

GREEN BUSINESS CERTIFICATION INC.

DISCIPLINARY AND EXAM APPEALS POLICY

The mission of the Green Business Certification Inc. (“GBCI”) is to support a high level of competence in building methods for environmental efficiency through the development and administration of a formal credentialing program. GBCI has adopted this Disciplinary Policy to articulate standards of conduct for candidates seeking a credential through GBCI, as well as those individuals seeking to maintain their credential. This Disciplinary Policy was also adopted to establish a fair process for addressing noncompliance. Matters are investigated by a Disciplinary Review Committee and presented for judgment before a Disciplinary Hearing Committee. These committees operate independently of one another. The GBCI Credentialing Steering Committee is available to hear appeals of Disciplinary Hearing Committee decisions, and is the final decision-maker on behalf of GBCI.

1. General Principles. Individuals must:

- A. be truthful, forthcoming, and cooperative in their dealings with GBCI;
- B. be in continuous compliance with GBCI rules (as amended from time to time by GBCI);
- C. respect GBCI intellectual property rights;
- D. abide by laws related to the profession and to general public health and safety; and
- E. carry out their professional work in a competent and objective manner.

2. Grounds for Disciplinary Action. GBCI may deny, suspend, revoke, or take other action regarding an application or credential if an individual is not in compliance with this Disciplinary Policy. Grounds for disciplinary action include (but are not limited to):

- A. An irregular event in connection with a GBCI examination, including (but not limited to) copying examination materials, causing a disruption in the testing area, and failure to abide by reasonable test administration rules;
- B. Taking the exam for any purpose other than that of becoming credentialed in the technical area referenced in the title of the exam;
- C. Disclosing, publishing, reproducing, summarizing, paraphrasing, or transmitting any portion of the exam in any form or by any means, verbal, written, electronic or mechanical, without the prior express written permission of GBCI;
- D. Providing fraudulent or misleading information;
- E. Failure to pay fees when due;
- F. Unauthorized possession or misuse of GBCI credentials, examinations, and other intellectual property, including but not limited to: LEED, LEED Green Associate, LEED AP, LEED AP with specialty (BD+C, ID+C, O&M, Homes, ND), LEED for Homes Green Rater, LEED for Homes Green Rater in Training, LEED Project Reviewer, Green Classroom Professional, WELL AP, etc.;
- G. Misrepresentation of credential status;
- H. Failure to provide requested information in a timely manner;
- I. Failure to inform GBCI of changes or adverse actions;
- J. Impairment of professional performance because of habitual use of alcohol, drugs, or other substance, or any physical or mental condition;
- K. Gross or repeated negligence or malpractice in professional work;
- L. Failure to maintain a current professional credential as required by the jurisdiction in

- which the individual practices (this may include a license, certificate, or registration);
- M. The conviction of, plea of guilty to, or plea of *nolo contendere* to a felony or misdemeanor related to public safety or the profession, provided, however that such shall not be applicable to eligibility for application to sit for the examination for or be granted the LEED Green Associate;
 - N. Disciplinary action by a licensing board related to a building industry; and
 - O. Other failure to maintain continuous compliance with GBCI standards, policies, and procedures.

3. **Sanctions.** GBCI may impose one or more of the following sanctions for a violation of this Disciplinary Policy:

- A. Denial or suspension of eligibility;
- B. Denial of credential;
- C. Revocation of credential;
- D. Non-renewal of credential;
- E. Suspension of credential;
- F. Reprimand; or
- G. Other corrective action.

4. **Compliance with GBCI Policies and Procedures.** An individual must be in continuous compliance with all GBCI policies and procedures. Each individual bears the burden for demonstrating and maintaining compliance at all times.

5. **Examination and Examination Appeals.**

A. The examinations offered by GBCI are the sole and exclusive property of GBCI and may not be used in any way without the express written consent of GBCI. No one is permitted to make or keep copies, excerpts, or notes of examination materials.

B. Individuals are prohibited from using or divulging information learned from the examination.

C. It is GBCI's policy to provide every candidate with an opportunity to question the reliability, validity, and/or fairness of a test and its questions. As noted in GBCI's candidate handbooks, candidates may comment about any test question or questions, test procedure, and/or the test itself by completing the comment form accessed via computer on the screen during testing. Comments made at the testing site must be completed while the candidate is testing, and cannot be modified after the exam is completed. Candidates may also report any irregularities in the exam administration to the test center administrator after the exam is complete.

