

# MINHERS Addendum 62f

## Provider Disciplinary Actions and Appeals Procedures

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<b>Date Approved:</b>	May 15, 2023
<b>Voluntary Compliance Date:</b>	NA
<b>Mandatory Compliance Date:</b>	July 1, 2023
<b>Transition Period:</b>	(Replaces Interim Addendum 62i)
<b>Proponent:</b>	RESNET
<b>Organization:</b>	RESNET

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**Purpose:**

Provide clarification to Provider Disciplinary Actions and Appeals Procedures in Chapter Nine of the RESNET MINHERS Standards.

**Amendment:**

## Mortgage Industry National Home Energy Rating System Chapter 9

*Modify Chapter 9 as follows:*

**903.1.3 RESNET Disciplinary Actions Against A Rating Quality Assurance Provider**

RESNET shall comply with the following due process procedures in considering any probation, suspension or revocation actions against an accredited Rating Quality Assurance Provider.

**903.1.3.1 Notification of Non-Compliance and Proposed Disciplinary Action**

If RESNET determines at any time that a Rating Quality Assurance Provider has failed to adhere to the requirements set forth in these Standards, RESNET shall notify by email, or other method which provides evidence of delivery, the Rating Quality Assurance Provider and Primary Quality Assurance Designee of the non-compliance and decisions under this section. Notification shall include:

903.1.3.1.1 Entire basis and justification for the disciplinary action;

~~903.1.3.1.2 Clarification of the procedures as stipulated in this Standard, and include, where applicable, a Statement of the Rating Quality Assurance Provider's rights to appeal under Section 912 of this chapter.~~

903.1.3.1.3 ~~Specific~~ Any applicable corrective action required to be taken no later than twenty (20) business days after the date set forth in such notification;

~~903.1.3.1.4 Notice of disciplinary action shall include disciplinary status.~~

903.1.3.1.3 Proposed disciplinary action and its effective date, which shall be no less than fifteen (15) business days after the notification is delivered, no less than five (5) business days after any hearing on the proposed disciplinary action under Section 912, and in any event no later than any corrective action required pursuant to Section 903.2.2.1.2; and

903.1.3.1.4 Clarification of the procedures as stipulated in this Standard and the Quality Assurance Provider's right to a hearing under Section 912 of this chapter, including the deadline and process for submitting a written challenge to the finding of non-compliance, proposed corrective action, and/or proposed disciplinary action pursuant to Section 912.

### **903.1.3.2 Disciplinary Action Options for Rating Quality Assurance Providers**

Failure of a Rating Quality Assurance Provider to properly fulfill their responsibilities or an outcome of RESNET's annual report, online review, on-site visit or complaint review as specified in these Standards may include one or more of the following actions by RESNET after satisfaction of the due process procedures set forth in Section 903.1.3 and Section 912 of this chapter:

903.1.3.2.1 The QA Provider being placed in the disciplinary status of probation as set forth in Section 903.1.3.3 of this Chapter or suspension as set forth in Section 903.1.3.4 of this Chapter;

903.1.3.2.2 Revocation of the Accreditation of a Rating Quality Assurance Provider as set forth in Section 903.1.3.4 of this Chapter.

903.1.3.2.3 Removal of the QA Provider from the RESNET Directory of accredited Providers as set forth in Section 903.1.3.4 of this Chapter;

903.1.3.2.4 At the Rating Quality Assurance Provider's expense, further oversight by RESNET.

### 9043.61.3.3 ~~Failure Of~~ Probation of Rating Quality Assurance Providers

904.73.1.3.3.1 ~~Confidential~~ Administrative Probation. ~~Results resulting~~ from violations found through a QA Provider quality assurance process, RESNET quality assurance monitoring or through the RESNET complaint resolution process. ~~Probations resulting from these violations~~ shall remain confidential between ~~RESNET, the Primary QAD, and the QA Provider~~ the Rating Quality Assurance Provider and RESNET. These violations may include but are not limited to:

9043.71.3.3.1.1 Failure to submit to RESNET any material information required to be submitted by the Rating Quality Assurance Provider, in accordance with obtaining or maintaining accreditation;

9043.71.3.3.1.2 Failure to make changes/updates to a Rating Quality Assurance Provider's Policies and Procedures;

904.73.1.3.3.1.3 Failure to follow a Provider's own Policies and Procedures

9043.71.3.3.1.4 Failure to report a change in the status of any QAD to RESNET;

9043.71.3.3.1.5 Failure to adhere to requirements for quality assurance of Raters and RFIs, per RESNET Standards;

9043.71.3.3.1.6 Failure to adhere to requirements for Rater and RFI certification and recertification;

9043.71.3.3.1.7 Failure to enforce disciplinary action requirements for Raters and RFIs having non-conforming QA results.

9043.71.3.3.1.8 Failure to meet the requirements of RESNET programs, such as RESNET approved EEPs, for which the Rating Quality Assurance Provider submits rating files.

