



PROCEDURES FOR THE ENFORCEMENT OF THE NBCOT® **CANDIDATE/CERTIFICANT CODE OF CONDUCT**

SECTION A. Preamble

In exercising its responsibility for promoting and maintaining standards of professional conduct in the practice of occupational therapy and in order to protect the public from those practitioners whose behavior falls short of these standards, the National Board for Certification in Occupational Therapy, Inc. (“NBCOT®,” formerly known as “AOTCB”) has adopted a Candidate/Certificant Code of Conduct. The NBCOT has adopted these procedures for resolving issues arising under the Candidate/Certificant Code of Conduct with respect to persons who have been certified by the NBCOT or who have applied for such certification. These procedures are intended to enable the NBCOT, through its Qualifications and Compliance Review Committee (“QCRC”), to act fairly in the performance of its responsibilities to the public as a certifying agency, and to ensure that the rights of candidates and certificants are protected.

SECTION B. Basis for Sanction

A violation of the Candidate/Certificant Code of Conduct provides basis for action and sanction under these Procedures.

SECTION C. Sanctions

1. Violations of the Candidate/Certificant Code of Conduct may result in one or more of the following sanctions:
 - a. Ineligibility for certification, which means that an individual is barred from becoming certified by the NBCOT, either indefinitely or for a certain duration.
 - b. Reprimand, which means a formal expression of disapproval, which shall be retained in the certificant’s file, but shall not be publicly announced.
 - c. Censure, which means a formal expression of disapproval which is publicly announced.
 - d. Probation, which means continued certification is subject to fulfillment of

specified conditions, e.g., monitoring, education, supervision, and/or counseling.

- e. Suspension, which means the loss of certification for a certain duration, after which the individual may be required to apply for reinstatement.
 - f. Revocation, which means permanent loss of certification.
2. All sanctions other than reprimand shall be announced publicly, in accordance with Section D.7. All sanctions other than reprimand shall be disclosed in response to inquiries in accordance with Section D.7.

SECTION D. Qualifications and Compliance Review Procedures

1. Jurisdiction

The NBCOT has jurisdiction over all individuals who have been certified as an OCCUPATIONAL THERAPIST REGISTERED OTR (OTR[®]) henceforth OTR, or CERTIFIED OCCUPATIONAL THERAPY ASSISTANT COTA (COTA[®]) henceforth COTA, or who are planning to apply for or have applied for certification, or have applied for Occupational Therapy Eligibility Determination (OTED) to take the NBCOT Certification Examination for OTR. In addition, NBCOT has jurisdiction over all individuals who have applied for an Early Determination Review to determine eligibility to take the Certification Examination for OTR or COTA; Jurisdiction, in this case, is for the limited purpose of acting upon a request for an Early Determination.

2. Initiation of the Process

The QCRC Staff ("Staff") shall initiate the process upon receipt by the QCRC of information indicating that an individual subject to QCRC's jurisdiction may have violated the Candidate/Certificant Code of Conduct. Receipt of such information shall be considered a complaint for the purposes of these procedures, regardless of the source.

3. Staff Investigation and Action

- a. Staff shall review all complaints and investigate these complaints, as it deems appropriate.
- b. Staff may review any evidence, which it deems appropriate and relevant.
 - i. If Staff determines that the evidence does not support the allegation(s), no file shall be opened and the complainant shall be notified of the Staff's decision.
 - ii. If Staff determines that the evidence does support the allegation(s) and decides to investigate, the subject of the complaint as well as the complainant shall be notified. This notification shall be in writing and

shall include a description of the complaint and the identity of the complainant. The subject of the complaint shall have thirty (30) days from the date notification is sent to respond in writing to the complaint. The Staff may extend this period up to an additional thirty (30) days upon request, provided sufficient justification for the extension is given.

- iii. The subject of a complaint may request voluntary forfeiture of his/her certification. This request must be submitted in writing and can be made while the complaint is either under active investigation or when disciplinary action has been taken by the QCRC but the terms of the sanction remain incomplete.

If the subject applies to regain certification, after voluntary forfeiture, the subject must meet all of the following requirements:

- a. submit request to regain certification in writing
- b. satisfy current certification examination eligibility requirements (including academic and fieldwork requirements) and
- c. re-take and pass the national certification examination

Further, any pending investigation will be resumed upon request to regain certification.

If the subject's certification is voluntarily forfeited, public notice may be given in accordance with Section D. 7 of these procedures.

- c. Upon the completion of its investigation, Staff shall either:
 - i. Dismiss the case due to insufficient evidence, the matter being insufficiently serious, or other reasons as may be warranted. The qualifications and compliance review shall be considered closed at the time such decision is made; or
 - ii. Propose a settlement agreement.

4. QCRC Review and Decision

Staff shall prepare a case summary of its investigation along with the proposed settlement for the QCRC to consider. The report shall include the basis for Staff's findings, as well as any written responses, or other materials submitted in relation to the investigation of the complaint. Upon review of Staff's investigation, findings, and recommendation, the QCRC may either:

- a. Approve the proposed settlement agreement. Upon the subject's acceptance of the settlement, the qualifications and compliance process shall be considered closed. The public notification standards of Section D.5 are applicable if the settlement contains a sanction that warrants such announcement be made; or

- b. Reject the proposed settlement. Should the QCRC reject the settlement, it may either instruct Staff with modifications or revisions to the proposed settlement or it may dismiss the case altogether.

