



## **AMAC Reconsideration, Reviews and Appeals Policy**

The use of **blue** font refers to documents found in the student LMS *Coassemble* Course Guide for Students.

### **1. Purpose**

1.1. The purpose of the Reconsideration, Review and Appeals Policy (Policy) is to define College decisions that can be reconsidered, reviewed, or appealed. The policy defines the processes and timeframes and the possible outcomes.

1.2. The policy aims to facilitate the resolution of disputed decisions at the lowest level without recourse to formal appeal.

1.3. The policy does not apply to decisions regarding assessment in the FAMAC Part 1 and Part 2 Courses (the processes for which are detailed in the [Course Management and Assessment Procedures Manual](#)) except where a fail grade awarded in a supplementary exam is in dispute.

1.4 The content of this policy has benefited from information from other Higher Education institutions. The content has been reviewed to ensure the College's academic policies comply with the relevant sections of the Australian Medical Council standards for programs of study leading to the endorsement of registration of Medical Practitioners for Acupuncture 2017.

### **2. Principles of Decision Making**

2.1. Decisions of the College are to be made following the proper consideration of all relevant information.

2.2. Decisions are not to be made based on material assumed to be in existence but not available to the relevant decision-maker or decision-makers at the time the decision is made.

2.3. All decisions of the College are to be reduced to writing.

2.4. Written reasons must be provided to those adversely affected by a decision.

2.5. All persons adversely affected by a decision must be provided with written advice regarding the rights of dispute resolution set out below.

2.6. College staff are to assist such persons lodge their dispute and refer him or her to the appropriate procedures to be followed.



### **3. Decisions for Reconsideration, Review or Appeal**

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

3.1.1. Decisions regarding the progress of students in the AMAC Part 1 and Part 2 Courses (including admission, dismissal, or completion of training).

3.1.2. Decisions of the Federal Committee regarding membership and fellowship of the College;

3.1.3. