

DANB's Appeal Policy and Procedures



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DANB's Appeal Policy and Procedures for Adverse Decisions

I. DECISIONS SUBJECT TO APPEAL

The following adverse decisions by the Dental Assisting National Board, Inc. ("DANB") are subject to appeal in accordance with the policy and procedures set forth herein:

A. Adverse Administrative Decisions

1. Denial of a request for administrative or exam fee reduction or waiver.
2. Denial of a request for an exception to other administrative requirements.
3. Denial of a grievance regarding exam administration.

B. Adverse Substantive Decisions

1. Rejection of credentials for eligibility to sit for a DANB exam.
2. Denial of certification or recertification.
3. Denial of continuing dental education (CDE) course eligibility.
4. Failure on audit of certificant compliance with DANB's *Recertification Requirements*.
5. Other substantive decision not addressed in (1)-(4) of this section.

NO APPEAL may be taken from an adverse decision based on an individual's receipt of a failing result on a DANB exam, unless extraordinary circumstances exist, as determined solely by the DANB's Board of Directors (the "Board"); provided that a timely written *Request for Hand Scoring of Exam Results* will be granted upon submission of form and payment of a \$75 nonrefundable scoring fee.

The policies and procedures set forth herein do not apply to appeals related to disciplinary decisions. An individual who has received notice of disciplinary decision by DANB may appeal such a decision as provided for in *DANB's Disciplinary Policy & Procedures*.

II. CONFLICT OF INTEREST POLICY

DANB Board of Directors shall not participate in discussions of, or vote on, any appeal in which the Director has or has had a substantial personal or professional relationship with the individual requesting the review or appeal.

III. NOTICE OF ADVERSE DECISION

An individual who has received an adverse decision shall be sent a prompt written notice of the adverse decision. The notice shall state the reason(s) for the adverse decision and shall inform the individual that he or she has the right to seek reconsideration of the adverse decision according to the Appeal Process outlined in Section IV below.

IV. THE APPEAL PROCESS

A. Request for Reconsideration of Adverse Administrative and Substantive Decisions (Level 1 appeal)

An individual who has received notice of an adverse administrative or substantive decision by DANB may seek reconsideration of that decision by sending a written Request for Reconsideration under DANB's Appeal Policy and Procedures ("Request for Reconsideration"). To be valid, the Request for Reconsideration, along with any supporting documentation and a \$50 nonrefundable DANB appeal fee, must be sent by traceable delivery method

(e.g., registered mail, FedEx, UPS, USPS, fax, email) and must be received by DANB's Chief Executive Officer within 30 calendar days of the date of the notice of the adverse decision. Requests for a reduction or waiver of an exam-related fee, such as a processing or rescheduling fee, must be received within 30 days of the last day of the testing window for an exam. If a Request for Reconsideration is not received within 30 calendar days, the adverse decision shall constitute the FINAL decision of DANB on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by DANB.

The Request for Reconsideration must contain a statement of why the individual believes that the adverse decision was improper and must include any supporting documentation that the individual wishes to have considered as part of the reconsideration. The Request for Reconsideration must be accompanied by a \$50 nonrefundable appeal fee payable by check, money order, or credit card to cover the administrative costs associated with the reconsideration process. The fee shall not be refunded, regardless of the outcome of the appeal.

DANB shall review the Request for Reconsideration and any supporting documentation, and make a decision based on established DANB policy.

DANB shall notify the individual in writing of the action taken, including the reasons therefor, within 30 calendar days after receipt of the Request for Reconsideration. An individual who is not satisfied with the decision of DANB on reconsideration may appeal the decision to a Review Committee by submitting a written request for review ("Request for Review").

B. Request for Review by a Review Committee

To be valid, a Request for Review must be postmarked within 30 calendar days of the date of the notice of adverse decision. The Request for Review must contain a statement of why the individual believes that the adverse decision was improper, must include any supporting documentation that the individual wishes to have considered as part of the review, and must be accompanied by a \$100 nonrefundable appeal fee payable to DANB by check, money order or credit card.

