
APPEAL OF DECISION OF COLLEGE COMMITTEES AND OFFICERS POLICY

PURPOSE

The Royal Australasian College of Medical Administrators (RACMA) has established this policy and procedure for the appeal of a decision made by College Committees of officers. This policy is made to support implementation of appropriate transparency and accountability in decision making by RACMA's key committees.

This policy meets the requirements in the ACCC/AHWC Report to Australian Health Ministers, Review of Specialist Medical Colleges, July 2005.

SCOPE

This policy and procedure will apply to all cases for the appeal of a decision made by College Committees, Officers and Fellows in official College roles and/or College employees with specific delegations. Before convening an Appeals Committee, the CEO will ensure that both reconsideration and a review of the decision have been conducted. Such consideration does not constitute an appeal under this Policy. An Appeal is to be conducted in a manner consistent with the processes outlined below.

REFERENCES

- RACMA Constitution 2009
- RACMA Policy Reconsideration, Review of a Decision by College Committees and officers
- ACCC/AHWC Report to Australian Health Ministers, Review of Specialist Medical Colleges, July 2005
- College Handbook
- RACMA Code of Conduct

RESPONSIBILITIES

Chief Executive Officer

To evaluate applications for appeal of a decision of College Committees, Officers, Fellows in official College roles and College employees, and to determine the appropriateness of an appeal to the Review Committee. To act as Secretary to the Appeals Committee, and to maintain appropriate communications with the affected party and between the Appeals Committee, the Board/committee/officer and the affected party.

If the Chief Executive is the subject of appeal, the RACMA Board will nominate an alternative officer to undertake these responsibilities.

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PROCEDURE

The Appeals process established by RACMA consists of two steps:

STEP 1 Application for appeal of a decision to the Chief Executive.

STEP 2 Establishment of an **Appeals Committee** for conducting of the review.

APPEALS COMMITTEE

- The Appeals Committee shall comprise the following:
 - A person of appropriate experience and independence who is not a Fellow of the College (Chair) or a member of the College Board.
 - A senior academic in Management at an Australian University who is not a Fellow of the College.
 - A Past President of the College, other than the immediate Past President.
 - One Fellow of the College (from an organisation not involved in the subject matter of the Review) who has not in the last two (2) years served as an Officer or Board member of the College.
 - One person nominated by the Australian Health Ministers Conference (or a delegate) (AHMC or other appropriate area of jurisdiction) who is not a member of the College.
- Members of the Appeals Committee shall be appointed by the RACMA Board (other than those nominated by the AHMC or other appropriate area of jurisdiction).
- Members of the Appeals Committee shall be appointed for terms of two (2) years and will be eligible for reappointment for one or more two year terms, subject to continuing eligibility under Item 1.
- The Company Secretary of the College shall be the Secretary of the Appeals Committee but shall not form part of the Appeals Committee and shall not be entitled to vote. In addition, a legal practitioner, also in a non-voting capacity may be included.
- The Company Secretary may delegate his/her powers and duties in respect of any appeal to any person as he/she nominates and in the event of such nomination that person is to be the Secretary Appeals Committee in any such case for the entirety of the Appeal.
- Any individual who was party to the decision of the Committee or officer to which the appeal relates shall not sit as a member of the Appeals Committee considering the appeal. The appointing body under Item 2 may appoint a substitute.
- Any individual who has been nominated by the AHMC or other appropriate area of jurisdiction to sit on a panel established to assess overseas-trained doctors shall not sit as a member of the Appeals Committee. The appointing body under Item 2 may appoint a substitute, drawn from a list of persons nominated by the AHMC or other appropriate area of jurisdiction.

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APPLICATION FOR APPEAL

The decisions which may be reviewed by the Appeals Committee are:

