



Australasian College
for Emergency Medicine

Reconsideration, Review and Appeals Policy

COR355 v8

Document Review

Timeframe for review:	Every two (2) years, or earlier if required
Document authorisation:	ACEM Board
Document implementation:	Chief Executive Officer
Document maintenance:	Governance and Standards Support Officer

Revision History

Version	Date	Pages revised / Brief Explanation of Revision
v1	Sep-2014	Approved by the Board. This policy replaces the following regulations: 5.40 Areas of Appeal 5.45 Appeals Committee 4.56 Appeals Mechanism, Overseas Trained Specialists 4.57 Appeals Procedure
v2	Oct-2015	Revisions approved by Board. Revisions include grounds of appeal to reflect those articulated in AMC Accreditation Standards, arising from the 2005 ACCC-AHWOC report into the Specialist Medical Colleges.
v3	Aug-2016	Revisions approved by Board. Revisions included conduct of reconsideration, notification of reconsideration, review and appeal outcomes.
v4	Feb-2018	Revisions to timeframes for lodging of applications. Clarification of matters to which the policy does not apply to include exemption from FACEM Training Program requirements by ignorance of public regulations and/or policies. General revisions for purposes of clarity.
v5	Jun-2018	Revisions to address when relief is not granted for approval of the Board.
v6	Aug-2018	Revisions to s3.2 (2) – (4) in relation to Recommendation 8.28 of the Final Report of the Expert Advisory Group on Discrimination (EAG).
v7	Apr-2020	Revision to ground 3.3(1)(d) to clarify that lack of awareness or understanding of a College requirement is insufficient for that ground of appeal.
v7.1	Apr-2020	Minor revision to clause 5.5(1) to remove a redundant subclause reference.
v7.2	Aug-2020	Minor revision to clause 3.2(3)(f) to remove a reference for clarity purposes.
v7.3	Jun-2021	Minor revision to clause 3.2(1)(a) to clarify policy in relation to referrals to the Pathway to Fellowship Review Committee (PFRC).
v8	Jun-2022	Revisions to timeframes for completion of reconsideration, review and appeal processes, and to express timeframes in calendar days rather than weeks.

Copyright

2022. Australasian College for Emergency Medicine. All rights reserved.

Contents

- Document Review..... 2**
- Revision History..... 2**
- 1. Purpose..... 4**
- 2. Interpretation 4**
- 3. General Principles..... 4**
 - 3.1 Appellant..... 4
 - 3.2 Appealable Decisions..... 4
 - 3.3 Grounds for application under this policy 6
 - 3.4 Acceptance of applications..... 6
- 4. Procedural Structure 7**
 - 4.1 Reconsideration and review..... 7
 - 4.2 Discretion of CEO 7
 - 4.3 Copies of information 7
- 5. Reconsideration Process 7**
 - 5.1 Initiation of Reconsideration 7
 - 5.2 Timeframe..... 8
 - 5.3 Conduct of Reconsideration..... 8
 - 5.4 Outcome of Reconsideration 8
 - 5.5 Notification of Outcome 8
- 6. Review Process..... 9**
 - 6.1 Initiation of Review..... 9
 - 6.2 Timeframe..... 9
 - 6.3 Special circumstances where special leave is granted..... 9
 - 6.4 Review Panel 9
 - 6.5 Conduct of Review 10
 - 6.6 Outcome of Review..... 10
 - 6.7 Notification of Outcome 10
- 7. Appeals Process 11**
 - 7.1 Initiation of Appeal..... 11
 - 7.2 Special circumstances where special leave is granted..... 11
 - 7.3 Appeals Committee 11
 - 7.4 Non-member attendees 12
 - 7.5 Notification of hearing and submissions..... 12
 - 7.6 Attendance of appellant..... 13
 - 7.7 Conduct of Appeal..... 13
 - 7.8 Outcome of Appeal..... 13
 - 7.9 Notification of Outcome 14
 - 7.10 Fees and Costs..... 15
- 8. Associated Documents 15**

1. Purpose

The purpose of this policy is to provide an internal process for the reassessment of certain decisions made by specified College entities.

2. Interpretation

Calendar day means consecutive days, including Saturday, Sunday and public holidays.

Original decision means the decision of the College entity which gave rise to the processes described in this policy.