Alternatively, a candidate may submit comments, complaints or an exam challenge in writing to GBCI no later than ten (10) business days after taking the examination. Complaints or challenges received via phone call will not be considered. GBCI will NOT consider challenges or complaints received more than ten (10) business days after the candidate's examination date, regardless of the format in which the challenge or complaint is received.

All challenges and complaints shall receive GBCI's full attention. GBCI will investigate each challenge, comment and complaint and acknowledge it in writing to the candidate. All challenges, comments and complaints will be maintained in GBCI's records.

Required Information: Written comments, complaints or challenges should describe the basis for the content challenge or administrative complaint in as much detail as possible, including the:

- candidate's name, address, and telephone number;
- name, address, and telephone number of person(s) alleged to be involved;
- names, addresses, and telephone numbers of others who may have knowledge of the facts and circumstances concerning the situation;
- description of the incident, complaint, or challenge;
- date and location of the test administration; and
- remedy desired by the candidate.

Submittal Information (made after the candidate has finished the exam): Candidates must submit written complaints, comments or challenges either by using the online form provided at www.gbc.org/contact or by certified mail to the following address: Test Development Staff, GBCI, 2101 L Street, N.W., Suite 500, Washington, DC 20037.

Questions of Exam Validity: Comments regarding examination validity will be reviewed by the GBCI Credentialing Steering Committee upon referral by testing company staff as set forth in the *Candidate Handbook*. The potential changes resulting from this review are generally limited to amending or eliminating the question. Whether a change is necessary will be determined by the Credentialing Steering Committee based upon the nature and severity of the situation.

For security reasons, examination materials shall not be available for review by candidates. Exam items and responses are not open to public inspection or subsequent review by the candidate.

Other Questions: Complaints based on test administration practices or other circumstances not related to exam validity will be reviewed and investigated by test development staff in consultation with the Credentialing Steering Committee. If the test development staff determines that the complaint is frivolous (does not pertain to the reliability, validity, and/or fairness of a test and its questions) or fails to state a violation of GBCI's rules, GBCI shall communicate such decision, and shall take no further action. If the test development staff determines that good cause may exist to question compliance with GBCI rules, GBCI will investigate further. The potential recourse available to affected candidates is limited to a waiver or reduction of fees. A PASSING SCORE IS REQUIRED FOR AWARD OF CREDENTIALS IN ALL INSTANCES.

Appeal: A candidate may appeal a decision to the GBCI Credentialing Steering Committee. However, the Credentialing Steering Committee will only reconsider the decision if the candidate provides a rationale for why the original disposition was arbitrary or capricious. Any such appeal shall be limited to written briefs. The decision of the Credentialing Steering Committee shall be final. Failure to pass the examination may **not** be appealed.

6. Eligibility.

A. Complete Application. The individual must truthfully complete and sign an application in the form provided by GBCI, pay the required fees, and provide additional information as requested.

B. Criminal Convictions. An individual convicted of a felony directly related to public health and safety or the profession is ineligible to apply for any credential or maintenance thereof for a period of three (3) years from the exhaustion of appeals or final release from confinement (if any), whichever is later provided, however that such shall not be applicable to eligibility for application to sit for the examination for or be granted the LEED Green Associate. Convictions of this nature include (but are not limited to) felonies involving rape, sexual abuse of a patient or child, actual or threatened use of a weapon or violence, and prohibited sale, distribution, or possession of a controlled substance. An individual who is incarcerated, or for whom incarceration is pending, as of the application deadline date is ineligible for credentialing or maintenance thereof, provided, however that such shall not be applicable to eligibility for application to sit for the examination for or be granted the LEED Green Associate.

C. Reinstatement of Eligibility. Following a period of ineligibility based on noncompliance with this Disciplinary Policy, the individual may apply for reinstatement of eligibility by demonstrating that he/she has been rehabilitated. Unless and until clear and convincing evidence is submitted, the individual will remain ineligible.

D. Determination. Test development staff will determine whether a candidate is eligible for any credential or maintenance thereof.

E. Appeals Process for Denial of Eligibility or Renewal of Credential.

i. Members of the public may file complaints regarding GBCI through GBCI's customer service by completing a web form at www.gbc.org/contact or by mailing a letter to GBCI's address. The complaint should include the name and contact information of the filer, as well as a detailed description of the complaint.

ii. A denial of eligibility for any credential may be appealed. There is a \$50.00 fee to appeal a denial. An individual denied eligibility to renew an existing credential may appeal the decision only if renewal was denied for a reason *other* than failing the examination.

