

AMERICAN BOARD OF INDUSTRIAL HYGIENE, INC.

CERTIFICATION APPEALS PROCEDURE

A. Introduction.

The American Board of Industrial Hygiene, Inc. (ABIH), is a private, non-profit, professional credentialing organization that sponsors the development, maintenance, evaluation, promotion, and administration of a rigorous, practice-related, examination-based, certification program in the field of industrial hygiene. The purpose and goal of the ABIH is to assess and measure objectively the professional knowledge and understanding of practitioners engaged in the specialty of industrial hygiene. The ABIH shall promote the advancement of industrial hygiene practice by identifying to professionals and the public those industrial hygienists who have voluntarily sought and obtained certification as a Certified Industrial Hygienist (CIH) or a Certified Associate Industrial Hygienist (CAIH).

In order to become certified as a Certified Industrial Hygienist (CIH), each applicant must satisfy all educational, practice, and other eligibility and credential requirements established by the ABIH Board of Directors, and must pass all components of the examination process. In addition, all individuals certified by the ABIH must demonstrate an ongoing professional commitment to the field of industrial hygiene.

ABIH certification requirements and eligibility standards are applied fairly, impartially and consistent with applicable laws. ABIH will not discriminate against any applicant or examinee on the basis of an unlawful reason, and will grant certification without regard to an applicant's or examinee's membership or non-membership in any organization, association or other group.

ABIH certificants, applicants and examinees seeking certification or recertification agree that: these procedures are a fair process for resolving all certification complaint or appeal matters; they will be bound by decisions made pursuant to these procedures; these procedures are governed by the principles of the laws of the State of Michigan; and, these procedures do not constitute a contract between the ABIH and the applicant, examinee or certificant.

B. General Provisions.

- 1. Nature Of The Process.** The ABIH Certification Program is directed, administered and supervised by the ABIH Board of Directors. All challenges regarding actions of and by the Certification Program are governed by the comprehensive and exclusive rules contained in these procedures. This appeal process is the only way to resolve all Certification Program application, eligibility, examination and other certification or recertification challenges, complaints and/or claims of irregularities.

Because these informal procedures are not legal proceedings, they are designed to operate without the assistance of attorneys. While a party may choose to be represented by an attorney, applicants, examinees and certificants are encouraged to communicate directly with the ABIH Certification Program. If a party has retained an attorney, that attorney will be directed to communicate with the Certification Program through the ABIH Legal Counsel.

- 2. Participants.** The Executive Director, the Certification Appeals Committee, the ABIH Board of Directors and any other authorized representative of the ABIH may be involved in deciding matters to be resolved or otherwise arising under these procedures.

3. **Time Requirements.** ABIH will make every effort to follow the time requirements noted in these appeal procedures. However, ABIH's failure to meet a time requirement will not prohibit the handling or final resolution of any matter arising under these procedures. ABIH Certification Program applicants, examinees or certificants are required to comply with all time requirements specified in this document. Unless provided otherwise, time extensions or postponements may be granted by the ABIH if a timely, written request explaining a reasonable cause is submitted.
4. **Litigation/Other Proceedings.** ABIH may accept and resolve a dispute arising under these proceedings when civil or criminal litigation, or other proceedings related to the dispute, are also before a court, regulatory agency or professional body. ABIH may also continue or delay the resolution of any appeal, complaint or other matter.
5. **Confidentiality.** In order to protect the privacy of all parties involved in matters arising under these procedures, all material prepared by, or submitted to, ABIH will be confidential. Disclosure of material prepared by, or submitted to, ABIH is permitted only when specifically authorized by ABIH policy, the Board of Directors, the Certification Appeals Committee or the Executive Director.

Among other information, ABIH will not consider the following materials and documents to be confidential:

- a. Published certification and eligibility criteria;
 - b. Records and materials which are disclosed as the result of a legal requirement;
 - c. Upon the written request of an applicant, examinee or certificant, any certification information concerning certification status or application materials which the applicant, examinee or certificant would like made available to other credentialing agencies, professional organizations or similar bodies; and,
 - d. All final published decisions and orders of the Board of Directors, the Certification Appeals Committee or the Executive Director.
6. **Failure To Disclose/Improper, False, Or Misleading Representations.** The Executive Director, at the direction of the Board of Directors, may temporarily or permanently prevent and bar an individual from being certified or recertified, or may issue any other appropriate directive(s), where an ABIH applicant, examinee or certificant fails to disclose information related to certification or recertification requested by ABIH, or where the applicant, examinee or certificant makes an improper, false or misleading representation to ABIH.

Where a penalty, discipline, order or other directive is issued by the Executive Director under this Section, the applicant, examinee or certificant involved may seek review and appeal under these procedures.

7. **Failure To Cooperate.** Where an applicant, examinee or certificant fails or refuses to cooperate fully with ABIH concerning matters arising under, or related to, these procedures, and it is determined that the lack of cooperation is without good cause, the Executive Director, Certification Appeals Committee or Board of Directors may penalize or discipline the individual. Among other penalties or disciplines, the Board may temporarily or permanently prevent and

bar an individual from being certified or recertified, or may issue any other appropriate directive(s).

Where a penalty, discipline, order or other directive is issued by ABIH under this Section, the applicant, examinee or certificant involved may seek review and appeal under these procedures.

8. **Professional Complaint Matters.** Following notice, and a reasonable opportunity to present a response to the Board of Directors, the Executive Director, at the direction of the Board of Directors, may temporarily or permanently prevent an individual from being certified or recertified or may issue any other appropriate directive(s), where: the applicant, examinee or certificant has been the subject of any complaint or similar matter relating to his/her professional activities as an industrial hygienist; or, the applicant, examinee or certificant is the subject of matters or proceedings involving criminal charges, lesser offenses, or similar matters. ABIH may take such action regardless of when the alleged violation occurred.

Where a penalty, discipline, order or other directive is issued by ABIH under this Section, the examinee or certificant involved may seek review and appeal under these procedures.

C. **Actions And Decisions Concerning The Certification Process.**

1. **Certification Application Actions.** Under the supervision of the Executive Director or other authorized representative, ABIH will make one of the following determinations and decisions with regard to an applicant's or examinee's application for the ABIH certification and examination eligibility: (a) accept the application; (b) request additional or supplemental information; or, (c) reject the application on the ground(s) that the applicant or examinee does not meet certification eligibility requirements, or the applicant or examinee has violated, or acted contrary to, an ABIH policy or rule.
2. **Certification Examination(s) Actions.** ABIH will notify each examinee whether he/she has achieved a passing or failing score on each Certification Examination. Where a examinee acts contrary to ABIH policies during the administration of any Certification Examination(s) or section, the examinee may be prevented from taking or completing the Examination(s).
3. **Recertification Application Actions.** ABIH will make one of the following decisions with regard to a certificant's Recertification Application: (a) grant recertification; (b) conditionally accept the Recertification Application, pending satisfactory completion of all recertification requirements; (c) request additional information; or, (d) reject the application on the ground(s) that the certificant does not meet the criteria for recertification, or the certificant has violated, or acted contrary to, an ABIH policy or rule.

D. **Circumstances For Review Or Appeal Of An Adverse Certification Program Decision.**

1. **Appeal Limitations.** An applicant, examinee or certificant may submit an appeal of an adverse ABIH Certification Program action, decision or determination under the following circumstances where certification or recertification has been denied:
 - a. The applicant or examinee was found to be ineligible to take or complete the Certification Examination(s); or

- b. The applicant, examinee or certificant failed to satisfy a certification or recertification requirement, including those requirements related to qualifications, education and experience, or was otherwise ineligible for certification or recertification.

E. Initial Request For Review/Content And Time Period For Submitting A Request For Review To The Executive Director.

An applicant, examinee, or certificant may submit a written request for review of an adverse action or decision within thirty (30) days of the date of the action by notifying the Executive Director in writing and stating with particularity the nature of the request and the specific facts and circumstances supporting the request, including all reasons why the action or decision should be changed or modified. The applicant, examinee or certificant must also provide accurate copies of all supporting documents. A request for review may be in letter or other clear written form, must identify the applicant, examinee or certificant, and must state that the document is a Request for Review by the Executive Director.