Original decision-maker means the College entity that made the original decision.

Reconsideration decision means the decision of the original decision-maker on reconsideration of an original decision.

Review decision means the decision of the review panel on review of a reconsideration decision or original decision.

Appeal decision means the decision of the Appeals Committee on appeal of a review or reconsideration decision or original decision.

3. General Principles

3.1 Appellant

- (1) Any person:
 - (a) whose interests are directly and adversely affected by an original decision (as detailed in clause 3.2 of this policy) that is inconsistent with an approved regulation or policy, and
 - (b) who is dissatisfied with that original decision

may, within the specified timeframe, apply to the Chief Executive Officer (CEO) of the College to have the original decision reconsidered, reviewed and/or considered at a hearing of the appeals committee where there is demonstrable evidence of one or more grounds of appeal (as detailed in clause 3.3 of this policy).

- (2) The onus of establishing the relevant grounds of appeal falls upon the appellant.
- (3) Applications submitted under this policy will not be accepted where the appellant is seeking an exemption from an approved policy or regulation.

3.2 Appealable Decisions

- (1) The following original decisions of College entities may be appealed:
 - (a) decisions of the Council of Education (COE), its committees, subcommittees, entities or officeholders in relation to¹:
 - (i) the assessment of progress of trainees (including accreditation of training and admission to or dismissal from the training program)

¹ Due to the nature of the processes involved, referrals to the Pathway to Fellowship Review Committee (PFRC) in relation to trainees (including SIMGs undertaking requirements for eligibility for FACEM) are not appealable under this policy.

- (ii) the assessment of international medical graduates (IMGs) in relation to assessment, on behalf of the Medical Board of Australia (MBA) or the Medical Council of New Zealand (MCNZ), in relation to recognition of overseas specialist medical qualifications in emergency medicine, area-of-need applications or specialist-in-training applications
 - (iii) the assessment of any supervised practice, examination or other component of assessment that an IMG has been required to satisfactorily complete in order to demonstrate substantial comparability to an Australasian-trained emergency medicine specialist
 - (iv) applications for admission as a Fellow of the College
 - (v) participation in the Continuing Professional Development (CPD) Program
 - (vi) accreditation of hospitals and posts for training, or supervisors of training, and
 - (vii) the accreditation of post-fellowship education and training programs and accreditation of courses
- (b) decisions of a complaints committee (pursuant to the *College Complaints Policy* (COR166))
 - (c) decisions of the Board or any committee established by the Board in relation to the financial status of Fellows, trainees, or other persons
 - (d) a decision to terminate membership of a College member under clause 4 of the College Constitution, and
 - (e) such other decisions of the Board, its Councils and committees as the Board may determine from time to time.
- (2) This policy is not intended to provide an avenue for any person to contest results awarded, decisions of assessors taken in or about any assessment, allegations of poor training or supervision or general grievances.
- (3) A reconsideration, review or appeal application related to a candidate's performance and/or result in an ACEM examination:
- (a) must demonstrate clearly prima facie grounds as described in 3.3 (1) (a) – (h);
 - (b) will not be accepted where the application relates to matters that fall under the remit of the College *Exceptional Circumstances and Special Consideration Policy*, and where that policy was not utilised within the timeframe outlined therein and results of the examination have been published, regardless of the reasons cited for not submitting an application under that policy;
 - (c) will not be accepted where the basis of the application is a belief by an applicant that they should have passed an examination or a component thereof based on their recall of a response (written or oral) provided in the examination in question;
 - (d) will not be accepted where the basis of the application is that the applicant was, or was not, supplied with specific information in the course of the conduct of a component of a clinical examination that is perceived to be in conflict with that provided to other candidate(s), unless verifiable evidence is supplied to support the application;
 - (e) will not be accepted where the basis of the application is the provision of additional information following receipt of feedback from the College on their performance in an examination;
 - (f) will not result in a re-examination or a reassessment, or a change in the published result.

- (4) In the case of a reconsideration, review or appeal application related to the process followed in the conduct of an examination or other assessment being accepted, an investigation may be undertaken to ensure all steps in the examination marking or assessment process were correctly executed.
- (5) This policy is not intended to provide an avenue for person(s) to be exempted from any requirements or components of any ACEM training program on the basis of ignorance of relevant published regulations and/or policies.

3.3 Grounds for application under this policy

- (1) In order for any application made under this policy to progress to reconsideration, review or appeal, there must be demonstrable evidence, provided at the time of the application, of one or more of the following grounds relating to the outcome of a decision that is the subject of the application:
 - (a) that an error in law or in due process occurred in the formulation of the original decision
 - (b) that the relevant approved regulation or policy was not correctly applied
 - (c) that procedures required by approved College policies or regulations to be observed in connection with the making of the original decision were not observed
 - (d) that relevant and significant information, whether 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^{2,3}
 - (e) that irrelevant information was considered by the original decision-maker in the making of the original decision
 - (f) that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case
 - (g) that the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision
 - (h) that the original decision was made for a purpose other than a purpose for which the power was conferred, or by a body that was not empowered to make the decision.

3.4 Acceptance of applications

- (1) The College reserves the right not to accept an application for reconsideration, review or appeal where the appellant is unable to produce any reasonable or relevant evidence in support of the stated grounds on which the application is based.
- (2) On receipt of an application made pursuant to this policy, the CEO shall not progress the application until he or she is satisfied that the relevant application establishes prima facie grounds for appeal for reconsideration, review or appeal.
- (3) Where the CEO is satisfied that a prima facie case does not exist, the appellant will be advised in writing, stating the reasons for not accepting the application. An appellant has 14 calendar days to provide a final submission addressing the deficiencies notified by the CEO. If in the opinion of the CEO a prima facie case is still not established the right to reconsideration/review/appeal in accordance with this policy will be denied.

² Evidence of any further training or experience by an appellant during the period between the making of the original decision, the subject of the appeal, and the date of hearing of any reconsideration, review or appeal, shall not be considered as information that becomes available subsequent to the original decision.

³ Evidence of a lack of awareness or understanding of a College regulation, policy, process or other requirement, whether by the applicant or a support person, including by a Director of Emergency Medicine Training, will not be considered as relevant and significant information for the purposes of this ground of application.

- (4) The CEO may delegate his/her powers and duties set out in this policy as he/she determines.

4. Procedural Structure

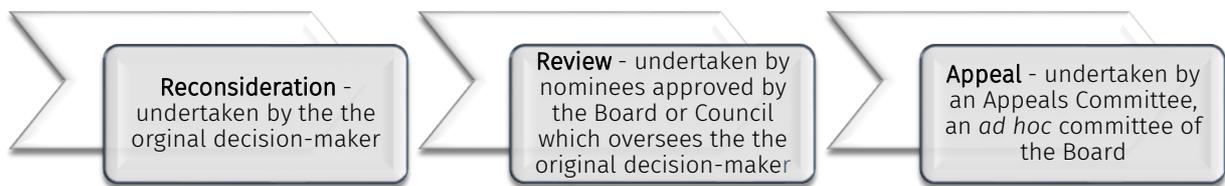
4.1 Reconsideration and review

Except where otherwise allowed by this clause, before lodging an application for formal appeal, an appellant must first go through the preliminary processes of:

- reconsideration, and
- review

In accordance with the terms of this policy.

This process is illustrated in the following diagram:



Note: Only one application for each of reconsideration, review or appeal may be made in respect of an original decision.

4.2 Discretion of CEO

- (1) The CEO has the discretion to allow the process to commence at the 'review' stage or to proceed directly to the appeals committee where he or she is satisfied that there are exceptional circumstances which make it justifiable and appropriate to do so.
- (2) A request for the CEO to exercise his or her discretion under this clause may also be made by the appellant at the time of submission of any application pursuant to clause 5.1 of this policy.

4.3 Copies of information

An appellant may request copies of information on which the original decision was based. The College will provide such information within **14 calendar days** of receipt of a written request, subject to obligations of privacy and confidentiality which may apply.

5. Reconsideration Process

5.1 Initiation of Reconsideration

- (1) Any person who is dissatisfied with an original decision may apply to the CEO to have the original decision reconsidered by the original decision-maker.
- (2) Any application to initiate the reconsideration process must:
 - (a) be made in writing, using the prescribed form, and lodged with the CEO;
 - (b) include the prescribed fee (if any);
 - (c) specify the particular original decision that is being contested, including a brief outline of the matter in issue;
 - (d) specify the relevant ground(s) of appeal (see clause 3.3); and

- (e) provide documented and verifiable evidence in support of the ground(s) specified by the appellant.