- iii. Failure to comply with any GBCI deadline may **not** be appealed.
- iv. The individual may request an appeal within thirty (30) calendar days after receipt of the denial letter. After this time, the individual may not request an appeal.
- v. All appeals must be submitted in writing and sent to GBCI by traceable mail or delivery service along with payment of the appeal fee.
- vi. The appeal must specify a valid basis for the appeal.
- vii. The appeal will be forwarded to the Credentialing Steering Committee. The Chair of the Committee will appoint two members of the Committee to review the appeal. These two members may not: (a) be the same individuals who initially reviewed the application, (b) review any matter in which their impartiality might reasonably be questioned, or (c) review any matter which presents an actual, apparent, or potential conflict of interest.
- viii. GBCI may file a written response to the appeal request.
- ix. The two Committee members will render a decision based on the written record. Documentation not previously submitted to GBCI will not be considered. An oral hearing is not permitted.
- x. In order to overturn a denial of eligibility for a credential or renewal of an existing credential, the individual must demonstrate that the denial was arbitrary or capricious. Proof is by preponderance of the evidence.
- xi. The decision of the Committee members is final.
- xii. The individual will be notified of the Committee members' decision.
- xiii. Only one appeal per application is permitted. If that appeal upholds the original denial, the individual must complete and submit a new application in order to seek the denied credential at another time. In the case of a denial for failure to meet the continuing education requirements for credential maintenance, the individual may apply to reinstate their credential by sitting for the relevant examination.

The individual is responsible for all expenses incurred related to the appeal of a denial of eligibility.

7. Adverse Actions. An individual must notify GBCI of any development bearing on credentialing. Developments which must be reported to GBCI include (but are not limited to) arrests, complaints, inquiries, indictments, and charges pending against the individual before a state or federal regulatory agency, professional certification organization, or judicial body directly relating to public health and safety or the profession, or any matter described in Section 2, above. The individual must notify GBCI within ninety (90) days after he/she first learns of the development, and must provide documentation of the resolution of the matter within ninety (90) days after resolution.

8. Complaints. Persons concerned with possible violation of GBCI rules are encouraged to contact GBCI. The person should submit a written statement identifying the persons alleged to be involved and

the facts concerning the alleged conduct in detail, and the statement should be accompanied by any available documentation. The statement should also identify others who may have knowledge of the facts and circumstances concerning the alleged conduct. The person making the complaint should identify himself/herself by name, address and telephone number. However, GBCI will consider anonymous complaints.

9. Disciplinary Review Procedures.

A. Initial Evaluation.

i. Upon receipt of a complaint or an adverse action notice, test development staff will confer with the Chair of the Credentialing Steering Committee. The Chair or test development staff may request supplemental information.

ii. If test development staff and the Chair determine that the complaint is frivolous or that the adverse action is not relevant to credentialing, no further action will be taken.

iii. If test development staff and the Chair determine that the complaint is not frivolous or that the adverse action may be relevant to credentialing, it will be forwarded to the Disciplinary Review Committee for investigation.

iv. Individuals submitting adverse action notices and persons submitting complaints will be notified of the decision of test development staff and the Chair.

B. Audits. GBCI may conduct one or more compliance audits. If GBCI discovers a possible violation of GBCI eligibility for GBCI credentials and/or GBCI policies and procedures, test development staff will confer with the Chair of the Credentialing Steering Committee to determine whether the allegation will be forwarded to the Disciplinary Review Committee for investigation.

C. Disciplinary Review Committee.

i. The Credentialing Steering Committee will appoint a Disciplinary Review Committee with three members drawn from current holders of a credential offered by GBCI. Committee members must have a clear understanding of GBCI rules, policies and procedures, have access to staff, vendors or other participants as needed for supporting documentation. Committee members shall assure fair and thorough disposition of all appeals and must document the process accurately and completely. A committee member's term of office runs for three years and may

be renewed. A Disciplinary Review Committee member may not: (a) serve on the Disciplinary Hearing Committee, (b) review any matter in which his/her impartiality might reasonably be questioned, or (c) review any matter which presents an actual, apparent, or potential conflict of interest. When a committee member is unavailable, the Chair of the Credentialing Steering Committee will designate another individual to serve as an interim member. Committee action is determined by majority vote.