F. Informal Review By The Executive Director.

1. **Executive Director Actions.** Upon receipt, all Requests for Review will be considered informally by the Executive Director or other authorized ABIH representative. Following consideration of a Request for Review, the Executive Director will acknowledge in writing receipt of the request within thirty (30) days, and may take one of the following actions:
 - a. Uphold or modify the adverse action or decision, or take other appropriate action; or,
 - b. Refer the matter to the Certification Appeals Committee for review and resolution as an appeal.
2. **Referral Of Request/First Appeal.** In the event that a Request for Review is referred to the Certification Appeals Committee for resolution, the Executive Director will provide the Certification Appeals Committee with all relevant materials, including the documents and materials submitted by the applicant, examinee or certificant.

G. First Appeal/Certification Appeals Committee.

1. **Circumstances And Limitations Of First Appeal.** Subject to the limitations below, in the following circumstances a first appeal will be heard and resolved by the Certification Appeals Committee where: the matter has been referred by the Executive Director; or, an applicant, examinee or certificant is dissatisfied with the final informal review and action of the Executive Director and requests an appeal consistent with these procedures.

Only the following actions and decisions of the Executive Director may be appealed by the applicant, examinee or certificant:

- a. The applicant or examinee was found to be ineligible to sit for the Certification Examination(s);
- b. The applicant or examinee was barred or otherwise prohibited from taking or completing the Certification Examination(s);
- c. The applicant or examinee was found to be ineligible for certification due to a failure to satisfy one or more certification requirements, including those requirements related to qualifications, education and experience, or was otherwise ineligible for certification; or,

- d. The certificant was denied recertification for failure to satisfy one or more recertification requirements or was otherwise ineligible for recertification.

H. Time Period For Submitting First Appeal.

An applicant, examinee or certificant seeking to present a first appeal to the Certification Appeals Committee must submit a written appeal consistent with the requirements of these procedures to the Executive Director within thirty (30) days of the date of the final action and decision of the Executive Director. The time for filing the appeal may be enlarged by the Certification Appeals Committee upon written request by the applicant, examinee or certificant received at least fifteen (15) days prior to the appeal deadline.

I. First Appeal/Content And Grounds.

1. Required Information For First Appeal. In order for an appeal to be considered by the Certification Appeals Committee, the appeal submission must contain the following information and material:

- a. The identity and signature of the individual applicant, examinee or certificant submitting the appeal;
- b. All objections, corrections and factual information the applicant, examinee or certificant believes to be relevant to the appeal;
- c. The names, addresses and telephone numbers of any persons with factual information relevant to the appeal and a clear description of the factual information available from these persons; and,
- d. Accurate copies of any and all relevant documents, exhibits or other materials submitted in support of the appeal.

2. Grounds For First Appeal. In order for an appeal to be considered by the Certification Appeals Committee, the appeal submission must contain substantial information supporting at least one of the following grounds and a detailed explanation of the reasons for the appeal:

- a. The applicant's or examinee's eligibility to sit for the Certification Examination(s), or other eligibility for certification, was denied incorrectly;
- b. The applicant or examinee was barred or otherwise prohibited incorrectly from taking the Certification Examination(s); or,
- c. The certificant was incorrectly found ineligible for recertification under the relevant recertification standards and the certificant would have qualified for recertification if the correct standards had been applied.

J. First Appeal Hearings.

1. Certification Appeals Committee. With the approval of the Board of Directors, the Board Chair will appoint at least three (3) ABIH certificants in good standing, who shall not be

members of the Board, to serve as the Certification Appeals Committee to resolve each certification appeal, including a Committee Chair.

2. **Scheduling Of Appeal/Telephone And In-Person Hearings.** Within forty-five (45) days of receipt of a complete, proper and written appeal, the Certification Appeals Committee will schedule a date and time for consideration of the appeal, generally not later than one-hundred twenty (120) days after receipt of the appeal, and notify the applicant, examinee or certificant of the appeal date and time. Where the applicant, examinee or certificant has requested a telephone or in-person hearing, the Certification Appeals Committee will convene, preside over and conduct an appeal hearing. Requests for an in-person hearing will be granted at the sole discretion of the Certification Appeals Committee. The applicant, examinee or certificant will be responsible for their expenses associated with the appeal.
3. **First Appeal Determination/Decision Of The Certification Appeals Committee.** Following the close of the appeal record, the Certification Appeals Committee will review the record of the appeal, including the action or decision of the Executive Director and the information and materials received from the applicant, examinee or certificant. The Certification Appeals Committee will resolve and decide the appeal based on the record, including relevant and credible information presented by the applicant, examinee or certificant. The appeal decision will include the findings of the Certification Appeals Committee and a summary of the relevant facts upon which the decision is based. The appeal decision will be prepared and issued under the direction of the Certification Appeals Committee, or other authorized representative, within thirty (30) days of the closing of the first appeal record, or as soon thereafter as is practical.

K. Final Appeal/Final Appeal To The Board Of Directors.

1. **Grounds For Final Appeal.** If an applicant, examinee or certificant chooses to challenge and appeal an adverse appeal decision, a final appeal may be submitted to the Board of Directors. The grounds for such an appeal are strictly limited to the following grounds:
 - a. Procedural error: The first appeal decision misapplied a procedural rule contained in these rules, and the rule misapplication significantly prejudiced the applicant, examinee or certificant with respect to the outcome of the appeal decision;
 - b. New or previously undiscovered information: Following the issuance of the first appeal decision, the applicant, examinee or certificant located relevant information and facts that were not previously available and that would have significantly affected the outcome of the first appeal decision in his/her favor;
 - c. Misapplication of certification standards: The first appeal decision misapplied the relevant certification or recertification standards/policies, and the misapplication significantly prejudiced the applicant, examinee or certificant and the outcome of the appeal decision; or,
 - d. Contrary to the information presented: The first appeal decision is clearly contrary to the most substantial information in the record.

With respect to the grounds listed in Sections 1.a. and 1.c. above, the Board of Directors will consider only arguments that were previously presented to the Certification Appeals Committee in the first appeal.

L. Time Period For Submitting Final Appeal/Content Of Final Appeal.

- 1. Time Period For Submitting Appeal.** An applicant, examinee or certificant may submit a written, signed appeal to the Board of Directors within thirty (30) days of the date of the first appeal decision of the Certification Appeals Committee. Any appeals received beyond this date will not be reviewed or considered by the Board of Directors, unless special permission is granted by the Chair of the Board of Directors.
- 2. Contents Of Final Appeal.** Consistent with all other requirements, a final appeal to the Board of Directors must state and include the following information:
 - a. The identity and signature of the individual applicant, examinee or certificant submitting the appeal;
 - b. A detailed explanation of the reasons and basis for the appeal, as defined and limited by Section K, above;
 - c. All objections, corrections and factual information the applicant, examinee or certificant believes to be relevant to the appeal, including all accurate documents and exhibits in support of the appeal; and,
 - d. The names, addresses and telephone numbers of any persons not previously identified with factual information relevant to the appeal, and a clear description of the factual information available from these persons.

M. Board Of Directors Final Appeal Process.

- 1. Scheduling Of Final Appeal.** Within sixty (60) days of receipt of a complete and proper written appeal, the Board of Directors will schedule a date, usually not later than the next or second regular scheduled Board meeting, on which to consider the appeal. The ABIH Executive Director will notify the applicant, examinee or certificant of the date the appeal will be considered.
- 2. Appeal Review.** The Board of Directors will conduct a review to consider all of the available proof and information, including the record of the first appeal and the materials submitted by the applicant, examinee or certificant. Requests for participation by the applicant, examinee or certificant will be granted at the sole discretion of the Board of Directors. The applicant, examinee or certificant will be responsible for their expenses associated with the appeal.

N. Final Decision Of The Board Of Directors.

Following the review of a final appeal, the Board of Directors will review the record of the appeal and resolve and decide the appeal based on the record. The Board will consider all relevant information and include a summary of its findings in the appeal decision. The Board may affirm, modify or reverse the decision of the Certification Appeals Committee based on its findings. The Board will issue its final appeal decision within thirty (30) days of the end of the review of the appeal, or as soon thereafter as is practical.

O. Finalizing And Closing Appeals.

1. **Conditions For Closing The Appeal.** An appeal will be closed and all proceedings ended when any of the following occurs:
 - a. An appeal has been resolved and decided by the Executive Director, the Certification Appeals Committee or the Board of Directors, and the allowable time period for the filing of an appeal under these procedures and rules has passed or lapsed; or,
 - b. The appeal has been withdrawn or terminated by the applicant, examinee or certificant.

July 5, 2007

F:\Ethics-Legal\Cert Appeals Procedures.doc