

~~rights relative to compensation or vacation.~~

780 CMR 110.R7.4 PROCEDURES FOR COMPLAINTS

110.R7.4.1 Complaints.

110.R7.4.1.1 Cause for Complaint. Any registrant who has been judged to have violated the provisions of 780 CMR 110.R7 or 780 CMR by a competent court having jurisdiction or has been judged to have violated procedures as defined by the State Ethics Commission for acts pertinent to his/her performance as a certified building code enforcement official may be entitled to a hearing in accordance with M.G.L. c. 30A before the Building Official Certification Committee or subcommittee thereof in respect to retention of his/her certification.

Exception: The BBRS and/or members of the Building Official Certification Committee or sub-committee thereof, may convene hearings for those registrants who fail to attain continuing education credits as defined by 780 CMR 110.R7.7.3.

110.R7.4.1.2 Hearings on Complaints. If a hearing is to convene, the committee shall give at least ten days notice to all those party to the complaint. The sending of notice to the address recorded on the records of the BBRS shall be deemed sufficient notice.

110.R7.4.1.3 Notice of Hearings. The notice shall contain:

1. The name of the complainant
2. A copy of the complaint
3. The date, time and place of said hearing.

The complete file of complaint shall be available for inspection at the office of the BBRS during regular business hours. Parties may present written or oral evidence to refute or mitigate any charge contained in the complaint and present witnesses in his or her behalf. In the event that the committee votes to take action against said certification pursuant to this hearing, the building code enforcement official, upon notice of the decision, shall immediately comply with said action.

110.R7.4.1.4 Continuation of Hearings. the committee, in its discretion, may continue the date for hearing upon request by building official, the complainant or the committee itself.

110.R7.4.1.5 Timing of Decisions. The committee shall make a decision within 15 days of the hearing. A written decision shall be issued within 30 days of the hearing date.

110.R7.4.1.6 Decisions. The decision shall be final and binding upon the building code enforcement official and the complainant.

110.R7.4.1.7 Notice of Action. In the event that the committee votes to take action against said

~~certification pursuant to this hearing, the building code enforcement official, upon notice of the decision, shall immediately comply with said action.~~

110.R7.4.1.8 Appeal. Any person aggrieved by a decision of the committee may appeal such decision to a court of law or equity in conformance with M.G.L. c. 30A, § 14.

110.R7.4.2 Revocation of Certificates and Alternative Sanctions.

110.R7.4.2.1. The BBRS, upon recommendation of the Committee, and subject to the requirements of Administrative Practices as defined by M.G.L. c. 30A, may suspend or revoke a certification, or assess any other penalties as provided for by law, if it is determined that the registrant: (The following is not an exhaustive list.)

1. Has obtained a certification by fraud or misrepresentation, or the person named in the certificate has obtained it by fraud or misrepresentation as judged by members of the Building Official Certification Committee following a hearing on such matters;
2. Has aided or abetted in practice as a certified building code enforcement official any person not authorized to practice as a certified building code enforcement official under the provisions of 780 CMR 110.R7 as judged by members of the Building Official Certification Committee following a hearing on such matters;
3. Has fraudulently or deceitfully practiced as a certified building code enforcement official as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
4. Has been grossly negligent or has engaged in misconduct in the performance of any of his or her duties as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
5. Has failed, over a period of time, to maintain continuing education requirements as specified in 780 CMR 110.R7 as judged by members of the Building Official Certification Committee following a hearing on such matters;
6. Has been found to have failed to report an offer, or bribe, or other favor in a proceeding under 780 CMR 110.R7 or other appropriate law of this or any other state or jurisdiction as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;

7. Has made a false or misleading statement, or has made a material omission in any submission to the BBRS as judged by members of the Building Official Certification Committee following a hearing on such matters;

8. Has failed to enforce the provisions of 780 CMR as prescribed by M.G.L. c. 143, § 3 as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters.

110.R7.4.3 Violations and Penalties.

110.R7.4.3.1. It shall be a violation of 780 CMR 110.R7 on or after November 12, 1992, for any individual to represent himself or herself to be qualified for a position that the individual does not currently hold, or to use a title or otherwise represent himself or herself to be qualified for a position that the individual does not currently hold, or to use a title or otherwise represent himself or herself as certified or authorized to act under the 780 CMR if that individual does not possess a certificate, unless such person is appointed subject to the provisions of 780 CMR 110.R7.1.6.1.3. In addition to any other remedy available under law, such representation shall be deemed a violation of 780 CMR 110.R7 and any other penalties as provided for by law.

110 R7.4.3.2. It shall be a violation of 780 CMR 110.R7 on and after November 12, 1992, for any local enforcing agency to offer employment, to retain for employment or to permanently appoint any individual who is not certified in accordance with 780 CMR 110.R7, except on a conditional basis in accordance with 780 CMR 110.R7.1.6.1.3.

110.R7.4.3.3. No person whose certification has been revoked in accordance with procedures established by 780 CMR 110.R7 shall approach the Board for certification or re-certification until a period of at least one year has elapsed from the date of revocation. (The date of revocation shall be defined as the date that appears on the written decision relating to the case.) Any person applying for certification or recertification under these procedures shall be viewed as a first time

candidate for certification and shall meet or exceed all applicable requirements of 780 CMR, 780CMR 110.R7 and Massachusetts General Law pertaining to the certification process; including but not limited to minimum qualifications defined for the positions of inspector of buildings building commissioner and local inspector. In addition no person whose certification has been revoked in accordance with procedures established by 780CMR 110.R7 shall approach the Board for certification or recertification without first complying with the examination schedule as herein defined in 780 CMR 110.R7 for the level of certification sought. Upon review of the matter by members of the BBRS and/or members of the Building Official Certification Committee, certification may be issued or reissued. However, the Board may permanently revoke a certification, for cause.

780 CMR 110.R7.5 Requirements Related to Building Energy Code Training and Certification

110.R7.5.1 Purpose and Authority. The purpose of 780 CMR 110.R7.5, *Requirements Related to Building Energy Code Training*, is to set forth requirements that all Building Code Enforcement Officials must meet in order to satisfy St. 2008, c. 169, § 55 (The Green Communities Act of 2008), which requires that building code enforcement officials be trained and certified in the energy provisions of the MA building code, and that "new construction and ... major reconstruction, alteration or repair of ... buildings pass inspection by inspectors who have been [so] trained and certified...".

110.R7.5.2 Training Requirements. Effective January 12, 2010, all Building Code Enforcement Officials must be trained, every three years, in the energy provisions of 780 CMR in accordance with St. 2008, c. 169, § 55.

110.R7.5.3 Certification. With respect to certification and recertification of Building Code Enforcement Officials in the energy portions of the MA building code, the provisions of 780 CMR 110.R7.3 shall apply.