

27 NCAC 01D .1804 APPEAL TO THE COUNCIL

(a) Appealable Decisions. An appeal may be taken to the council from a decision of the board which denies an applicant certification (i.e., when an applicant's application has been rejected because it is not in compliance with the standards for certification or when an applicant fails the written specialty examination), denies an applicant continued certification as a specialist, or suspends or revokes a specialist's certification. The rejection of an application because it is incomplete shall not be appealable.

(b) Filing the Appeal. An appeal from a decision of the board as described in Paragraph (a) may be taken by filing with the executive director of the North Carolina State Bar (the State Bar) a written notice of appeal not later than 21 days after the date of the notice of the board's decision to the applicant who is denied certification or continued certification or to a lawyer whose certification is suspended or revoked.

(c) Appeal Procedure. The appeal to the council shall be under such rules and regulations as the council may prescribe.

(d) Scope of Review. Review by the council shall be limited to whether the applicant was provided with procedural rights and whether the board, or the reconsideration panel where applicable, applied the correct procedural standards and State Bar rules in rendering its decision. The applicant shall have the burden of making a clear and convincing showing of arbitrary, capricious, or fraudulent denial of procedural rights or misapplication of the procedural standards or State Bar rules.

(e) Notice of the Council's Decision. The applicant shall receive written notice of the council's decision.

(f) Costs. The council may tax the costs attributable to the proceeding against the applicant.

*History Note: Authority G.S. 84-23;
Readopted Eff. December 8, 1994;
Amendments Approved by the Supreme Court: September 22, 2016; March 11, 2010.*