5.2 Timeframe

The properly constituted application for reconsideration of an original decision must be received by the CEO within **28 calendar days** of the date the original decision was communicated to the appellant.

5.3 Conduct of Reconsideration

- (1) Where an original decision is referred back to the original decision-maker by the CEO for reconsideration, the original decision-maker shall conduct the reconsideration on the basis of:
 - all the original material and documentation;
 - all additional material and documentation supplied by the appellant (if any);
 - the relief previously afforded to the appellant for the circumstances relevant to the ground(s) on which the application is made (if any); and
 - any additional material and documentation considered relevant by the Chair of that College entity.
- (2) The appellant does not have the right to attend any meetings of the original decision-maker or to make any oral submissions to it, either personally or through any other party.
- (3) Applications for reconsideration of a decision will be considered by the entity responsible for making the original decision or a subgroup of that entity as deemed appropriate by the Chair of the entity in question and having regard to the circumstances of the matter at issue. The Chair may elect to consider the request without reference to any other member of the applicable entity. Where this occurs, the matter shall be reported to the entity at the next scheduled meeting following the reconsideration.
- (4) The Chair, subgroup or entity reconsidering the decision in question may exercise all of the powers and discretions that the entity was able to exercise when it made the original decision, and is not subject to the rules of evidence. Subject to the rules of procedural fairness and except where otherwise provided by clause 5.3(5), the Chair, subgroup or entity reconsidering the decision in question as the original decision-maker may inform itself as it sees fit.
- (5) Where applicable, the original decision-maker must not take into account evidence of further training and experience by the appellant obtained during the period between the making of the original decision and the reconsideration of that decision.

5.4 Outcome of Reconsideration

- (1) The original decision-maker may make any one of the following reconsideration decisions:
 - affirm its original decision;
 - vary its original decision; or
 - set its original decision aside and make a new decision.
- (2) A record of the original decision-maker's reconsideration deliberations must be kept in accordance with the ordinary practices of that entity.
- (3) The original decision-maker must notify the CEO in writing of the reconsideration decision, including reasons for the decision.

5.5 Notification of Outcome

- (1) The College aims to complete the relevant reconsideration process within six (6) weeks of acceptance of an application by the CEO.

- (2) The CEO will notify the appellant in writing of the reconsideration decision as soon as practicable. Subject to obligations of privacy and confidentiality that may apply, the notification of the outcome of the application should include the reason(s) for the reconsideration decision and advice about the opportunity for review, should he or she remain dissatisfied with the original decision and reconsideration decision.
- (3) On receipt of notification from the CEO of the reconsideration decision, the appellant may:
 - accept the original decision and the result of the reconsideration; or
 - within **14 calendar days**, submit an application in writing that the CEO convene a hearing of a review panel.

If no application is received from the appellant within 14 calendar days, they will be deemed to have accepted the reconsideration decision.

6. Review Process

6.1 Initiation of Review

- (1) Any person who remains dissatisfied with the original decision and/or any reconsideration decision may apply to the CEO to have the original decision reviewed by a review panel.
- (2) A review may only be sought in relation to the ground(s) of appeal considered in the original application for reconsideration. New or additional grounds may not be raised at this stage.
- (3) The request for review must:
 - (a) be made in writing on the prescribed form and be lodged with the CEO;
 - (b) include any additional material or documentation not previously considered (if applicable); and
 - (c) include payment of the prescribed fee (if any).

6.2 Timeframe

The properly constituted request for review of a reconsideration decision must be received by the CEO within **14 calendar days** of the date of notification of the reconsideration decision.

6.3 Special circumstances where special leave is granted

- (1) Where the CEO has exercised his or her discretion for a matter to proceed directly by way of review (rather than by reconsideration), the application for review must:
 - (a) include all the information and documentation required for the reconsideration of an original decision (see clause 5.1); and
 - (b) be received by the CEO within the same timeframe as that applicable to an application for reconsideration, being within **28 calendar days** of the date of notification of the original decision (see clause 5.2).