9043.71.3.3.1.9 Failure to adhere to one or more administrative and documentation/reporting provisions of the RESNET Standards.

904.73.1.403.3.2 ~~Disciplinary Compliance Probation~~. More serious compliance violations found through a Rating Quality Assurance Provider QA process, RESNET quality assurance monitoring or through the RESNET complaint resolution process shall result in disciplinary compliance probation. These violations may include but are not limited to:

904.73.1.3.3.2.14 Failure to correct the terms of a confidential administrative probation during the time period defined in the issuance of probation;

904.73.1.43.3.2.2 Failure to notify RESNET and/or replace a Primary QAD within the time frame required by these Standards;

904.73.1.43.3.2.3 Ethics or compliance complaint(s) investigated and validated by RESNET against a Rating Quality Assurance Provider;

904.73.1.43.3.2.4 Failure to follow Rating Quality Assurance Provider complaint resolution process and/or disciplinary procedures;

904.73.1.43.3.2.5 Allowing individuals who are not certified as Quality Assurance Designees by RESNET to perform Quality Assurance reviews;

904.73.1.43.3.2.6 Allowing QADs to conduct Quality Assurance on ratings for which the QAD performed any portion of the rating.

903.1.3.3.3 RESNET shall, at its discretion, make a final determination regarding the necessity of posting a disciplinary probation on the RESNET web site.

903.1.3.3.4 RESNET shall determine the length of administrative or disciplinary probation resulting from violations defined in this chapter not to exceed 12 months.

#### **903.1.3.4.8 ~~Suspension Of A~~ Revocation of Rating Quality Assurance Providers**

903.1.3.4.8-1 ~~Any accredited~~The Rating Quality Assurance Provider may have their accreditation suspended. These violations may include, but are not limited to:

9043.8.1.1 A Provider has had more than one (1) Disciplinary Probation violation within a three-year period;

9043.8.1.2 Failure to correct the terms of a Disciplinary Probation during the time period defined in the notice of probation;

9043.8.1.3 Submission of false information to RESNET in accordance with obtaining or maintaining accreditation or certification;

9043.8.1.4 Misrepresentation of any accreditation status in marketing materials, or services offered or provided, for which the Rating Quality Assurance Provider organization does not possess the appropriate RESNET accreditation or affiliated individuals do not possess the appropriate RESNET certification;

9043.8.1.5 Knowingly registering fraudulent ratings to the RESNET Registry;

9043.8.1.6 Willful Misconduct by Rating Quality Assurance Provider, defined as an intentional disregard of any provision of the RESNET Standards, which a Party knew or should have known if it was acting as a

reasonable person, but shall not include any error of judgment or mistake made in good faith.

904.3.8.1.7 Violation of RESNET's Whistle Blower Protection Policy as specified in ~~s~~Section 911.

RESNET shall determine the length of suspension not to exceed 12 months.

~~904.8.2 Prior to reinstatement, the Rating Quality Assurance Provider shall successfully resolve the issue(s) that resulted in the Rating Quality Assurance Provider being suspended and inform RESNET in writing as follows:~~

~~904.8.2.1 That the issue(s) has (have) been successfully resolved;~~

~~904.8.2.2 State the steps taken to resolve the issue(s);~~

~~904.8.2.3 State the steps that will be taken to prevent the issue(s) from occurring again in the future.~~

903.1.3.4.92 ~~Revocation Of~~The Rating Quality Assurance Provider

~~Any accredited Rating Quality Assurance Provider~~ may have their accreditation revoked in any of the following circumstances:

903.1.3.4.92.1 A Rating Quality Assurance Provider has had more than one (1) suspension within a five-year period;

903.1.3.4.92.2 In the event that deficiencies stipulated in a notice of suspension have not been remedied within the period set forth in such notice;

903.1.3.4.92.3 Accredited Rating Quality Assurance Providers that elect not to renew or fail to meet renewal requirements;

903.1.3.4.92.4 Rating Quality Assurance Provider goes out of business;

903.1.3.4.92.5 Fraudulent Activity involving RESNET, including but not limited to:

903.1.3.4.92.5.1 Falsifying inspections;

903.1.3.4.92.5.2 Falsifying data, files reports, and any other documents;

903.1.3.4.92.5.3 Registering other program ratings, knowing that inspections were not completed as required by the program. For example: program required inspection(s) and/or checklist(s) were not completed, but the address was registered as ENERGY STAR qualified";

903.1.3.4.92.5.4 Knowingly allowing “non-certified” persons to perform inspections, testing, quality assurance, or ratings;

903.1.3.4.92.5.5 Knowingly allowing Raters or RFI’s to perform inspections, testing and/or ratings while on any RESNET disciplinary actions barring them from doing so;

903.1.3.4.92.5.6 Colluding with any Provider(s), such as other QA providers, software providers, etc. to by-pass RESNET requirements;

903.1.3.4.92.5.7 Colluding with other QA Provider(s) to fix pricing;

903.1.3.4.92.6 Non-payment per RESNET’s Fee Payment Policy for QA Providers;

903.1.3.4.92.7 Severe violation of the Code of Ethics;

~~903.1.3.4.10.13 RESNET shall remove the~~ Rating Quality Assurance Providers ~~have the right to appeal a probation, suspension or revocation action in accordance with Section 912 of this chapter~~ from the appropriate RESNET Directory when accreditation is suspended or revoked.

