

GBCI CERTIFICATION CHALLENGE POLICY

This Certification Challenge Policy has been put in place to protect the integrity of the certification programs administered by the Green Business Certification Inc. (GBCI). GBCI intends this policy to function as both a quality check on the GBCI certification process, as well as an instrument designed to detect and remedy incidents of intentional or inadvertent misrepresentation which result in the inappropriate award of certification.

This policy is not meant to serve as a vehicle for the adjudication of disputes between outside parties. Accordingly, this policy and the certification challenge process detailed herein do not *replace any applicable judicial* or other alternative dispute resolution processes *that third parties may have available to resolve such disputes between themselves*.

Complaints that might warrant initiation of the Certification Challenge Process should be submitted to legal@gbci.org.

- 1.1 Certification Challenge Overview: All persons participating in the submission of information in applying for an award of certification must be truthful, forthcoming, and cooperative in their dealings with GBCI; however, it is the responsibility of the project owner to confirm and represent the veracity and accuracy of the documentation submitted. To the extent the veracity or accuracy of such documentation, or GBCI's evaluation of the same, is called into question, GBCI may initiate a certification challenge thereby revisiting its determination that the submitted documentation properly demonstrates that the project satisfied all program eligibility and rating system requirements necessary to achieve the awarded level of certification. A project owner may defend against such certification challenge by electing to participate in the process described below. Based on the final determination of such a challenge, GBCI retains the right to reduce the level of certification awarded or revoke an award of certification altogether.
- 1.2 Basis for an Initiation of a Certification Challenge: GBCI reserves the right to institute investigations and review documentation for any reason or for no reason at all. In addition, GBCI encourages third parties who wish to make a complaint, or bring to light information affecting the grant of certification to do so in the following manner. Parties seeking to submit a complaint or report information affecting the grant of certification must have specific personal knowledge of an event or condition that would prevent a project from satisfying a particular program eligibility or rating system requirement. Complainants must indicate the specific requirement that is affected. Further, such persons must indicate to the fullest extent possible, in the form of a written statement, details of such event or condition including the following: i) the alleged offending conduct or condition; ii) the persons involved; iii) other persons who may have knowledge of the facts and circumstances concerning the allegation, including contact information for such persons; and iv) the identity of the person presenting the complaint including such person's full name, address, email, and telephone number. Complaints must be submitted to GBCI within eighteen (18) months of the award of certification for a project. GBCI cannot guarantee anonymity to persons submitting complaints. If GBCI determines that the complaint is frivolous or irrelevant to the program requirements for certification, no further action will be taken.
- 1.3 Initiation of a Certification Challenge: The GBCI President may initiate a formal investigation into the appropriateness of an award of certification to a particular project if the veracity or accuracy of the documentation supporting such award is called into question, or if GBCI's evaluation of such documentation is suspected to have been incomplete or flawed. A formal investigation will be deemed opened upon the date that GBCI sends written notice to the project owner that such investigation has been initiated. The investigation will remain open until a final determination is reached on such certification challenge. GBCI shall not open a formal investigation related to any project beyond two (2) years after the date the project is awarded certification. GBCI shall not publicly comment on an ongoing investigation prior to the forwarding of the final determination on such certification challenge to the project owner.

- 1.4 Certification Challenge Investigation Process: In performing a formal investigation, GBCI will review any or all of the project's documentation that GBCI, in its sole discretion, deems relevant. GBCI may request supplemental information from the person(s) making the complaint and may require the complainant to provide a statement in the form of an affidavit attested to under penalty of perjury. GBCI may request information from the project team, project owner, and/or others involved in the project. The project team, project owner and/or others involved in the project will have thirty (30) calendar days to respond to an information request.

If GBCI determines that a site visit may be useful, GBCI, with the assistance of one or more technical consultants, may, but is not required to, conduct an on-site inspection of a project. GBCI shall notify the project owner of the necessity of the site visit in writing. GBCI representatives including staff members and/or technical consultants shall make the arrangements for the site visit and the project owner shall facilitate access to all areas of the project (as defined by the project boundary used for certification) during the site visit

No staff or technical consultant may: i) investigate any matter regarding a project he or she previously reviewed; ii) investigate any matter in which his or her impartiality might reasonably be questioned; or iii) investigate any matter which presents an actual, apparent, or potential conflict of interest. GBCI representatives who are tasked with conducting a site visit must sign an engagement agreement and abide by GBCI requirements regarding conflicts of interest and confidentiality.

