



THE AUSTRALASIAN COLLEGE  
OF DERMATOLOGISTS

## RECONSIDERATION, REVIEW AND APPEALS – GOVERNING POLICY

### 1. PURPOSE OF POLICY

The purpose of this policy is to enable there to be a process for the reassessment of certain decisions by those affected by, and dissatisfied with, decisions where they have good reason to feel a different decision might have been made.

### 2. POLICY SCOPE

The Policy applies to:

- (a) all Members and Trainees of College;
- (b) all applicants to College be they applicants for recognition such as specialist international medical graduates or doctors applying to be considered for entry in the College dermatology training program;
- (c) any person aiming to enroll or actually enrolled in a College education course or program.

### 3. PRINCIPLES

This policy follows principles of procedural fairness both to the decision makers and those affected by the decision. Refer to College Policy on Procedural Fairness.

An appellant may only make only one application for each of reconsideration, review or appeal in respect of an original decision.

The onus of establishing the relevant grounds of appeal (Clause 7) falls upon the appellant.

There must be demonstrable evidence of one or more grounds of appeal

### 4. DEFINITIONS / KEY WORDS / ABBREVIATIONS

**Appeal** means a formal appeal conducted by an Appeals committee

**Appeals Committee** means an ad hoc panel of the Board convened for the purpose of hearing a formal appeal.

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

**Original decision** means the decision of the College entity which gave rise to the need for this policy.

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

**Reconsideration decision** means the decision of the original decision-maker following reconsideration of an original decision.

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

**Review Committee** means an internal College committee appointed for the purposes of reviewing a decision made by a College body

## 5. POLICY

5.1. Any person as described in clause 2:

(a) whose interests are directly and adversely affected by an original decision (as detailed in clause 6 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 of the College (CEO) 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.

5.2. 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.

5.3. Decisions of the Board that are being contested will only be reconsidered by the Board. As there is no higher internal review authority, there cannot be a Review process after reconsideration.

5.4. Applications submitted under this policy will not be accepted where the appellant is seeking an exemption from an approved policy or regulation.

5.5. Questions of disputed decisions or assessment can frequently be resolved without recourse to formal appeal. Applicants are advised to discuss concerns with the CEO or nominee in the first instance.

5.6. Where questions exist as to the relevance of this policy for the reconsideration of a specific decision, guidance should be sought from the CEO. Unlawful decisions or contestation that a decision is unlawful are to be reviewed by the CEO and are not applicable to this policy unless found by the CEO to not be unlawful.

## 6. APPEALABLE DECISIONS

6.1. The decisions which may be reconsidered, reviewed or appealed are:

- 1) Decisions of the Academic Standards Committee, its subcommittees, taskforces or officeholders in relation to:
  - i. The assessment of progress of trainees of the College (including admission, dismissal or recognition of training).
  - ii. Decisions in relation to applications from international medical graduates (IMGS) for assessment for recognition on behalf of the Australian Medical Council or any applicable State or Territory Medical Board (or other appropriate purposes).
  - iii. Decisions in relation to examinations or training required to be undertaken by IMGS for assessment as set out above.

- iv. Decisions in relation to participation in the CPD Program, in relation to recognition of suitable activities, verification of activities completed and awarding of the Certificate of Compliance.
  - v. Decisions in relation to accreditation for training by hospitals, units, other organisations or supervisors.
- 2) Subject to clause 6.2 decisions in relation to applications for admission to Fellowship.
  - 3) Decisions of the Board or its committees in relation to the financial status of Fellows, trainees or other persons.
  - 4) Such other decisions of the College or Committees, as the Board may permit or determine from time to time.
- 6.2. Neither a Review Committee nor the Appeals Committee may make a decision to:
- i. elevate an appellant above others in a competitive selection or assessment process without reference to the scoring process;
  - ii. recommend a pathway to Fellowship for an IMG without reference to a new IMG assessment by a new assessment panel or committee;
  - iii. revoke a clinical or examination assessment and replace the assessment with a decision of its own; or
  - iv. award a Fellowship to any appellant.
- 6.3. The assessment, scoring or other decisions in relation to College examinations are not subject to review or appeal, other than in the case of grounds of actual conflict of interest, actual bias or manifest error in scoring which clearly reverses the overall result of an examination.