903.1.3.4.4 RESNET shall prohibit the provider from uploading rating files to the RESNET Building Registry until the Provider successfully complies with the terms of the suspension or revocation. Any rating files uploaded by the Provider after it received the notification of non-compliance shall be removed from the RESNET Building Registry until the Provider successfully complies with the terms of the suspension or revocation.

~~903.1.3.4.10.35 For any~~ RESNET shall post on its website Rating Quality Assurance Providers ~~who have their~~ whose accreditation ~~revoked or suspended in accordance with this chapter,~~ has been suspended or revoked. The Rating Quality Assurance Provider suspension or revocation listing shall be removed when they have successfully complied with the terms of the suspension or revocation, within five (5) business days of successfully resolving the issue.

903.1.3.4.6 RESNET shall electronically inform thea Rating Quality Assurance Provider’s known clients s(s), QADs, Raters, RFIs ~~other accredited Providers,~~ Quality Assurance Designees, HERS Raters, Rating Field Inspectors, and any affected EEPs ~~of the Rating Quality Assurance Provider’s suspended or revoked status. To the extent feasible, the Rating Quality Assurance Provider and Quality Assurance Designees shall assist RESNET with notifications.~~

903.1.3.4.7 Prior to reinstatement, the Rating Quality Assurance Provider shall successfully resolve the issue(s) that resulted in the Rating Quality Assurance Provider being suspended or revoked and inform RESNET in writing as follows:

903.1.3.4.7.1 That the issue(s) has (have) been successfully resolved:

903.1.3.4.7.2 State the steps taken to resolve the issue(s):

903.1.3.4.7.3 State the steps that will be taken to prevent the issue(s) from occurring again in the future.

### 903.1.3.5 Right to Hearing

~~It is the expectation of RESNET that Quality Assurance Designees fully comply with all the requirements set forth in these Standards. Discovery of one or more areas of non-compliance via the RESNET QA process, reporting by a QAD as part of the QA Provider's QA process, or in the course of RESNET's research of an ethics or consumer complaint will result in RESNET working with the QAD to come back into compliance. However, on occasion, there may be instances where actions by a QAD are truly egregious and, as such, would be deemed to be "significant non-compliance". This Section seeks to define the thresholds when actions by a QAD are deemed to be significant non-compliance, thereby requiring that other QADs or the An accredited Rating Quality Assurance Provider report the significant non-compliance to RESNET and additional action by RESNET may be taken.~~ has the right to challenge the finding of non-compliance, proposed corrective action, and/or proposed disciplinary action under this Section pursuant to the Hearing Procedures in Section 912.

903.1.3.5.1 The effective date of a proposed disciplinary action under this Section shall be no less than fifteen (15) business days after the notification is delivered to the Quality Assurance Designee, no less than five (5) business days after any hearing on the proposed disciplinary action under Section 912, and in any event no later than any corrective action required pursuant to Section 903.1.3.1.2. The Quality Assurance Designee shall be notified in writing of the result of any hearing on the proposed disciplinary action under Section 912 prior to the effective date of the disciplinary action.

903.1.3.5.2 Failure to maintain adequate knowledge of the RESNET Standards will not be considered a defense in the hearing process.

### 904.6 Failure Of Rating Quality Assurance Providers To Fulfill Responsibilities

It is the expectation of RESNET that QA Providers fully comply with all the requirements set forth in these Standards. Discovery of one or more areas of non-compliance via the RESNET Quality Assurance process, reporting by a Quality Assurance Designee as part of the QA Provider's Quality Assurance process, or in the course of RESNET's research of an ethics or consumer complaint will result in the Quality Assurance Designee working with a QA Provider to come back into compliance. However, on occasion, there may be instances where actions by a QA Provider are truly egregious and, as such, would be deemed to be "significant non-compliance". This Section seeks to define the thresholds when actions by a QA Provider are deemed to be significant non-compliance, which in addition to the violations meriting suspension or revocation



listed in Section 903.1.3.4 would require that the Quality Assurance Designee report the significant non-compliance or violation to RESNET and additional action by RESNET may be taken pursuant to Section 903.1.3.

