

Certified Energy Analyst (CEA) Complaint Review Procedures

I. Introduction and Purpose

Complaint Review Procedures ("Procedures") are established by the Board of Directors of the California Association of Building Energy Consultants (CABEC) to provide a process by which complaints regarding the conduct or competence of a CEA may be heard.

Prior to employing this process, aggrieved parties are encouraged to attempt resolution of the situation through other means. If other means fail or do not satisfactorily resolve the circumstances, this complaint review process may be used to address the complaint.

In the event an individual or organization provides information to the Executive Director or a CABEC Board member that does not rise to the level of a formal complaint, that information shall be recorded and maintained by the Executive Director. If the Executive Director receives the information, they shall relay it to the Board. If a Board member receives the information, they shall relay it to the full Board and to the Executive Director. The Executive Director shall maintain the information in a place and manner accessible to both the Executive Director and the Board. In the event that multiple informal complaints are received about a single CEA, the complaint committee shall meet to consider the informal complaints and determine if a formal review process needs to take place.

II. Review Committee

The Board of Directors ("Board") shall create a standing committee of at least three voting CABEC members (including at least one Board member) called the Complaint Review Committee (CRC). Complaints received by the CABEC Administrator or the Board from any source concerning incompetent or unethical practitioners will be forwarded to the CRC for review. The CRC will provide a preliminary review of the complaint and an initial determination regarding further action or dismissal.

III. Review Procedures

A. An individual or organization filing a complaint (hereinafter "Complainant") with CABEC against a CEA (hereinafter "Respondent") shall submit a written statement to the CABEC Administrator at the principal office of CABEC by mail or email. The complaint must include, at a minimum, the following specific information:

1. Complainant's name, business name, address, phone and email;
2. Respondent's name, business name, address, phone and email;
3. For each project referenced in the complaint: project name, address, occupancy type or types, scope of work, permit scenario (new construction, addition, alteration; envelope, mechanical and/or lighting compliance), date of report or reports.
4. For each project referenced: a description of the specific unethical or incompetent practices noted in comparing the plans and the Title 24 report;

5. For each project referenced: the energy compliance software and version number used to perform the analysis; and,
6. How the Complainant obtained a copy of the Title 24 report, drawings and/or the electronic ACM file.

B. Upon receiving the complaint, the CRC shall complete a preliminary review of the complaint, looking initially only at the errors claimed and the Title 24 report without requesting plans or other specifications. The CRC shall have the right, in its discretion, to contact Complainant and/or Respondent, and decide whether or not there is sufficient merit to the complaint to recommend a full review. Within 45 days of receiving the complaint, the CRC shall notify the Board, the Complainant, and the Respondent of its decision in writing.

If the CRC's decision is not to proceed with a full review, the Complainant has the right to appeal the decision to the Board which shall have full and sole discretion as to whether to pursue the matter.

C. If the decision is for a full review, the CRC shall cause to be sent a Request for Proposal to at least 3 voting CABEC members who are CEAs (potential peer reviewers) explaining the scope of the project and issues raised by the Complainant. The potential peer reviewers will provide the CRC a proposal to perform a full review of the complaint with drawings and specifications. The proposal shall include a specific "not to exceed" cost estimate for the review. The cost of a first peer review shall be borne by CABEC.

The CRC will select a peer reviewer from among the proposals received and authorize them to proceed and produce an initial report within 21 days. The CRC will make every attempt to select a reviewer that is not in direct competition with the Respondent (ideally in a different geographic area of the state). However, the selection of the reviewer shall be in the sole discretion of the CRC based on all applicable factors and the proposals received and will not be subject to appeal.

Once a peer reviewer is selected and the findings of the peer reviewer are received, the CRC shall make a determination within 21 days relative to the case. The determination may be that 1) the findings do not support any action against the Respondent and the complaint is dismissed; or 2) the findings support a formal warning to Respondent and a requirement for further training and/or supervision; or 3) the findings support a suspension or termination of the Respondent's certification and/or membership (if this last option is the determination, the matter shall be referred to the Board for action pursuant to section F. below).