ii. The Disciplinary Review Committee will investigate the matter after receipt from the Chair of the Credentialing Steering Committee. If the Committee determines after its investigation that the facts are inadequate to sustain a finding of a violation of eligibility for GBCI credentials and/or GBCI policies and procedures, no further action will be taken. Individuals submitting adverse action notices and persons submitting complaints will be notified of this decision.

iii. If the Committee finds that good cause exists to question whether a violation of eligibility for GBCI credentials and/or GBCI policies and procedures has occurred, the Committee will transmit a statement of the allegations to the individual by certified mail, return receipt requested, setting forth the applicable rule and a statement:

- a.** of the facts constituting the alleged violation;
- b.** that the individual may request an oral hearing (in person or by phone) or a review by written briefing for the disposition of the matter, with the individual bearing his or her own expenses;
- c.** that the individual has thirty (30) days after receipt of the statement to notify the Chair of the Credentialing Steering Committee and the Disciplinary Review Committee if he/she disputes the allegations, has comments on available sanctions, and/or requests a review of the written record, an oral hearing in person, an oral hearing by phone, or a review by written briefing;
- d.** that, in the event of an oral hearing, the individual may appear in person with or without the assistance of counsel, may examine and cross-examine any witness under oath, and produce evidence on his/her behalf;
- e.** that the truth of allegations or failure to respond may result in sanctions including revocation; and
- f.** that if the individual does not dispute the allegations or request a review or hearing, the individual consents to the Disciplinary Review Committee rendering a decision on the evidence before it and applying available sanctions.

iv. If the individual disputes the allegations or available sanctions, the Disciplinary Review Committee may offer the individual the opportunity to negotiate a specific sanction in lieu of proceeding with the requested written review or hearing. Any agreed-upon sanction must be documented in writing and signed by GBCI and the individual. If the individual is unwilling to accept the Disciplinary Review Committee's offer, the requested review or hearing will proceed as provided below.

D. Disciplinary Hearing Committee.

i. The Credentialing Steering Committee will appoint a Disciplinary Hearing Committee to consider the allegation. This Committee is composed of three members drawn from current holders of at least one GBCI-conferred credential. Committee members must have a clear understanding of GBCI rules, policies and procedures, have access to staff, vendors or other participants as needed for supporting documentation. Committee members shall assure fair and thorough disposition of all appeals and must document the process accurately and completely. A committee member's term of office runs for three years and may be renewed. A Disciplinary Hearing Committee member may not: (a) serve on the Disciplinary Review Committee, (b) review any matter in which his/her impartiality might reasonably be questioned, or (c) review any matter which presents an actual, apparent, or potential conflict of interest. When a committee member is unavailable, the Chair of the Credentialing Steering Committee will designate another individual to serve as an interim member. Committee action is determined by majority vote.

ii. Written Review. If the individual requests a written review, the Disciplinary Review Committee will forward the allegations and response of the individual to the Disciplinary Hearing Committee. Written briefing may be submitted within thirty (30) days following receipt of the written review request by the Disciplinary Hearing Committee. The Disciplinary Hearing Committee will render a decision based on the record below and written briefs (if any) without an oral hearing.

iii. Oral Hearing. If the individual requests a hearing:

a. The Disciplinary Review Committee will:

- (1)** forward the allegations and response of the individual to the Disciplinary Hearing Committee; and
- (2)** designate one of its members to present the allegations and any substantiating evidence, examine and cross-examine witnesses, and otherwise present the matter during the hearing.

b. The Disciplinary Hearing Committee will:

- (1)** schedule a hearing after the request is received, allowing for an adequate period of time for preparation; and
- (2)** send by certified mail, return receipt requested, a Notice of Hearing to the individual. The Notice of Hearing will include a statement of the time and place selected by the Disciplinary