904.6.1 Significant non-compliance by Rating Quality Assurance Providers shall include, but not be limited to, the following:

904.6.1.1 Failure by a QA Provider to comply with multiple individual requirements, or requirements impacting multiple HERS Raters, RFIs, and/or ratings as set forth in the RESNET Standards and enumerated in a RESNET Quality Assurance Checklist;

904.6.1.2 Failure of by a QA Provider to comply with the RESNET Standards of Practice, Code of Ethics, or Conflict of Interest Disclosure;

904.6.1.3 Failure by a QA Provider to follow a QA Provider's own written Rater, HERS Modeler or RFI disciplinary procedures for known or obvious non-compliance with the RESNET Standards, Standards of Practice, Code of Ethics, or Conflict of Interest Disclosure.

904.6.1.4 Failure by a Provider to report significant non-compliance to RESNET.

904.6.2 Quality Assurance Designees must report all suspected non-compliance by a QA Provider to RESNET so that RESNET may assist the Quality Assurance Designee in working with a Provider to come back into compliance. RESNET will hold a reporting Quality Assurance Designee's identity as confidential information and shall only disclose this confidential information to the extent required by a court of competent jurisdiction or other governmental authority, or otherwise as required by law.

## **908 Ethics and Appeals Committee**

The Ethics and Appeals Committee shall have the responsibility of ~~investigating ethics and consumer complaints and hearing~~holding hearings for RESNET disciplinary actions and resolving appeals of an Application or Renewal Application that has been denied, ~~or if a Provider has been placed on probation, or if a Provider's accreditation has been suspended or revoked.~~ The Committee shall report to the RESNET ~~Executive~~Deputy Director.

908.1 Committee Membership. The Ethics and Appeals Committee shall be chaired by a member of the RESNET Board of Directors. The ~~Chair~~Chairperson shall be approved by the RESNET Board. Nomination of Committee members shall be made by the ~~Chairman~~Chairperson. The Committee shall be composed ~~of a minimum~~ of six (6) members, ~~but no more than seven (7) members~~ including the ~~chairman~~Chairperson. The Chairperson is not-voting member of the committee. The Committee shall be inactive in the HERS industry.. "Inactive" shall mean a member who has not provided services as an accredited Rater or Provider since at least January 1 of the calendar year preceding their nomination to the Committee. Any Committee member who resumes providing



services as an accredited Rater or Provider must resign from the Ethics and Appeals Committee.

~~908.2 Committee Responsibilities. The Ethics and Appeals Committee shall have the responsibility of investigating ethics and consumer complaints and hearing appeals of an Application or Renewal Application that has been denied, or if a Provider has been placed on probation, or if a Provider's accreditation has been suspended or revoked within 30 business days.~~

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## **910 Probation, Suspension, and Revocation of Accreditation of Providers**

It is the expectation of RESNET that Providers fully comply with all the requirements set forth in these Standards. Discovery of one or more areas of non-compliance via the RESNET Quality Assurance process, via reporting by a Quality Assurance Designee as part of ~~the~~ Provider's Quality Assurance process, or in the course of RESNET's research of an ethics or consumer compliance complaint will result in RESNET and/or the Quality Assurance Designee working with a Provider to come back into compliance. However, on occasion, there may be instances where actions by a Provider are truly egregious and, as such, would be deemed to be "significant ~~non-~~non-compliance". This Section ~~seeks to~~ define the thresholds when actions by a Provider are deemed to be significant non-compliance, ~~thereby requiring that another Provider or~~ In cases of significant non-compliance or violations meriting suspension or revocation listed in Sections 910.4 and 910.5, all RESNET Providers, Quality Assurance Designees, HERS Raters, Rating Field Inspectors and HERS Modelers are required to report the significant non-compliance or violation to RESNET ~~and~~ Any stakeholder may report significant non-compliance or a violation to RESNET. Upon receipt of a report of significant non-compliance or a violation, additional action may be taken by RESNET may be taken pursuant to this Section 910.

### **910.1 ~~Notification~~ Disciplinary Actions Against A Provider**

RESNET shall comply with the following due process procedures in considering any probation, suspension or revocation actions against a Provider.

### **910.2 Notification of Non-Compliance and Proposed Disciplinary Action**

If RESNET determines at any time that an accredited Provider failed to adhere to the requirements set forth in these Standards, RESNET shall ~~provide written notification to the Provider of any decisions under this section. All notices shall be sent~~ notify by e-mail, or other method which provides evidence of delivery. ~~All notices, the Provider of the non-compliance and disciplinary actions under this section. Notification~~ shall include:

910.~~4~~2.1 Entire basis and justification for the disciplinary action;

~~910.1.2 Clarification of the procedures, as stipulated in this Standard, and;~~

~~910.1.3 Include, where applicable, a statement of the Provider's rights to appeal under Section 9121 of this Chapter;~~

910.42.42 ~~Specific~~Any applicable corrective action required to be taken no later than twenty (20) business days after the date set forth in such notification;

~~910.1.5 Notice of disciplinary action shall include disciplinary status.~~

910.2.3 Proposed disciplinary action and its effective date, which shall be no less than fifteen (15) business days after the notification is delivered, no less than five (5) business days after any hearing on the proposed disciplinary action under Section 912, and in any event no later than any corrective action required pursuant to Section 910.2.2; and

910.2.4 Clarification of the procedures as stipulated in this Standard and the Provider's right to a hearing under Section 912 of this chapter, including the deadline and process for submitting a written challenge to the finding of non-compliance, proposed corrective action, and/or proposed disciplinary action pursuant to Section 912.