The CRC's findings shall be transmitted to the Board by email, and to the Complainant and the Respondent by express mail carrier with tracking or USPS with tracking (e.g. UPS, Federal Express, USPS Priority Mail, or the like) and also by email.

D. Complainant and Respondent shall have 21 days from the date they received notice of the CRC's decision in which to appeal the decision. A party appealing the decision shall be known as the "Appellant". In the event the decision is not appealed by either party, the decision of the CRC will stand as a final judgment on the complaint. If either party appeals the CRC's decision, the appeal must be submitted in writing to the CABEC Administrator within the 21 day appeal period and must state specifically the grounds on which the appeal is made, including whether the appeal is based on the first

peer reviewer's findings or some other reason. The CABEC Administrator will immediately forward any such appeal to the Board.

If the appeal is based on the findings of the first peer reviewer, the Board shall select a second peer reviewer to re-review the complaint. However, the cost of a second review during an appeal shall be borne in full by the Appellant (and paid in advance by the Appellant based on the second reviewer's cost estimate for the review). The second peer reviewer shall have 21 days in which to independently review the complaint and provide a report to the Board.

E. Within 30 days after the findings of a second peer reviewer are received by the Board, (or 30 days after the appeal was received if no second review was initiated), the Board shall make a final determination relative to the complaint. The determination may be that 1) the decision of the CRC was correct and the judgment stands; or 2) in the case of a second review, the findings of the second reviewer support a decision different from the CRC's decision.

If the Board determines that the findings during the appeal support action against the Respondent, the Board shall decide on the action (e.g. a warning to Respondent and a requirement for further training and/or supervision, or a suspension or termination of the Respondent's certification and/or membership).

F. If the Board upholds an initial decision by the CRC to suspend and/or terminate Respondent's certification and/or membership and that decision was not appealed, or if the Board determines after the appeal that suspension or termination of Respondent's certification and/or membership is warranted, the Board shall then undertake the following procedure:

(1) The Respondent shall be provided at least 15 days prior notice of the proposed suspension or termination of certification and/or membership and the reasons for the proposed suspension or termination. Notice shall be sent and deemed delivered when deposited, postage prepaid and addressed to the recipient's last known address in CABEC's records, with an express mail carrier with tracking or USPS with tracking (e.g. UPS, Federal Express, USPS Priority Mail, or the like). The notice shall also be sent to the Respondent by email after being mailed.

(2) The Respondent shall be given an opportunity to be heard, either orally or in writing, at least five (5) days before the effective date of the proposed suspension or termination of certification and/or membership. The hearing shall be held, or the written statement considered by the Board to determine whether the suspension or termination should take place.

(c) After reviewing the Respondent's written statement or statement at a hearing, the Board shall decide whether or not the Respondent should be suspended, terminated, or sanctioned in some other way.

G. The Board's findings and a final judgment on the case shall be transmitted to both the Complainant and the Respondent by express mail service, postage prepaid, to the addresses on the records of CABEC, and shall also be transmitted to the CRC. The decision of the Board is final.

H. If the outcome of the complaint process is a suspension of the Respondent's certification, Respondent must submit evidence during or after the suspension period set by the CRC or the Board that Respondent has received the relevant and appropriate continuing education/training and/or been otherwise rehabilitated in order for the certification to be revived.

If the outcome of the complaint process is a termination of certification, then the Respondent is barred from future reinstatement of certification.

III. Confidentiality and Recordkeeping

Complaints and all related documentation shall be maintained in confidence by CABEC - available only to Complainant and Respondent, CRC members, Board members, peer reviewers, and CABEC staff on a need to know basis. However, the outcome of the complaint process will not necessarily be confidential if Respondent's certification is suspended or terminated. In that case, the outcome may become known because Respondent's name will be removed from the list of CEAs on CABEC's website.

CABEC and the CRC will keep complete records of all complaints and related documentation of all Complainants and Respondents, for at least 10 years.