- Any decisions of the Committee or officer, **which affect**, as an individual:
 - a Candidate of the College, or applicant for admission as a candidate of the College
 - an Associate Fellow, or applicant for admission as an Associate Fellow of the College
 - an Affiliate, or applicant for membership as an Affiliate of the College
 - an overseas trained doctor applying for assessment for recognition on behalf of the Royal Australasian College of Medical Administrators
 - a Fellow of the Royal Australasian College of Medical Administrators, or applicant for election as a Fellow of the Royal Australasian College of Medical Administrators.
- Any person adversely affected by any decision of the type referred to above may and having been through the process of reconsideration and review of a decision of a Committee or officer, within seven (7) days of receipt of notice of the outcome of request for Review, apply to the Company Secretary to have the decision referred to the Appeals Committee for review. Such application shall be in writing and be accompanied by such materials and information upon which the person seeks to reply in respect of the appeal.
- Organisations sponsoring overseas-trained doctors may apply for reconsideration, review and appeal on behalf of the doctor.
- Before accepting an application for reference of a decision to the Appeals Committee, the Company Secretary shall advise an applicant to seek reconsideration and review of the original decision by the College Committee, Officer, Fellow in official College role and/or College employee, which/who made the decision in accordance with the processes approved by the College Board from the time.
- Such reconsideration and review of the original decision by the College Committee, Officer, Fellow in official College role and/or College employee which/who made the decision shall not, and does not, constitute an appeal under this policy.
- Having accepted an application for reference of a decision to the Appeals Committee, the Company Secretary shall not convene the Appeals Committee unless the Chair of the Appeals Committee has advised in writing that he/she is satisfied that the applicant has exhausted all other avenues of reconsideration and review of the relevant decision.

QUORUM AND VOTING

A Quorum for meetings of the Appeals Committee shall be the Chair and three (3) other members.

All members of the Appeals Committee shall be entitled to vote on decisions. The Appeals Committee shall decide on the basis of a majority vote. In the event of an equality of votes the Chair may exercise a casting vote.

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GROUNDS FOR APPEAL

An Appeal may be made only on one or more of the following grounds. That:

Consideration for Appeal

- an error in law or due process occurred in the making of the original decision
- relevant and significant information, available at the time of the original decision or which became available subsequently, was not considered or not properly considered in the making of the original decision
- irrelevant information was considered in the making of the original decision
- the decision of the relevant College Committee, Officer, Fellow in official College role and/or College employee was clearly contrary to the weight of evidence before it
- procedures that were required by College policies to be observed in connection with the making of the decision were not observed to the detriment of the appellant
- the Committee or officer has acted outside the terms of its powers or not incidentally thereto
- the original decision was made in accordance with a rule or policy without regard to the merits of the particular case
- the decision was made for an improper purpose.

The applicant requesting reference of a decision to the Appeals Committee must state the grounds upon which the application for review is based.

The Appeal Committee must meet to hear an appeal within three (3) months of lodgement of the application for reconsideration.

At least twenty-eight (28) days before convening a hearing of the Appeal Committee, the Company Secretary shall advise the applicant in writing of:

- The date, time and place of the hearing; and
- The right of the applicant:
 - To appear before and address the Appeal Committee in relation to his/her submission
 - To be accompanied by another person, and
 - To seek leave to have an advocate or to be legally represented before the Appeal Committee.

An application for leave to have an advocate or to be legally represented before the Appeals Committee shall be considered by the Chair of the Appeals Committee whom, on behalf of the Committee, may grant or deny such leave. Without limiting the preceding sentence, the Chair of the Appeals Committee will grant such leave if the Chair considers that the applicant could not, or would be disadvantaged in his or her review if required to, present in person.

If an applicant is to be represented at the hearing the applicant must advise the Chair of the Appeals Committee in writing, at least seven (7) days before the date of the hearing, of the person by whom he/she is to be represented.

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At least twenty-eight (28) days before convening a hearing of the Appeal Committee, the Company Secretary shall advise in writing the College Committee, Officer, Fellow in official College role and/or College employee whose decision is on dispute:

- that an application for reference of the decision to the Appeals Committee has been accepted
- the name of the applicant
- the decision which the subject of the application, and
- the date, time and place of the hearing
- and shall supply to the College Committee, Officer, Fellow in official College role and/or College employee, a copy of the application and any materials or information upon which the applicant seeks rely.

The record of any findings and the decision made by the College Committee, Officer, Fellow in official College roles and/or College employee must be made available to the applicant and to the Appeals Committee at least fourteen (14) days before the hearing.

The Appeals Committee is entitled to consider all such relevant information it thinks fit and:

- shall invite the Chair of the College Committee, Officer, Fellow in official College role and/or College employee, whose decision is in dispute, to make representations to and/or appear before the Appeals Committee on the issue under dispute; (in the case of a committee, the Chair may make representations and/or appear personally or may nominate another member of the Committee to do so)
- may invite any person to appear before it, or to provide information on the issue under dispute
- the applicant shall be given the opportunity at the hearing of presenting such evidence as he/she may reasonably desire.