### 910.23 ~~Types of Probation for~~of a Provider

After satisfaction of the due process procedures set forth in Section 910.2 and Section 912 of this chapter, RESNET may impose one or more of the following probation actions.

910.23.1 ~~Confidential~~-Administrative Probation- ~~R~~esults from violations found through RESNET quality assurance monitoring or through the RESNET complaint resolution process. ~~Probations resulting from these violations~~ shall remain confidential between RESNET and the Provider. These violations may include but are not limited to:

910.23.1.1 Failure to submit to RESNET any material information required to be submitted by the Provider, in accordance with obtaining or maintaining accreditation;

910.23.1.2 Failure to adhere to one or more administrative and documentation/reporting provisions of the RESNET Standards.

910.23.2 ~~Disciplinary Compliance Probation~~- More serious compliance violations found through RESNET's Quality Assurance process, RESNET quality assurance monitoring or through the RESNET complaint resolution process: ~~RESNET shall, at its discretion, make a final determination regarding the necessity of posting a probation resulting from these violations on the RESNET web site~~ shall result in disciplinary compliance probation. These violations may include but are not limited to:

910.23.2.1 Failure to correct the terms of an administrative probation during the time period defined in the issuance of probation;

910.23.2.2 Ethics or compliance complaint(s) investigated and validated by RESNET against a Provider;

910.23.2.3 A Provider shall at a minimum be placed on Disciplinary Probation if they have been placed on Administrative Probation twice within twelve months.

910.3.3 RESNET shall, at its discretion, make a final determination regarding the necessity of posting a disciplinary probation on the RESNET web site.

910.3.4 RESNET shall determine the length of administrative or disciplinary probation resulting from violations defined in this chapter not to exceed 12 months.

### **910.34 Suspension of a Providers**

After satisfaction of the due process procedures set forth in Section 910.2 and Section 912 of this chapter, RESNET may impose one or more of the following suspension actions.

910.34.1 ~~At the discretion of RESNET, any~~ A Provider ~~accredited by RESNET may have their accreditation suspended in any circumstances, including. These violations may include,~~ but are not limited to:

910.34.1.1 A Provider has had more than one (1) Disciplinary Probation violation within a three-year period;

910.34.1.2 Failure to correct the terms of a Disciplinary Probation during the time period defined in the notice of probation;

910.34.1.3 Submission of false information to RESNET in accordance with obtaining or maintaining accreditation;

910.34.1.4 Misrepresentation of any accreditation or certification status in marketing materials, ~~or, s~~ Services offered or actually provided, for which the Provider organization does not possess the appropriate RESNET accreditation or affiliated individuals do not possess the appropriate RESNET certification;

~~910.3.1.5 Knowingly registering fraudulent ratings or information to the National RESNET Registry;~~

910.4.1.5 Knowingly allowing ratings to be submitted under a primary rater without those ratings being under that primary rater's supervisory control or without allowing that primary rater to review the final product;

910.34.1.6 Willful ~~m~~ Misconduct by the Provider, defined as an intentional disregard of any provision of the RESNET Standards, which a Party knew

or should have known if it was acting as a reasonable person, but shall not include any error of judgment or mistake made in good faith;~~910.3.1.7~~

910.4.1.7 Sixty (60) days or more of delinquency of rating registration fees.

RESNET shall determine the length of suspension not to exceed 12 months.

910.4.2 A Provider shall, at a minimum, be placed on suspension if they have any Disciplinary Probation violations within twelve months of reinstatement from a suspension.

910.4.3.1.8 A Provider shall, at a minimum, be placed on suspension if they have any ~~violation~~ of RESNET's Whistle Blower Protection Policy as specified in Section 911.

910.34.24 RESNET shall ~~notify~~remove the Provider ~~that their accreditation has been suspended and, unless the Provider chooses to appeal, the Provider shall be removed~~ from the appropriate National RESNET Registry of Accredited Providers ~~Directory~~when accreditation is suspended.

910.4.5 RESNET shall restrict the Provider from uploading rating files into the RESNET National Registry until the Provider successfully complies with the terms of the suspension. Any rating files uploaded by the Provider after it received the notification of non-compliance shall be removed from the RESNET Building Registry until the Provider successfully complies with the terms of the suspension.

910.34.36 ,RESNET shall post on its website Providers whose accreditation has been suspended. The Provider's suspension listing shall be removed when the Provider successfully complies with the terms of the suspension, within five (5) business days of successfully resolving the issue.