10. Credentialing Steering Committee.

- A.** A member of the Credentialing Steering Committee may not review any matter in which his/her impartiality might reasonably be questioned, or review any matter which presents an actual, apparent, or potential conflict of interest.
- B.** The individual may request an appeal within thirty (30) calendar days after its receipt of the Disciplinary Hearing Committee's decision. After this time, the individual may not request an appeal.
- C.** All appeals must be submitted in writing and sent to GBCI by traceable mail or delivery service.
- D.** The appeal must specify a valid basis for the appeal.
- E.** GBCI may file a written response to the appeal request.
- F.** Written briefing may be submitted within thirty (30) days following receipt of the appeal request by the Credentialing Steering Committee.
- G.** The Credentialing Steering Committee will render a decision based on the record below and written briefs (if any) without an oral hearing. Alternatively, the Credentialing Steering Committee may choose to conduct a de novo written review.
- H.** In all reviews:
 - i.** In order to overturn a decision of the Disciplinary Hearing Committee, the individual must demonstrate that the Committee's decision was arbitrary or capricious. Proof is by preponderance of the evidence.
 - ii.** The Credentialing Steering Committee will issue a written decision following the review and any briefing. The decision will contain factual findings, conclusions of law, and any sanctions applied. It will be mailed promptly by certified mail, return receipt requested, to the individual.
- I.** A decision rendered by the Credentialing Steering Committee is final.
- J.** Individuals submitting appeals and persons submitting complaints will be notified of the decision of the Credentialing Steering Committee..

11. Summary Procedure. If the Chair of the Credentialing Steering Committee determines that there is cause to believe that a threat of immediate and irreparable injury to the public exists, the Chair will forward the allegations to the Credentialing Steering Committee. The Credentialing Steering Committee will review the matter immediately, and provide telephonic or other expedited notice and review procedures to the individual. If the Credentialing Steering Committee determines (following this notice and opportunity to be heard) that a threat of immediate and irreparable injury to the public exists, the credential may be suspended for up to ninety (90) days pending a full review as provided above.

- 12. Continuing Jurisdiction.** GBCI retains jurisdiction to review and issue decisions regarding any matter which occurred prior to the termination or expiration of any credential conferred by GBCI.
- 13. Contact Information Changes.** An individual must notify GBCI within ninety (90) days of any change in name, street address, email address and/or telephone number.
- 14. Confidentiality.** GBCI shall endeavor at all times to maintain a candidate's personal identifying examination and score information as confidential. Except as may be required by judicial or administrative order, GBCI shall hold candidate scores in confidence, available only to the candidate and to persons or organizations approved in writing by the candidate. GBCI shall maintain in confidence all biographical data such as sex, grade or education level attained, date of birth, race/ethnic group, or years of experience requested from candidates; provided, however, that GBCI may publish aggregate, non-identifying information based on such data.
- 15. Release of Information.** GBCI reserves the right to release information regarding an individual's application and credential record to state and federal authorities, licensing boards, employers, and others. This information includes (but is not limited to) GBCI findings regarding review of the application, and the pendency or outcome of disciplinary proceedings.
- 16. Use of Credential Trademark Policy.**
- A. License.** Only for the duration of certification as further described by this disciplinary policy, GBCI will permit the individual to use the name and logo of credential conferred by GBCI and any related acronym for the sole purpose of indicating certification by GBCI.
- B. Conditions of Use.**
- i.** All use of the credential and logo must be truthful and not misleading. Specifically, an individual shall **not** use the credential and logo unless officially awarded that credential by GBCI.
- ii.** All use of the credential and logo must conform to the design standards issued by GBCI (a current copy of which will be provided).
- iii.** Upon the termination or expiration of certification, or for the duration of any probation or suspension regarding certification, the individual shall:
- a.** cease use of the credential and logo;
- b.** return or destroy all print and electronic artwork materials provided by GBCI, including but not limited to credential certificates, which are property of GBCI, without retaining copies; and
- c.** not distribute any materials containing the credential and logo that he/she might already have prepared.
- iv.** The individual is responsible for correcting (at his/her expense) any outdated or otherwise inaccurate use of the credential and logo.
- C. Quality Control.** GBCI has the right to control the quality of all materials on which the credential and logo are used. GBCI will have access to the materials which the individual makes publicly available (such as business cards, letterhead, etc.). Also, the individual shall

submit samples if requested by GBCI. If GBCI determines that the individual is not meeting the requirements of this policy, GBCI will notify the individual and provide an explanation. The individual shall correct the violation within thirty (30) calendar days after receipt of the notice. GBCI is the final judge as to whether any use of the credential and logo is consistent with this policy.

D. Consequences of Misuse. GBCI is committed to protecting its intellectual property for the benefit of all credential holders and the general public as consumers. If an individual fails to comply with this policy, GBCI may revoke or take other action with regard to his/her credential status in accordance with this Disciplinary Policy.

E. Further Information. If an individual has a question regarding proper use of the credential and logo, and for permission to use the credential and logo on materials other than those listed above, please contact GBCI.