If a Request for Review is not postmarked within 30 calendar days of the date of Notice of Decision on Reconsideration, the decision on reconsideration shall constitute the FINAL decision of DANB on the matter and shall not be subject to appeal absent extraordinary circumstances, as determined solely by DANB.

(1) Composition and Role of the Review Committee

Requests for review of denial of eligibility for a DANB exam, denial of a fee reduction or waiver, denial of a request for an exception to another administrative requirement, or any other adverse decision received by a DANB exam candidate or other individual who is not certified by DANB shall be considered by the DANB Candidate Services Committee, or a subcommittee thereof (two or three members), which shall serve as the Review Committee for such appeals.

Requests for review of denial of CDE course eligibility, failure on an audit of certificant compliance with DANB's *Recertification Requirements*, or any other adverse decision received by a DANB certificant shall be addressed to the DANB Certificant Services Committee, or a subcommittee thereof (two or three members), which shall serve as the Review Committee for such appeals.

The Review Committee shall consider the notice of adverse decision and the Request for Review, including any supporting documentation submitted by the individual or prepared by DANB staff. The Review Committee also may, at its discretion, request or receive, and review, additional information. The foregoing shall constitute the Review Record. A copy of the Review Record shall be forwarded to the individual at least 10 calendar days before the meeting of the Review Committee.

The review shall be conducted pursuant to the procedures set forth under subheading (2) of this section (for administrative decisions) or under subheading (3) of this section (for substantive decisions).

(2) Final Review of Administrative Decisions

A timely Request for Review of a denial of a request for administrative or exam fee reduction or waiver or denial of a request for an exception to any other administrative requirement, will be finally reviewed by the DANB Review Committee at its next regularly scheduled meeting, or at a special meeting convened for such purpose, occurring at least 30 calendar days after receipt of the Request for Review. The date of the Review Committee meeting will be determined at the sole discretion of DANB.

Based on its review of the Review Record, the Review Committee may, at its discretion, take one of the following actions:

- Affirm the adverse decision,
- Modify the adverse decision, or
- Reverse the adverse decision.

The individual shall be notified in writing of the Review Committee's action, including the reasons therefor, within 30 calendar days after the Review Committee reaches its decision.

The Review Committee's decision on administrative matters shall constitute the FINAL decision of DANB on the matter and shall not be subject to further appeal absent extraordinary circumstances, as determined solely by DANB.

(3) Review of Adverse Substantive Decisions

A timely Request for Review of an adverse substantive decision shall be considered by a DANB Review Committee at its next regularly scheduled meeting, or at a special meeting convened for such purpose, occurring at least 30 calendar days after DANB's receipt of the Request for Review. The date of the Review Committee meeting will be determined at the sole discretion of DANB.

Based on its review of the Review Record and consideration of testimony provided during a hearing, if any, the Review Committee may, at its discretion, take one of the following actions:

- Affirm the adverse decision,
- Modify the adverse decision, or
- Reverse the adverse decision, in which event the decision of the Review Committee shall constitute the final decision of DANB on the matter.

The individual shall be notified in writing of the Review Committee's action, including the reasons therefor, within 30 calendar days after the Review Committee reaches its decision. The Review Committee's decision on substantive matters may be subject to discretionary appeal as described in Section V below.

V. Discretionary Appeal of Adverse Substantive Decisions

A. Request for Discretionary Appeal

An individual who has received notice that an adverse substantive decision has been affirmed or modified by the Review Committee may appeal to the Appeal Committee of DANB's Board of Directors by submitting a written request for appeal ("Request for Discretionary Appeal") to DANB. To be valid, the Request for Discretionary Appeal must be postmarked within 30 calendar days of the date of the notice of decision and must state with specificity the grounds on which the individual is requesting the appeal. The decision to grant an Appeal is at the sole discretion of the Chair of the Board of Directors.

If a Request for Discretionary Appeal is not postmarked within 30 calendar days of the date of notice of decision, the Adverse Decision shall constitute the FINAL decision of DANB on the matter and shall not be subject to further appeal absent extraordinary circumstances, as determined solely by DANB.