If the Appeals Committee proposes to have regard to additional information in reaching a decision, which has not been previously disclosed to the applicant, the College Committee, Officer, Fellow in official College role and/or College employee must make such information available to the applicant at least fourteen (14) days prior to the hearing. Further, the Appeals Committee must give notice to the applicant at least fourteen (14) days prior to the hearing of any persons it has invited to appear before it.

The Appeals Committee must act according to the rules of natural justice and is not bound by the rules of evidence but may inform itself on any matter and in such manner, as it thinks fit. The Appeals Committee shall conduct its affairs with as little formality as possible, but otherwise, subject to these rules, shall have full power to regulate its conduct and operation.

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Except where otherwise required by law, or otherwise determined by the Appeals Committee, the hearing of the Appeals Committee shall be sound recorded, but a written transcript, if any, and other information provided to the Appeals Committee shall be kept confidential and secure (save that information may be released with the consent of the applicant).

The Appeals Committee will issue a written decision within three (3) weeks of the Appeal hearing or within three 3 weeks of receiving written submissions after the hearing which ever is later.

The formal record of the Appeals Committee is confined to:

- a record of persons present or in attendance during the hearing
- a record of all decisions made by the Appeals Committee and the reasons for those decision, and
- a record of any recommendations to be made to College Board on procedural matters relation to the review process disclosed during the hearing.

The applicant may give written notice to the Chair of the Appeals Committee at least fourteen (14) days prior to the hearing if he/she is unable to attend or obtain representation on the proposed date of the hearing at the time specified. If the applicant fails to notify the Chair at least fourteen (14) days prior to the hearing and fails to attend the hearing, the Appeals Committee has the right to dismiss the application.

The College may require an applicant lodging an application for referral of a decision to the Appeals Committee to pay a fee. The fee (if any) must be paid to the College before the Appeals Committee is convened. The Secretary of the Appeals Committee may waive payment of a fee in appropriate circumstances.

If an applicant's appeal is successful, the College must refund any fee paid by the applicant for the Appeals Committee to hear the appeal.

An applicant shall be liable for all his/her own costs associated with attending the hearing including travel, accommodation, recording costs and other expenses.

APPLICATION FOR REVIEW FORM AND FEES

- An application for an appeal must be lodged on the approved form (Attachment) or obtained from the RACMA National Office. Any relevant documents must be attached on the form.
- Appeals will not be processed unless accompanied by a lodgement fee and sent to the Chief Executive. The lodgement fee is published on the College web site for the current year.
- The Secretary of the Appeals Committee may waive payment of a fee in appropriate circumstances.
- An applicant shall be liable for all his/her own costs associated with attending the hearing, including travel, accommodation, recording costs and other expenses.

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DECISIONS OF THE APPEALS COMMITTEE

An Appeals Committee may, upon considering all submissions:

- confirm the decision which is the subject of the application for Appeal
- revoke the decision which is the subject of the application for Appeal
- revoke the decision and refer the decision to the relevant Committee or officer (upon such terms and condition as the Appeals Committee may determine), or
- make recommendations to the College Board on procedural matters relating to the Appeals process disclosed during the hearing.

In the event of an appeal of a decision in respect of a Candidate who has failed an examination, action open to the Appeals Committee is limited to:

- confirming the decision which is the subject of the application for Appeal
- setting aside the results of the examination and ordering a new examination, or
- referring the matter back to the Company Secretary.

All decisions of the Review committee are binding on the RACMA Board.

EXAMINATIONS

Appeals in relation to the process of examination, or the results of examinations, must be lodged with the College within 7 days of the date of notification of the outcome of the request for Review (Phase 2). Please refer to the Policy for Reconsideration, Review and Appeals against decisions made by the College officers and Committees.

Appeals concerning the process of the examination will not be considered on the grounds of:

- the standard set by RACMA for the examination
- the nature and extent of counselling provided to Candidates who fail
- late arrival at an examination centre.

Any further information concerning an aspect of the appeal process may be obtained by contacting the Chief Executive of RACMA at the following address:

The Chief Executive
The Royal Australasian College of Medical Administrators
1/20 Cato Street Hawthorn East, VIC 3123

APPLICATION FORM

Application for Appeal of Decision of a College Committee of Officer – [click here to download](#).

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