Upon notification of the proposed settlement, the subject of the complaint may either:

- a. Agree to the proposed settlement and thereby waive his/her right to a hearing; or
- b. Not agree to the proposed settlement and request a hearing before the QCRC.
 - i. The subject of the complaint may be represented at the hearing by his/her legal counsel, or any other individual of his/her choosing.
 - ii. The subject of the complaint shall be solely responsible for all of his/her own expenses related to the hearing. Hearings can be conducted via teleconference call or in person at the sole discretion of the QCRC. Should the subject cancel the hearing, he/she must notify the QCRC of the cancellation no less than five (5) days prior to the hearing date. Should the subject cancel the hearing within five (5) days of the hearing date or not appear at the scheduled hearing, all costs associated with the preparation of the hearing shall be paid by the subject (e.g. court reporting fees, teleconference fees, hearing manual preparation fees).
 - iii. The subject of the complaint shall provide the QCRC with any and all materials he/she may wish to include for the hearing no less than ten (10) days prior to the hearing date.

Following the hearing, Staff shall notify (in writing) the complainant and the subject of the complaint of the QCRC's decision within thirty (30) days of the decision. The decision shall take effect immediately unless otherwise provided by the QCRC.

5. Appeals Process

Within thirty (30) days after the notification of the QCRC's decision, any individual(s) sanctioned by the QCRC at the hearing may appeal the hearing decision to the NBCOT Directors. A notice of appeal, which must be in writing and signed by the appealing party, shall be sent by the appealing party to the NBCOT Chairperson in care of the President/Chief Executive Officer. The basis for the appeal shall be fully explained in this notice.

The Chairperson shall form an Appeals Panel within thirty (30) days after receipt of the notice of appeal. The Appeals Panel shall be comprised of three (3) NBCOT Directors and shall include at least one (1) OTR or one (1) COTA and one (1) public member. Members of the QCRC who participated in any aspect of the proceedings related to the complaint shall not serve on the Appeals Panel.

An appeal must relate to evidence, issues and procedures that are part of the record of the QCRC hearing and decision. The appeal may also address the substance of the disciplinary action. However, the Panel may in its discretion consider additional evidence.

Within fifteen (15) days after the notice of appeal is received by the Appeals Panel, the Panel shall either decide the appeal or schedule a hearing.

The Appeals Panel may either:

- a. Affirm the QCRC's decision;
- b. Deny the QCRC's decision;
- c. Refer the case back to the QCRC for further investigation and resolution with full right of appeal; or
- d. Modify the decision, but not in a manner that would be more adverse to the subject.

If a hearing is scheduled the appealing party shall be given at least thirty (30) days notice of the hearing. The appealing party may be represented at the hearing by legal counsel or any other individual of his/her choosing. The appealing party shall be solely responsible for all of his/her own expenses related to the hearing. Within fifteen (15) days after the appeals hearing, the Panel shall notify the Chairperson of its decision.

The Chairperson shall promptly notify the appealing party of the Appeals Panel's decision. The decision of the Appeals Panel shall be final.

6. Cooperation with NBCOT Enforcement Procedures

Failure to respond to any aspect of the Enforcement Procedures, will be considered a violation of the Candidate/Certificant Code of Conduct, Principle 2, and is sufficient grounds for the imposition of sanction by the QCRC.

7. Announcement of Sanction

If an individual's certification status is voluntarily forfeited, suspended or revoked, or he/she is censured or placed on probation, occupational therapy state regulatory bodies shall be notified and an announcement included in one or more publications of general circulation to persons engaged or otherwise interested in the profession of occupational therapy. The NBCOT may also disclose its final decision, including ineligibility for certification, to others as it deems appropriate, including, but not limited to, persons inquiring about the status of an individual's certification, employers, third party payers and the general public.

8. Notification

All notifications referred to in these procedures shall be in writing and shall be by confirmation of signature, return receipt mail, unless otherwise indicated. Subjects of complaints who live outside of the U.S. may be given additional time to respond to any notifications they are sent, as determined by the Staff in its discretion.

9. Records and Reports

At the completion of this procedure, all records and reports shall be returned to the Staff. The complete files in the qualifications and compliance review proceedings shall be maintained.

10. Expedited Action

The QCRC Chair may expedite a matter by shortening any notice or response period provided for under these procedures if the responsible party determines in its sole discretion that shortening the period is appropriate in order to protect against the possibility of harm to recipients of occupational therapy services.

In matters where the severity of the allegations and evidence provided warrant such action in order to protect the public, the QCRC may authorize immediate suspension/revocation of certification. The subject will be duly notified of the action and given fifteen (15) days to contest the suspension or revocation.

11. Standard Of Proof

The NBCOT's QCRC and Appeals Panel shall take disciplinary action against an individual only where there is clear and convincing evidence of a violation of the Candidate/Certificant Code of Conduct.

12. Special Accommodations

The NBCOT recognizes the definition of disability as defined by the Americans with Disabilities Act (ADA) and acknowledges the provisions and protections of the Act. The NBCOT shall offer hearings related to qualifications and compliance review or the appeals process in a site and manner, which is architecturally accessible to persons with disabilities or offer alternative arrangements for such individuals.

An individual with a documented disability may request special accommodations for a hearing by providing reasonable advance notice to the NBCOT of his or her disability and of the modifications or aids needed at the hearing at his or her own expense.

13. Amendment to Procedures

These procedures may be amended at any time by the NBCOT Directors.

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