## **7. GROUNDS FOR APPEAL**

- 7.1. A person who is aggrieved by a College decision may request an appeal in respect of the decision on one or more of the following grounds:
- i. that an error in law or in due process occurred in the formulation of the original decision;
  - ii. that the relevant approved regulation or policy was not correctly applied
  - iii. that procedures that were required by approved College policies to be observed in connection with the making of the decision were not observed;
  - iv. subject to clause 7.2, 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;
  - v. that irrelevant information was considered in the making of the original decision;
  - vi. that the original decision was made for an improper purpose;
  - vii. that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case;

- viii. that the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision or decisions of the Review Committee.

7.2. Evidence of further training and experience by the appellant during the period between the making of the original decision, the subject of the appeal, and the date of the hearing of the appeal, shall not be considered as information that becomes available subsequently.

## **8. ACCEPTANCE OF APPLICATIONS**

8.1. The College reserves the right to not accept an application for reconsideration, review or appeal where the appellant is unable to produce any reasonable evidence in support of the stated grounds for appeal

8.2. Following receipt by the CEO of an application for reconsideration, review or appeal, the CEO shall nominate and refer the matter to an appointed Board Director other than the Dean of Education, who shall not initiate the reconsideration or review process or convene an Appeals Committee until he or she is satisfied the relevant application establishes a prima facie grounds for reconsideration, review and appeal.

## **9. WHAT DECISIONS CAN BE MADE**

9.1. A reconsideration decision by the original decision body may confirm the original decision or revoke the original decision and make another decision. An appellant may request Review of the reconsideration decision.

9.2. A review decision by a Review Committee, subject to 6.2, may confirm the reconsideration decision or revoke the reconsideration decision. An Appellant may Appeal the review decision.

9.3. The Appeals Committee may:

- Confirm the decision which is the subject of the appeal.
- Revoke the decision which is the subject of the appeal and refer it back to the appropriate body or committee for the making of a fresh decision (upon such terms and conditions as the Appeals Committee may determine).
- Revoke the decision which is the subject of the appeal and make an alternative recommendation to the Board for final determination by the Board.

9.4. In all cases the Appeals Committee's decision is final.

9.5. Decisions of the Appeals Committee must be notified to the Board.

## **10. FEES AND COSTS**

10.1. There is no fee for reconsideration or review of a decision

10.2. A fee is payable if an appeal process is to commence. The fee is \$5,000.

10.3. Timeframes as listed in the Procedures only commence when the appeal fee is paid by the appellant.

10.4. An Appellant may request the CEO waive the fee, but the CEO reserves the right to not waive the fee.

10.5. In the event that an appeal is upheld the College will refund the fee to the appellant.

- 10.6. Regardless of the outcome of an appeal, the appellant shall meet all costs which he or she incurs.

## 11. AUTHORITIES

- 11.1. The following authorities are delegated under this policy:

Policy	Approve new policy and major amendment		Approve minor amendments	
	Authority	Reporting Requirements	Authority	Reporting Requirements
This policy	Board	Board paper	CEO	Advice of amendment

## 12. IMPLEMENTATION AND MONITORING

- 12.1. The Chief Executive Officer shall be responsible for the implementation of this policy.

### CONTROL REQUIREMENTS

Policy Number:	GOV105
Approval Authority:	Board
Responsible Officer:	CEO
Designated Officer:	Director, Training Program
First approved:	5 May 2017
Effective Start date	5 May 2017
Review date	2 years

### HISTORY

Version	Date	Summary of changes
V1	8 Feb 2017	Solicitor re-write to include reconsideration and review as steps in line with other College policies
V2	8 Feb 2017	For consideration of solicitor
V3	10 March 2017	As amended by solicitor
V4	20 March 2017	Policy only. Procedures extracted. Major re-write on other college formats
V4	5 May 2017	Approval status added in Control Requirements
V5	17 Sept 2022	Removal of Honorary Secretary

### RELATED DOCUMENTS

College Policy GOV106 Reconsideration Review and Appeal Procedure

College Policy GOV107 Procedural Fairness Policy