6.4 Review Panel

- (1) The CEO shall convene a review panel, which shall comprise three people chosen by the CEO from a list of nominees approved by the Board or Council which oversees the original decision-maker (that College entity's governing body), as applicable, for this purpose.
- (2) The review panel shall not include a member who participated in the original decision or the reconsideration decision or who otherwise has, or is perceived to have, a conflict of interest.

6.5 Conduct of Review

- (1) The review panel shall consider, and conduct the review on the basis of:
 - (a) all the original material and documentation considered by the original decision-maker
 - (b) all additional material and documentation supplied by the appellant for the purposes of the review (if any)
 - (c) any additional material and documentation considered relevant by the chair of the review panel
 - (d) whether the principles of procedural fairness were followed when the original decision was made and (if relevant) when it was reconsidered,
 - (e) the relief previously afforded to the appellant for the circumstances relevant to the ground(s) on which the application is made (if any); and
 - (f) any College regulations, policies and procedures relevant to the decision.
- (2) Where applicable, the review panel must not take into account evidence of further training, supervised practice or experience by the appellant obtained during the period between the making of the original decision and the review of that decision.
- (3) The appellant does not have the right to attend any meetings of the review panel or to make any oral submissions to it, either personally or through any other party.
- (4) The review panel may exercise all of the powers and discretions that the original decision-maker was able to exercise, and is not subject to the rules of evidence. Subject to the rules of procedural fairness and except where otherwise provided by clause 6.5(2), it may inform itself as it sees fit.

6.6 Outcome of Review

- (1) The review panel may make any one of the following review decisions:
 - affirm the original decision or reconsideration decision
 - vary the original decision or the reconsideration decision
 - set aside the original decision or reconsideration decision and refer the matter to the original decision-maker for further consideration in accordance with any directions or recommendations it may make, or
 - set aside the original decision or reconsideration decision and make any further decision it thinks appropriate.
- (2) Minutes of the hearing of the review panel shall be confined to a list of all persons present, a report listing the documentation presented and a report of the review decision, including reasons for the decision, to the original decision-maker.
- (3) The review panel must notify the CEO in writing of its decision, including reasons for the decision.

6.7 Notification of Outcome

- (1) The College aims to complete the review process within 12 weeks of acceptance of an application by the CEO pursuant to clauses 6.1 and 6.2 of this policy.
- (2) The CEO will notify the appellant in writing of the review decision as soon as practicable. Such notification should include reasons for the review decision. The appellant should also be advised of the opportunity to apply to formally appeal the original decision or the reconsideration decision, should he or she remain dissatisfied with the original decision

and/or any reconsideration and/or review decision following the reconsideration and review processes.

- (3) The CEO will notify the Chair of the original decision-maker in writing of the review decision, including the reasons for that decision, as soon as practicable. The Chair of the applicable governing body and other College entities considered relevant to the decision may, at the discretion of the CEO, also be notified of the review decision, including the reasons for the decision.
- (4) On receipt of notification from the CEO of the review decision, the appellant may:
 - accept the original decision and the result of the review, or
 - within **14 calendar days** of the date of notification, submit an application to appeal the decision.

If no correspondence is received from the appellant within 14 calendar days, they will be deemed to have accepted the review decision.

7. Appeals Process

7.1 Initiation of Appeal

- (1) Any person who remains dissatisfied with an original decision or decision of any reconsideration / review after review may submit an application to appeal the decision.
- (2) The application for appeal must:
 - (a) be made in writing and be lodged with the CEO
 - (b) include payment of the prescribed fee (if any)
 - (c) outline the decision in respect of which the appeal is made, the grounds for the appeal, a brief outline of the matters in issues, and the remedy sought.

Subject to clause 6.7(4) of this policy, a properly constituted application for an appeal must be received by the CEO within **six (6) months** of the date of notification of the original decision.

7.2 Special circumstances where special leave is granted

Where the CEO has exercised his or her discretion for a matter to proceed directly by way of appeal (rather than by reconsideration and/or review), the application for appeal must:

- (a) include all the information and documentation required for the reconsideration of a decision (see clause 5.1), and
- (b) be received by the CEO within the same timeframe as for an application for reconsideration, being with **28 calendar days** of the date of notification of the original decision (see clause 5.2).

