



## RULES OF PROCEDURE FOR APPEALS CONCERNING INTERNATIONAL ACCREDITATION SERVICE, INC., ACTIONS

### 1.0 PREAMBLE

The purpose of these rules of procedure (these "Rules") is to establish the procedures for the conduct of appeals of written decisions by International Accreditation Service, Inc. ("IAS"), regarding the issuance, denial, extension, amendment, modification or revocation of accreditation or registration listings each, an "IAS Action."

### 2.0 RIGHT TO APPEAL IAS ACTIONS

The right to appeal an IAS Action shall only be available in those circumstances specifically set forth in the applicable IAS Rules of Procedure. In addition, the right to appeal an IAS Action shall be available only to the applicant or member with respect to whom such IAS Action was taken (the "Affected Party").

### 3.0 STATEMENT OF APPEAL AND FILING FEE

To initiate an appeal of an IAS Action, the Affected Party shall provide the items set forth in subsections 3.1 through 3.4 below (the "Appeals Package") to the principal office of IAS within sixty days from the date written notification of the IAS Action being appealed was received by the Affected Party. Any Appeals Package that is not timely received by IAS or that is incomplete shall be rejected by IAS.

**3.1** A detailed written statement of the IAS Action that is being appealed;

**3.2** A detailed statement of the factual basis for the appeal, including a summary of any relevant technical data;

**3.3** A statement of the relevant standards or criteria that relate to the issues to be determined by the appeal.

**3.4** A filing fee of \$1,000, payable by certified check or money order to "International Accreditation Service, Inc."

### 4.0 APPOINTMENT AND QUALIFICATIONS OF HEARING OFFICER

**4.1 Appointment of Hearing Officer:** Within thirty days from receipt of an Appeals Package by IAS, the chairman of the Accreditation Committee of IAS shall select a hearing officer (the "Hearing Officer") to preside at a hearing to review the appeal (the "Hearing"). In making this selection, the chairman shall select an individual who is either a retired judge of the United States District Court for the Central District of California, the California Supreme Court, the California Court of Appeal or the California Superior Court, an acting or retired state or

federal administrative law judge or, if appropriate, a qualified individual who has particular expertise or experience concerning the issues to be adjudicated at the Hearing as formulated by the Appeals Package.

**4.2 Scheduling Hearing:** Immediately upon appointment, the Hearing Officer shall arrange for the prompt scheduling of the Hearing date. The Hearing Officer shall ensure that sixty days prior written notice of the Hearing date is provided to IAS and to the Affected Party. Any request for a continuance or rescheduling of the Hearing date shall be submitted in writing to the Hearing Officer and served by mail upon IAS and the Affected Party no later than ten days prior to the Hearing. The Hearing Officer shall grant a continuation of the Hearing date only upon the agreement of all parties or upon the party requesting the continuance demonstrating that good cause for the continuance exists.

### 5.0 SUBMISSION OF WRITTEN DOCUMENTS, REPORTS AND AFFIDAVITS TO HEARING OFFICER

The Affected Party or IAS may, thirty days prior to the Hearing date, furnish to the Hearing Officer any written evidence including documents, reports or affidavits either party intends to enter into evidence at the Hearing. The party shall, concurrently therewith, also mail a copy of the written documents, reports or affidavits to the other party. Any such written documents, reports or affidavits shall not constitute evidence unless and until admitted at the Hearing by the Hearing Officer, and either party may offer further and additional written or oral evidence at the time of the Hearing irrespective of any submission made to the Hearing Officer prior to the Hearing.

### 6.0 CONDUCT OF THE HEARING

**6.1 Presentation of Evidence and Argument:** Evidence shall be presented in a manner consistent with contested hearings, with the Affected Party presenting its evidence or argument first, followed by IAS presenting its evidence or argument. The Affected Party shall have the opportunity to rebut any evidence or argument presented by IAS. Deviation from this order of evidence may only be upon the Hearing Officer determining that it is in the interest of justice to do so in order to efficiently conduct the Hearing.

**6.2 Evidentiary Rules:** The following rules shall apply with respect to the presentation of evidence at the Hearing:

**6.2.1** The Hearing Officer may refuse to consider any evidence which was not provided to or considered by

IAS in reaching the decision which is the subject of the appeal.

