

**1A SBCCC 400.5****Informal Hearing Process**

- (a) The NCCCS Senior Vice President, Chief Academic Officer shall calendar the informal hearing no longer than 30 calendar days and no sooner than 15 calendar days after the expiration date for receipt of the request for informal hearing. The NCCCS Senior Vice President, Chief Academic Officer shall provide the notice of informal hearing with the date, time, location, and list of members of the review panel to the parties at least seven (7) business days prior to the informal hearing.
- (b) Parties may participate in the informal hearing via telephonic or other electronic means. If any party is going to participate via telephonic or other electronic means, the party must provide written notification to the NCCCS Senior Vice President, Chief Academic Officer within two (2) business days of receipt of the notice of informal hearing date.
- (c) At the informal hearing, the party appearing on behalf of the NCCCS College and Career Readiness Section shall be the Director of Adult Education or the Director of Adult Education's designee; and the party appearing on behalf of the appealing party shall be an authorized official. Attorneys may serve in an advisory capacity to any party during the informal hearing, but attorneys may not speak on behalf of either party at the informal hearing unless the attorney is an official of the NCCCS College and Career Readiness Section or an official of the appealing party and not engaged in an attorney-client relationship with either party.
- (d) No later than seven (7) business days prior to the informal hearing, the NCCCS College and Career Readiness Section shall provide one electronic copy each of the RFP, the appealing party's response to the RFP, the award decision, the appealing party's written appeal, and the College and Career Readiness Section's appeal response to the review panel.
- (e) No later than three (3) business days prior to the informal hearing, both parties shall do the following electronically.
  - (1) Exchange a written list of witnesses or presenters each party intends to use at the informal hearing along with a brief summary of each witnesses' testimony or each presenter's statement;
  - (2) Submit the witness or presenter list to the review panel; and

- (3) Submit any additional written documentation to the review panel and a copy of such additional information to the opposing party for consideration only if such additional information is directly related to the standard of review for the informal hearing.
- (f) The review panel shall conduct the informal hearing as follows.
- (1) The review panel shall adhere to the following standard of review:
    - (A) Whether the appealing party has provided sufficient evidence to establish that the College and Career Services Section failed to follow the evaluation or award process;
    - (B) Whether the appealing party has provided sufficient evidence to establish that the College and Career Services Section's decision was based on unlawful discrimination; or
    - (C) Whether the appealing party has provided sufficient evidence to establish that the College and Career Services Section was biased against the appealing party in the award decision.
  - (2) The review panel shall not recommend upholding the appeal only because the review panel disagrees with the award decision. The only bases upon which the review panel has the authority to recommend upholding the appeal is if the appealing party has established the factors specified in 1A SBCCC 400.5(f)(A) – (C).
  - (3) The total length of the informal hearing shall be no longer than one (1) hour. Each party shall have a maximum of 20 minutes to present evidence in their case in chief. The appealing party shall present their case first. At the conclusion of each party's case, each party may provide rebuttal evidence for no more than five (5) minutes. The review panel shall have the authority to ask any clarifying questions of any party for the remaining ten (10) minutes of the informal hearing. Any party responding to a review panel member's question when the one hour time period has concluded shall have the right to complete their response to the question.
  - (4) The legal rules of evidence shall not be enforced, but the review panel has the discretion to direct the testimony or presentations so that the parties address only

those issues that are relevant to the standard of review consistent with 1A SBCCC 400.5(f)(1)(A) – (C).

- (5) Parties have the discretion to call their own witness and question the witness during their own presentation of evidence. Alternatively, parties have the discretion to present evidence in a narrative form.
- (6) If either party believes that the review panel should not give credence to evidence offered by the other party, that party may bring that to the review panel's attention during the presentation of their own case or during their rebuttal. The review panel shall consider those objections when weighing the evidence.
- (7) The review panel shall be responsible for ensuring that the informal hearing is recorded.
- (8) After the informal hearing, the review panel shall provide a written recommendation detailing the basis for the recommendation to the SBCC. In making a recommendation to the SBCC, the review panel shall only consider the RFP, the appealing party's response to the RFP, the award decision, the appealing party's written appeal, the College and Career Services Section's response to the written appeal, and evidence provided at the informal hearing.

*History Note: Authority G.S. 115D-5;*

*Temporary Adoption Eff. [June 20, 2018](#).*