7.3 Appeals Committee

- (1) The Appeals Committee is an ad hoc committee of the Board, convened by the CEO as required to hear appeals in accordance with the terms of this policy.
- (2) An Appeals Committee shall consist of five (5) members, comprising:
 - (a) a Chair who is considered an appropriately qualified person for the role and who is not a College member;
 - (b) two other persons who are not College members;

- (c) two (2) College members with knowledge and expertise relevant to the matter that is the subject of the appeal,

none of whom participated in the original decision, the reconsideration decision or the review decision, or who otherwise has or is perceived to have a conflict of interest.

A quorum for meetings of the Appeals Committee will be the Chair and two (2) other members, at least one of whom shall be a College member. All members shall be entitled to vote on decisions, with decisions of the Committee being decided by a simple majority of those members present. In the event of an equality of votes, the Chair may exercise a casting vote.

Appellants will be advised in writing of the composition of the Appeals Committee, and advised that should they believe any member to have a conflict of interest that may impair that individual's ability to impartially consider the matter, they have the right to have the matter considered by the Chair of the Appeals Committee or the College CEO where the conflict is believed to be associated with the Chair. The appellant will be advised that any such request, including any relevant supporting documentation or other material(s) should be provided not less than 14 calendar days prior to the scheduled date of the appeal hearing and that, depending on the availability of a suitable replacement should the Chair or CEO believe that such a conflict does exist, the appeal hearing may need to be delayed or rescheduled in order to obtain a suitable replacement member, or that the appeal may proceed with a reduced membership of the Appeals Committee. Such decision being at the discretion of the Chair or CEO as applicable. Pursuant to clause 7.10(2), any costs incurred by the appellant as a result of any delay(s) or changes to previously advised arrangements will be borne by the appellant.

7.4 Non-member attendees

- (1) The CEO will attend meetings of the Appeals Committee, but is not a member of the committee.
- (2) The Chair of the Appeals Committee may request that a representative of the original decision-maker be asked to attend and address the Appeals Committee on matters relevant to the appeal. The representative will be given opportunity to comment on submissions of the appellant and the original decision-maker.

7.5 Notification of hearing and submissions

- (1) At least 28 calendar days prior to a hearing of the Appeals Committee, the CEO will notify the appellant and the original decision-maker in writing of:
 - (a) the date, time and place of the hearing;
 - (b) the right of the appellant to appear before the Appeals Committee;
 - (c) the right of the appellant to have a support person present;
 - (d) the right of the appellant to submit a request that they be accompanied by a legal representative to act as an advisor, and the timeframe for submitting such a request; and
 - (e) all relevant documentation held by the College.
- (2) At least 21 calendar days prior to the hearing of the appeal the original decision-maker and the appellant will provide the CEO with written submissions and copies of any documents and records relevant to the original decision, being the subject of the appeal and upon which he/she wishes to rely. Additional information provided after the submission will only be considered if the Chair of the Appeals Committee considers that the material is of significance to the matter. A copy of these submissions will be made available to the appellant and any representative of the original decision maker who has been nominated to attend the meeting of the Committee pursuant to clause 7.4(2) of this policy.
- (3) The appellant's submissions and the original decision-maker's submissions will be provided to the Appeals Committee.

- (4) Should the appellant have late documentation that he/she wishes to present to the Appeals Committee but is prohibited by clause 7.5(2), the request will be considered by the Chair of the Appeals Committee, whose decision will be final.

7.6 Attendance of appellant

- (1) The appellant has the right to appear before the Appeals Committee and to advocate the merits of the appeal himself/herself as set out in his/her written submissions.
- (2) The appellant has a right to be accompanied by a support person, who may not act as an advocate for the appellant.
- (3) The appellant is not entitled to be accompanied by a legal representative (or any other person who shall act as an advocate) before the Appeals Committee unless the Committee Chair has given prior consent where it is felt that an appellant could not present, or would be disadvantaged in his/her appeal if required to present in person. Any request for such representation:
 - must be made by the appellant
 - specify the reasons on which the request is made, and
 - be received by the CEO at least **14 calendar days** prior to the date of the relevant appeals committee hearing.
- (4) In those cases where an appellant has been given leave to be accompanied by an advocate, the Appeals Committee may appoint a person to act as counsel assisting in the hearing of the appeal.