**6.2.2** Oral evidence shall be taken only on oath or affirmation. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross examine opposing witnesses on any matter relevant to the issues irrespective of whether that matter was covered in direct examination, to impeach any witness irrespective of which party first called the witness to testify, and to rebut any evidence presented.

**6.2.3** The Hearing Officer need not follow technical rules of evidence in the conduct of the Hearing except as follows:

**6.2.3.1** Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any evidentiary rules which might make the admission of this evidence improper over objection in civil actions.

**6.2.3.2** Hearsay evidence may be accepted for the purpose of supplementing or explaining other evidence. However, hearsay evidence shall not be the sole support for a factual finding unless it would be admissible over objection in civil action.

**6.2.3.3** The rules relating to privilege shall be applied, and irrelevant and unduly repetitious evidence shall be excluded.

**6.2.3.4** Evidence may be presented only by the Affected Party or IAS.

**6.2.3.5** Expert opinion testimony shall be considered only upon the Hearing Officer determining the qualifications of the witness, and any expert witness testimony must be supported by probative data.

**6.2.3.6** Testimony in the form of written affidavits may be considered only if ten days prior to the Hearing the party intending to offer the affidavit serves a copy of the affidavit on the opposing party, and the opposing party, within seven days after such mailing, does not mail or deliver to the party offering the affidavit a request to cross examine the affiant. If, after a request therefore, an opportunity to cross examine the affiant is not afforded, the affidavit may be introduced into evidence, but shall be given only the effect as other hearsay evidence.

**6.3** The proceedings of the Hearing shall be recorded.

## **7.0 STANDARD OF REVIEW**

In hearing the appeal and reviewing the IAS Action that is the subject of the appeal, the Hearing Officer shall affirm the decision unless, with respect to questions of fact, there is no substantial evidence to support the factual conclusions reached by IAS. The Hearing Officer shall reverse the decision of IAS if the Hearing Officer determines, based on a review of the entire record, there is not substantial evidence, contradicted or uncontradicted, to support the decision. In reviewing questions of law or code or standard interpretation, the Hearing Officer shall independently interpret the applicable code provision or standard.

Any conflicts in the evidence must be resolved in favor of the IAS Action, and the decision must be upheld so long as there is evidence to support the decision. If two or more factual inferences can be drawn from a set of facts, the Hearing Officer cannot substitute his or her own deductions but must indulge all inferences in support of the decision reached by IAS unless they are rebutted by clear, positive and uncontradicted evidence. If the decision is reversed, the Hearing Officer shall issue whatever additional instructions or findings that are necessary to implement the decision.

## **8.0 RECOMMENDATION OF HEARING OFFICER**

Within thirty days from the date the Hearing is concluded, the Hearing Officer shall submit a recommended decision to the board of directors of IAS (the "IAS Board") determining the issues presented at the Hearing. If necessary, the recommendation shall include specific findings of fact as determined by the Hearing Officer.

## **9.0 FINAL DECISION BY BOARD OF DIRECTORS**

**9.1** The recommendation of the Hearing Officer shall be presented to the IAS Board for its independent review and decision (the "Final Decision"). In rendering its Final Decision, the IAS Board shall consider the case on the record, including the transcript and the argument presented. The Final Decision of the IAS Board shall be made by vote on the matter in accordance with the bylaws of IAS. Prior to making a Final Decision, the IAS Board may, in its sole and absolute discretion, (i) refer the matter back to the Hearing Officer for the taking of additional evidence, in which case it shall specify to the Hearing Officer, in writing, the issues on which additional evidence shall be taken, or (ii) schedule a hearing at which time the Affected Party and/or IAS shall be permitted to present argument but no additional evidence to the IAS Board.

**9.2** If the matter is referred to the Hearing Officer for the taking of additional evidence, the Hearing Officer shall prepare a recommendation as provided in Section 8 above, on the additional evidence, the transcript and other papers which are a part of the record of the matter. A copy of the final recommendation of the Hearing Officer shall be delivered to the IAS Board as provided for in Section 8 and shall be acted on by the IAS Board in accordance with this Section 9.

**9.3** A copy of the Final Decision of the IAS Board shall be delivered by the IAS Board to the Affected Party and shall become effective as determined by the IAS Board in such Final Decision.

**9.4** The Final Decision of the IAS Board shall be final and binding on the Affected Party and IAS and shall be the sole and exclusive remedy between the Affected Party and IAS regarding the IAS Action that was the subject of the appeal. ■