910.34.47 ,RESNET shall electronically inform ~~accredited Rating Quality Assurance~~known clients, Raters, RFIs, Modelers, other Providers, program administrators using HERS or HERS<sub>H20</sub> Ratings, rating ~~S~~software ~~P~~providers, ~~Rater Instructors/Assessors and HERS Raters/RFIs~~ and any affected EEPs of a Provider's accreditation suspension. To the extent feasible, the Provider shall assist RESNET with notifications.

910.34.58 Prior to reinstatement, the Provider shall successfully resolve to RESNET's satisfaction the issue(s) that resulted in the Provider being suspended and ~~i~~inform RESNET in writing ~~as follows~~:

910.34.58.1 That issue(s) that resulted in the Provider being suspended have been successfully resolved;

910.34.58.2 ~~Stating~~State the steps taken to resolve the issue(s);

910.34.58.3 ~~Stating~~State the steps that will be taken to prevent the issue(s) from occurring again in the future;

## 910.45 Revocation of a Providers or Training Provider

After satisfaction of the due process procedures set forth in Section 910.2 and Section 912 of this chapter, RESNET may impose one or more of the following revocation actions.

910.45.1 ~~At the discretion of RESNET, any~~A Provider ~~accredited by RESNET~~ may have their accreditation revoked ~~in any of~~. These violations may include, but are not limited to, ~~the following circumstances:~~

910.45.1.1 A Provider has had more than one (1) ~~Disciplinary Probation violations~~suspension within a five-year period;

~~910.4.1.2 In the event that deficiencies stipulated in a notice of suspension have not been remedied within the period set forth in such notice;~~

~~910.4.1.3 Accredited Providers that elect not to renew or fail to meet renewal requirements; Pursuant to any of the express provisions of sections 103.3.5, non-renewal;~~

~~910.4.1.4 Provider goes out of business;~~

910.45.1.52 Fraudulent Activity involving RESNET, including but not limited to:

910.45.1.52.1 Falsifying inspections;

910.5.1.2.2 Altering data from another Accredited Provider's rating submission to the RESNET National Registry without the previous provider's authorization;

910.45.1.52.23 Falsifying data, submitted to the RESNET National Registry, including building files, reports, and any other documents related to ratings for energy efficiency programs or codes;

910.45.1.52.34 Registering ~~other program~~ ratings, ~~knowing~~ with knowledge or reasonable suspicion that inspections were not completed as required by the program. ~~For example: program required inspection(s) and/or checklist(s) were not completed, but the address was registered as ENERGY STAR qualified;~~

910.45.1.2.5.4 ~~Knowingly a~~llowing "non-certified" persons to perform inspections, testing, quality assurance, ~~or~~energy modeling or any aspect of ratings that are required to be completed by certified persons;

910.45.1.52.56 ~~Knowingly a~~ Allowing Raters or RFI's to perform inspections, testing and/or ratings while on any RESNET disciplinary actions barring them from doing so;

910.45.1.52.67 ~~Colluding with other Provider(s) to by-pass RESNET requirements;~~

910.45.1.52.78 ~~Colluding with other Provider(s) to fix pricing;~~

910.45.1.63 ~~Non-payment per RESNET's Fee Payment Policy for Providers;~~

910.45.1.74 ~~Severe violation of the RESNET Code of Ethics;~~

~~910.4.1.8 Upon the expiration of the notice to appeal period, failure to submit appeal documentation as stipulated in these standards, or the conclusion of the appeals process in which a Provider's appeals are unsuccessful.~~

910.45.2 ~~At the discretion of RESNET Training, any~~ Providers can have their accredited by RESNET may have their accreditation revoked in any of, but not limited to, the following circumstances:

910.5.2.1 A Provider has two (2) or more Disciplinary Probation violations after completing the terms of a suspension;

910.5.2.2 In the event that deficiencies stipulated in a notice of suspension have not been remedied within the period set forth in such notice;

910.5.2.3 Provider engages in any conduct that is detrimental to the reputation or the best interests of RESNET, the profession or the service.

910.5.3 A Training Provider may have their accreditation revoked. These violations may include, but are not limited to:

910.45.23.1 ~~Compromising the security or integrity of any RESNET certification test. The examination and the items contained therein are the exclusive property of RESNET.~~

910.45.3.2.2 ~~Intentionally misrepresenting their RESNET Accreditation by training to curricula that differ from that submitted to RESNET.~~

910.4.25.3.3 ~~Violation of RESNET defined test-proctoring procedures.~~

910.45.23.4 ~~Intentionally misrepresenting their RESNET Accreditation by changing their rater instructor and not notifying RESNET.~~

910.5.4.3 ~~RESNET shall notify~~ remove the Provider ~~that their accreditation has been revoked and, unless the Provider chooses to appeal, the Provider or~~ Training Provider from the appropriate National Registry of Accredited Providers, restrict the Provider or Training Provider from access to the RESNET National

Registry, and, as applicable, not allow the Training Provider to set up and/or administer RESNET's tests when accreditation is revoked until the Provider or Training Provider successfully complies with the terms of the revocation. Any rating files uploaded by the Provider after it received the notification of non-compliance shall be removed from the ~~appropriate National RESNET~~ RESNET Building Registry until the Provider ~~Directory~~ successfully complies with the terms of the revocation.

