, the suspended member cured the deficiency (if failure to cure was a basis for the denial), the panel shall remand the matter to the board with a request that it reconsider the matter in light of the new information.

History Note: Authority G.S. 84-23; Order of the NC Supreme Court, dated October 7, 1987, 318 N.C. 711; Readopted Eff. December 8, 1994.