- 1.5 GBCI Preliminary Staff Findings: Upon the conclusion of an investigation, if GBCI determines in its sole discretion that the project owner submitted truthful and accurate documentation when applying for certification and that sufficient evidence exists to demonstrate that (i) all eligibility requirements were properly completed at the time certification was conferred and (ii) the minimum number of rating system requirements were properly completed at the time certification was conferred such that the project obtained the requisite number of points necessary to achieve certification at the level awarded, no further action will be taken. The project owner and any persons submitting complaints will be notified of this decision.

If GBCI determines that the documentation submitted was not completely truthful and accurate, or that insufficient evidence exists to demonstrate the project properly achieved certification at the level awarded, GBCI shall transmit a statement of its findings to the project owner by email via verifiable method of delivery, setting forth the affected program requirements, and including a written statement:

- a. of the facts constituting the inaccurate grant of rating system requirements, or falsely submitted documentation and the specific rating system requirements affected;
- b. that the project owner has thirty (30) calendar days after receipt of such statement to notify GBCI if it disputes the findings and to provide a written response; and
- c. identifying the proposed sanctions determined by GBCI potentially including revocation of certification, or reduction of the level of certification awarded.

- 1.6 Stage 1: Contesting GBCI Preliminary Staff Findings:

If the project owner seeks to contest the findings, or is unwilling to accept the determined sanctions, such owner must submit a written response addressing the Preliminary GBCI Staff Findings and/or the determined sanctions within thirty (30) calendar days after the owner's receipt of such statement. The project owner may also submit additional information related to the challenged program requirement(s). If the project owner accepts, or fails to timely respond to such statement and underlying findings, GBCI shall enact the determined sanctions and close the matter. Such acceptance, or failure to respond, shall constitute a waiver of the right to a review or hearing and appeal of the same.

Within 30 calendar days of receiving a response to this statement, GBCI staff shall make a determination as to the disposition of the challenge and identify the sanctions to be imposed. GBCI shall provide notice of such determination and sanctions to the project owner along with a statement:

- a. that the owner or representative thereof may request an oral hearing (in person or by phone) or a review by written briefing for the disposition of the matter, with the owner bearing its own expenses;
- b. that the owner or representative may appear in person, may examine and cross-examine any witness under oath, and may produce evidence on its behalf;
- c. that if the owner disputes the findings, or requests a review or hearing, the owner thereby consents to the formation of a Review Panel for the purpose of rendering a decision on the evidence before it, and further agrees to comply with any applicable sanctions subject to an appeal; and
- d. those certain administrative fees, as detailed in Pricing Appendix A, apply if the project team requests a written review or hearing.

1.7 Stage 2: Written Review or Hearing of a GBCI Staff Determination: If a project owner seeks to contest the determination or sanctions issued by GBCI staff, the project owner may submit a request for either a hearing or review by written briefing. The fees outlined in Pricing Appendix A must be provided to GBCI within thirty (30) calendar days following the date the owner's written request was received by GBCI.

If the project owner requests a hearing or written review, the GBCI Chair in consultation with the GBCI President shall appoint three persons to serve on a Review Panel, each of whom shall be qualified by virtue of training and experience to have the appropriate technical knowledge in the relevant program requirements. No member of such Review Panel may: i) review any matter regarding a project he or she previously reviewed; ii) review any matter in which his or her impartiality might reasonably be questioned; or iii) review any matter which presents an actual or apparent conflict of interest relating to the project.

If the project owner requests a written review, GBCI will forward its findings and the response of the project owner to the Review Panel. Written briefing may be submitted within thirty (30) calendar days following receipt of the request for such written review.

