

### **13. Unfair Competition Appeal Process**

13.1. The Board will review appeals of unfair competition under § 24-113-104, C.R.S., pursuant to the following procedure:

13.1.1. Within five calendar days after the receipt of a Notice of Intent to Appeal a decision of the College, the Secretary shall

13.1.1.1. Give notice to the Claimant and to the Respondent of the date of the meeting of the Board at which Claimant's Appeal is expected to be reviewed (the "Review Proceeding"); and

13.1.1.2. Provide them with a schedule of the time periods for the submission of written statements and other materials to the Board, as more fully set forth below.

13.1.2. The Claimant shall have the right to assistance from private legal counsel in connection with Board review, at the Claimant's expense. The College's legal counsel shall advise the Respondent concerning the Appeal. The Board shall be advised by separate counsel during the Proceedings. Separate counsel shall be provided by the Colorado Department of Law.

13.1.3. The Claimant and the Respondent shall provide a written statement of not more than five single-spaced pages to the Secretary and to each other no later than 20 calendar days before the meeting of the Board at which the appeal is to be heard. In this statement, the Claimant and the Respondent shall succinctly summarize their respective positions, identify the specific parts of the record which support their positions, and set forth the specific action being requested from the Board.

13.1.4. If the Claimant fails to submit a statement in accordance with paragraph 13.1.3 above, the Appeal shall be deemed abandoned and no further action by the Board will be required.

13.1.5. Upon receipt of the statements from the Claimant and the Respondent, the Secretary shall transmit copies of each statement to all members of the Board and to the Board's legal advisor immediately and such members and legal advisor shall treat them as confidential, except as may otherwise be required by law.

13.1.6. The Secretary may, upon the written application of the Claimant or the Respondent, extend the above deadlines and page limitation, if the Secretary finds good cause for the exception.

13.1.7. Within ten (10) days after the receipt of a Notice of Intent to Appeal, the Respondent shall submit a complete copy of the record of the Appeal to the Secretary. The record shall consist of all written submissions and

written decisions of the College administration. The Secretary shall maintain a copy of the complete record relating to the Appeal at his/her office and shall make such record available to the members of the Board, the Board's legal advisor, and the Claimant, upon request.

- 13.1.8. The Board, in its sole discretion, may request that the parties make oral presentations or be available to respond to questions. In that event, the Secretary will so notify the parties no later than five calendar days before the Board meeting at which the Appeal is scheduled to be considered.
- 13.1.9. The Board shall base its decision upon the written statements submitted, the written record, oral statements, if any, including those made in response to questions posed by members of the Board, and the advice of legal counsel.
- 13.1.10. The Board shall deliberate in Executive Session, upon the required affirmative vote by the Board, from which the parties to the Appeal shall be excused. The Board may:
  - 13.1.10.1. Adopt and affirm the Respondent's findings and conclusions;
  - 13.1.10.2. Reverse or modify the Respondent's findings and conclusions if they are found to be not in accordance with the law; or
  - 13.1.10.3. Remand the Appeal for such additional proceedings as the Board may deem necessary, with instructions as to how to proceed.