B. Acceptable Grounds for Discretionary Appeal of Adverse Substantive Decisions

The following will be the only grounds considered for granting a Discretionary Appeal:

- (1) The individual provides evidence that the Review Committee committed a procedural error that materially affected the outcome of the review process.
- (2) The individual provides evidence that the decision of the Review Committee was arbitrary and capricious.

C. Consideration of a Discretionary Appeal

1. A timely Request for Discretionary Appeal from an adverse substantive decision affirmed or modified by the Review Committee shall be considered by the Chair of DANB's Board of Directors. If the Chair, in his or her discretion, determines that there are acceptable grounds for a Discretionary Appeal, the Discretionary Appeal will be heard by the Appeal Committee at the next regularly scheduled meeting of DANB's Board of Directors occurring at least 30 calendar days after DANB's receipt of the Request for Discretionary Appeal.

2. The Appeal Committee shall consist of all DANB Directors who did not participate in prior consideration of the matter under appeal. DANB's Board Chair will chair the Appeal Committee.

3. The Appeal Committee shall consider the Review Record, the Notice of Affirmation or Modification of Adverse Decision, the Request for Discretionary Appeal, and the record of the hearing if one was conducted before the Review Committee. The foregoing shall constitute the Appeal Record.

4. The individual requesting appeal ("Petitioner") may request consideration of evidence, documentation or written testimony not previously submitted to the Review Committee only if he or she can demonstrate that such evidence, documentation or written testimony was not available at the time that the Review Committee considered the matter. If the Appeal Committee grants the Petitioner request to submit new evidence, the matter will be referred back to the Review Committee for reconsideration.

5. If the Discretionary Appeal is being considered due to an alleged procedural error made by the Review Committee, the matter will be referred back to the Review Committee for reconsideration.

6. If the Appeal is being requested due both to an alleged procedural error and to an allegation that the original decision was arbitrary and capricious, the matter will first be referred back to the Review Committee for reconsideration and correction of the procedural error, and the Petitioner will be notified of the Review Committee's determination. If the Petitioner continues to believe that the Review Committee's determination is arbitrary and capricious, he or she may, within 30 calendar days after the date of the notice of the Review Committee's determination, submit a written request that the Appeal Committee review the Review Committee's decision on these grounds.

7. A record of the Appeal Committee meeting shall be kept. A copy of the Appeal Committee meeting record shall be made available to the Petitioner upon payment of a reasonable cost of reproduction.

8. The Appeal Committee shall carefully consider all of the information presented in the Appeal Record. After due and thorough deliberation and upon the affirmative vote of a majority of the Appeal Committee, the Appeal Committee shall determine whether to ratify, reverse, or modify the Review Committee's decision or whether to refer the matter back to the Review Committee for reconsideration.

9. The individual shall be notified in writing of the decision, including the reasons therefor, within 30 calendar days after the Appeal Committee reaches its decision.

A decision by the Appeal Committee to ratify, reverse or modify an adverse decision shall constitute the FINAL decision of DANB on the matter and shall not be subject to further appeal.

VI. SUBMISSIONS TO DANB

Whenever there is a requirement for a written notice, request or other writing to be submitted to DANB, such writing shall be addressed to the following:

Laura Skarnulis
Chief Executive Officer
Dental Assisting National Board, Inc.
444 N. Michigan Ave., Suite 900
Chicago, IL 60611
Fax: 1-312-642-8507
professionalconduct@danb.org

All such written notices must be sent by a traceable delivery method (e.g., registered mail, FedEx, UPS, USPS, fax, email). Failure of delivery of written communications caused by improper addressing or delivery method may not be considered as the basis for appeal or reconsideration of any decision or the extension of any time period provided for Petitioner's reply to a notice from DANB in connection with any review or appeal proceeding.

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The procedures set forth above for the review and appeal of adverse decisions may be subject to an expedited schedule when deemed necessary by DANB.