910.45.45 ;RESNET shall post on its website Providers and Training Providers whose accreditation has been revoked. The Providers or Training Provider revocation listing shall be removed when they Provider have successfully compliesd with the terms of the revocation, within five (5) business days of successfully resolving the issue.

910.45.56 ~~For any RESNET accredited Providers who have their accreditation revoked or suspended in accordance with this chapter,~~ RESNET shall electronically inform the Provider or Training Provider's known clients, Raters, RFIs, Modelers, other Providers, program administrators using HERS or HERS<sub>H20</sub> Ratings, rating software ~~suppliers~~ providers and any affected EEPs: about the revocation of the Provider or Training Provider's accreditation in accordance with this chapter. To the extent feasible, the Provider or Training Provider shall assist RESNET with notifications.

#### ~~910.5 Probation/Suspension/Revocation Due Process~~

~~RESNET shall comply with the following due process procedures in considering any probation, suspension or revocation actions against an accredited Provider.~~

~~910.5.1 RESNET may, at its discretion, initiate a probation, suspension or revocation action against an accredited Provider by giving the Provider written notice of the action. Such notice shall inform the subject Provider of the entire basis and justification for the action.~~

~~910.5.2 Providers have the right to appeal a probation, suspension or revocation action in accordance with Section 912 of this Chapter.~~

910.5.7 Prior to reinstatement, the Provider shall successfully resolve to RESNET's satisfaction the issue(s) that resulted in the Provider being suspended and inform RESNET in writing:

910.5.7.1 That issue(s) that resulted in the Provider being suspended have been successfully resolved;

910.5.7.2 State the steps taken to resolve the issue(s);

910.5.7.3 State the steps that will be taken to prevent the issue(s) from occurring again in the future.



910.5.8 In the event a Provider or Training Provider has its accreditation revoked due to the actions of an owner, founder, or chief executive officer of that Provider or Training Provider (Principal), the Principal's Certified HERS Rater, RFI and/or HERS Modeler certification(s), if any, shall also be revoked for the duration of the Provider's revocation.

## **910.6 Right to Hearing**

An accredited Provider or Training Provider has the right to challenge the finding of non-compliance, proposed corrective action, and/or proposed disciplinary action under this Section pursuant to the Hearing Procedures in Section 912.

910.6.1 The effective date of a proposed disciplinary action under this Section shall be no less than fifteen (15) business days after the notification is delivered to the Provider or Training Provider, no less than five (5) business days after any hearing on the proposed disciplinary action under Section 912, and in any event no later than any corrective action required pursuant to Section 910.2.2. The Provider or Training Provider shall be notified in writing of the result of any hearing on the proposed disciplinary action under Section 912 prior to the effective date of the disciplinary action.

910.~~56~~.~~32~~ Failure to maintain adequate knowledge of the RESNET Standards will not be considered a defense in the ~~appeals~~hearing process.

~~910.5.4 Upon the expiration of the notice to appeal period, failure to submit appeal documentation, as stipulated in Section 912, or the conclusion of the appeals process in which a Provider's appeals are unsuccessful. RESNET will remove the Provider's name and any directory listing from the RESNET website and post their probation, suspension or revocation status on the RESNET website with other Providers and HERS Raters or RFIs who are under probation, suspension or revocation, and will, at a minimum, inform EEP's of their suspended/revoked status.~~

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## **912 ~~Appeals~~Hearing Procedures**

~~912.1 Appeals shall be made first to the RESNET Ethics and Appeals Committee, then to the RESNET Ethics and Appeals Panel.~~

912.1 The RESNET Ethics and Appeals Committee shall hold hearings for RESNET disciplinary actions and shall resolve appeals of an Application or Renewal Application that has been denied. The Chairperson of the RESNET Ethics and Appeals Committee shall preside over hearings but shall not vote on hearings or appeals.

912.2 Within ~~five~~fifteen (15) business days ~~after~~of receipt of ~~an~~a complaint, other notice of proposed RESNET disciplinary action, or appealable action by RESNET, the Appellant shall ~~notify the RESNET Executive Director of their intent to appeal. The Appellant shall then have ten~~ Respondent shall submit any challenge to the finding of non-compliance, proposed corrective action, and/or proposed disciplinary action in

writing to the RESNET Ethics and Appeals Committee by electronic mail. All relevant information and documentation shall be included in the Respondent's response. Failure to respond within fifteen (15) business days after the date of notice to submit appeal documentation to the RESNET Executive Director shall result in a forfeiture of Respondent's hearing or appeal right under this Section 912.