If the project owner requests a hearing, GBCI shall forward its findings and the response of the project owner to the Review Panel and shall designate one staff member to present the findings and any substantiating evidence, to examine and cross-examine witnesses, and to present the matter during the hearing. The Review Panel will schedule a hearing after the request is received, allowing for a period of at least thirty (30) days to prepare for such hearing, and will send by email and via verifiable means of delivery, a Notice of Hearing to the project owner. The Notice of Hearing will include a statement of the time and place selected by the Review Panel. The project owner may request modification of the time and place for good cause.

The Review Panel, GBCI, and the project owner may consult with and be represented by counsel, make opening statements, present documents and testimony, examine and cross-examine witnesses under oath, make closing statements and present written briefs as scheduled by the Review Panel. To the extent a project owner or representative fails to attend the hearing in person or by phone, such hearing shall commence as scheduled without representation by the owner. The Review Panel will determine all matters related to the hearing. Formal rules of evidence will not apply. Relevant evidence may be admitted. Disputed questions will be determined by the Review Panel.

GBCI will meet its burden of proof if it is able to demonstrate by a preponderance of the evidence, and the project owner is unable to refute either that the project owner failed to submit truthful, and accurate documentation when applying for certification, or that insufficient evidence exists to demonstrate that (i) all eligibility requirements were properly completed at the time certification was conferred and (ii) that the minimum number of rating system requirements were completed at the time certification was conferred such that the project obtained the requisite number of points necessary to achieve certification at the level awarded.

Upon the conclusion of a review or hearing, if the Review Panel determines that GBCI has not met this burden of proof no adverse action will be advised and the matter shall be closed. If the

Review Panel determines that GBCI has met this burden of proof it shall identify the appropriate sanctions to be carried out by GBCI.

The Review Panel will issue a written decision following the review or hearing. This decision will contain factual findings, conclusions, and any sanctions if appropriate. Such written decision shall be sent promptly by email via verifiable means of delivery to the project owner and any persons submitting complaints.

- 1.8 Stage 3: Appeal of a Review Panel Decision Before GBCI Board of Directors: If a project owner seeks to contest the decision of the Review Panel, such owner may submit a request for an appeal to the GBCI Board of Directors. All requests for appeals must be submitted in writing and sent to GBCI by verified and traceable email, U.S. Postal Service mail, personal delivery, or private courier (such as Federal Express, United Parcel Service, etc.), within thirty (30) calendar days after the owner's receipt of the Review Panel's decision. Requests for appeals must be accompanied by written briefing setting forth the basis for the appeal. If the project owner requests an appeal in accordance with this section, the fees outlined in pricing Appendix A must be provided to GBCI within fifteen (15) calendar days of GBCI's receipt of such request.

In order to overturn a certification challenge decision by the Review Panel, it shall be the burden of the project owner to demonstrate to the satisfaction of the GBCI Board of Directors that such decision was arbitrary or capricious.

The GBCI Board of Directors will render a written decision based on the record and written briefs (if any); there will be no oral hearing. The decision of the GBCI Board of Directors will be mailed promptly by certified mail, return receipt requested, to the project owner. Decisions rendered by the GBCI Board of Directors shall be final. Persons submitting complaints shall be notified of the decision of the GBCI Board of Directors.

- 1.9 Revocation of certification: Based on the final determination of a Certification Challenge, GBCI retains the right to reduce the level of certification awarded, or to revoke an award of certification.

GBCI retains the right, in its sole discretion, to revoke certification from any project where it is denied access to a project for the purposes of performing an audit or site visit, or it is prevented from examining documentation related to the project's design, construction, and/or operations pertaining to certification, as a result of a project owner being unwilling or unable to provide such access or documentation.

GBCI retains the right, in its reasonable discretion, to revoke certification from any project where GBCI is denied access to or is not provided with data as required.

To the extent a project is subject to revocation of certification, such project will be removed from the certified project database and may no longer be referred to as a certified project under the applicable program. GBCI shall identify the project's certification as having been revoked. Further, the owner of such project shall immediately terminate all use and display of any trademarks, associated logos, and other intellectual property licensed by GBCI.

PRICING APPENDIX A

Written Review Fee	\$1,500
Hearing Fee	\$2,500
Appeal of Review Panel Decision Fee	\$2,500