7.7 Conduct of Appeal

- (1) The Appeals Committee must decide each appeal on its merits.
- (2) The Appeals Committee shall conduct its affairs with as little formality as possible. It is not bound by the rules of evidence and, subject to this policy and the rules of procedural fairness, may regulate its conduct and operation as it thinks fit. In particular, the Appeals Committee may:
 - (a) inform itself on any matter and in such manner as it thinks fit;
 - (b) consider all relevant information which it thinks fit; and
 - (c) invite any person to appear before it or to provide information.
- (3) The appellant's support person and, if the appellant has approval, legal advisor may not act as an advocate for the appellant, but the legal advisor (if any) may be invited to address the Appeals Committee regarding any particular legal issue that the Appeals Committee believes cannot adequately be addressed by the appellant.

In such cases the College solicitor may be invited to attend meetings of the Appeals Committee to assist the committee in the hearing of the appeal.

7.8 Outcome of Appeal

- (1) In all cases, the decision of the Appeals Committee is final.
- (2) The Appeals Committee may, upon considering all submissions and subject to the restrictions of clause 7.8(3):
 - (a) confirm the original decision which is the subject of the appeal; or
 - (b) revoke the original decision and refer the original decision to an appropriate College body for further consideration (upon such terms or conditions as the appeals committee may determine, and otherwise in accordance with clause 5); or

- (c) revoke the original decision and refer the original decision to an appropriate external body or authority; or
 - (d) revoke the original decision and make an alternative decision., subject to clause 7.8(3) below.
- (3) An Appeals Committee may not:
- (a) make any decision that the original decision maker could not have made, or was not empowered to make;
 - (b) revoke any clinical or examination assessment of any appellant and replace the assessment with an assessment of its own;
 - (c) recommend a pathway to Fellowship for an IMG without reference to a new IMG assessment panel;
 - (d) elevate an appellant above others in a competitive assessment or selection process; or
 - (e) award Fellowship or other College membership to any appellant.

7.9 Notification of Outcome

- (1) The College aims to complete the appeals committee process within 12 weeks of acceptance of an application pursuant to clause 7.1 of this policy.
- (2) The Appeals Committee shall issue a written decision, with reason(s) for the decision ('a report of the decision'), as soon as practicable after the completion of the appeal hearing to enable communication of the decision to the appellant and to other relevant parties within three (3) weeks of the meeting of the Appeals Committee. The report of the decision shall be submitted to the next meeting of the College Board scheduled to occur after communication of the decision to the appellant.
- (3) The report of the decision of the Appeals Committee will be conveyed to the Chair of the governing body that oversees the entity responsible for the original decision, as well as the Executive Director of the College unit responsible for the coordination of that governing body, and the Chair of such other entity(ies) as the Board or relevant governing body may determine, to enable facilitation of any further processes required as a result of the decision, as well as review of processes surrounding the original decision. The Chair may choose to share the report of the decision with members of the governing body and/or entity(ies) identified.

Where an appeal decision is determined by the College President and/or CEO to have direct relevance and ramifications beyond the entity that made the original decision, and where it is considered necessary in order for College process to be altered as a result of the decision of an appeal, and with the agreement of the Chairperson of the Appeals Committee, the decision of the Appeals Committee, along with information relating to the summary of the reason(s) for the decision that is considered to be of direct relevance, may be conveyed to such other bodies or staff as is considered necessary, provided that the information conveyed is first de-identified to protect the confidentiality of the appeal proceedings.

- (4) Except where otherwise required by law, or otherwise determined by the Appeals Committee, any transcript of the hearing of the Appeals Committee and other information provided to the Appeals Committee shall be kept confidential (save that information may be released with the consent of the appellant).
- (5) Minutes of hearings of the Appeals Committee shall be confined to a report of the decision forwarded to the Board pursuant to clause 7.9(2) of this policy.

7.10 Fees and Costs

- (1) The College will publish the cost to appellants of submitting and conducting an appeal on its website. In the event that an appeal is upheld, the College will refund the appeal fee to the appellant.
- (2) Regardless of the outcome of the appeal, the appellant shall meet all the costs which he or she incurs in relation to the conduct of the appeal, including, but not limited to, travel and accommodation.

8. Associated Documents

- *Conflict of Interest Policy* (COR139)
- *Exceptional Circumstances and Special Consideration Policy* (TA79)
- *Policy on Procedural Fairness* (COR140)