~~912.3 Appeals shall include all relevant information and documentation and be sent in writing by electronic mail to the RESNET Executive Director.~~

~~912.43 During the appeals process, all parties to the appeal may petition the RESNET Ethics and Appeals Committee for a stay of action upon expiration of the appeals process. 912.4.1 appellant 2 probable cause A decision on the petition shall be rendered by the hearing body not later than ten (10) business days after receipt of the petition. In the event that~~ if additional information is requested, an by Respondent prior to responding, a one-time extension of ten (10) business days may be applied in order to allow the appellant RESNET staff and/or the complainant sufficient time to respond.

912.4 The RESNET Ethics and Appeals Committee shall set a date for a hearing no later than five (5) business days before the effective date of any proposed disciplinary or corrective action and shall notify Respondent and RESNET staff in writing of the hearing date, location, and procedures. The Committee may request in writing additional information from RESNET staff and/or Respondent. If additional information is requested by the Committee, a one-time extension of the hearing date of ten (10) business days may be applied in order to allow the Respondent and/or RESNET staff sufficient time to respond. Access to the hearing will be closed to the public and any recording of the hearing will remain confidential between the Respondent and RESNET. The Respondent will present first at the hearing, followed by RESNET staff. It is not necessary that a Respondent retain an attorney to represent its interests at the hearing, and if a Respondent elects to have an attorney appear on its behalf, the Respondent must authorize such representation in writing submitted to the Committee at least three (3) days in advance of the hearing. Unless the Committee directs otherwise, each side is allowed one hour for argument but is not required to use all of its the allotted time. Members of the Committee may ask questions during the arguments, time for which will not be deducted from a side's allotted time.

912.5 The RESNET Ethics and Appeals Committee shall render a decision on the complaint, other notice of proposed RESNET disciplinary action, or appealable action by RESNET by majority vote no later than five (5) business days after receipt of the Respondent's challenge. Decisions made by the Committee are final.

In the event the effective date of any proposed disciplinary or corrective action shall fall before the date by which the RESNET Ethics and Appeals Committee will issue its decision, the Committee shall issue a stay of the effective date until such time as it can issue a decision.

912.6 The Respondent, the Chair of the Ethics and Appeals Committee, the RESNET Deputy Director, and any complainant shall be notified of the Committee's decision by electronic mail.

~~912.5 Within twenty (20) business days of receiving the appeal, the Ethics and Appeals Committee shall render a decision on the appeal. In the event that additional information is requested, a one-time extension of ten (10) business days may be applied in order to allow the appellant sufficient time to respond.~~

~~912.6 Within five (5) business days after receipt of the decision of the RESNET Ethics and Appeals Committee, the Appellant shall notify the RESNET Executive Director of their intent to appeal the decision of the RESNET Ethics and Appeals Committee to an independent hearing by a RESNET Ethics Appeal Panel. The Appellant shall then have ten (10) business days after the date of notice to submit appeal documentation to the RESNET Executive Director.~~

~~912.6.1 A hearing shall be scheduled at a time convenient to all participants within a thirty (30) day period. At least a ten (10) business days' notice shall be provided.~~

~~912.6.2 The Ethics Appeal Panel shall comprise four (4) voting members who have not been directly involved in the dispute and the and who will not be materially or directly affected by the result of the decision made in the appeal.~~

~~912.6.3 At least two (2) persons shall be selected by the Appellant and at least two (2) persons shall be selected by RESNET as represented by the RESNET Executive Director, the RESNET Standards Manager and a member of the RESNET Board of Directors who will not be materially or directly affected by the result of the decision made in the appeal.~~

~~912.6.4 In cases where the Appellant does not wish to appoint any persons to the Ethics Appeal Panel, RESNET as represented by the RESNET Executive Director, the RESNET Standards Manager and a member of the RESNET Board of Directors shall appoint the members of the Ethics Appeal Panel.~~

~~912.6.5 All decisions of the Ethics Appeal Panel shall be final. To prevail, the Appellant must receive a majority vote. In order to grant the appeal, the Appellant shall have the burden of proof to demonstrate that the **RESNET Ethics and Appeals Committee** decision was by the fault of the RESNET. RESNET shall have the burden of proof to demonstrate that all actions taken were in compliance with the due process procedures of this standard.~~

~~912.7 Within thirty (30) business days of the date of a hearing, the RESNET Ethics Appeal Panel shall render a written decision on the appeal. In the event that additional information is requested, a one-time extension of ten (10) business days may be applied in order to allow the Appellant sufficient time to respond.~~

~~912.8 All parties to the appeal shall be informed by electronic mail of the decision.~~

~~912.9 All appeals documentation received by RESNET shall be handled in strict confidence by RESNET staff, the Ethics and Appeals Committee and the Board of Directors.~~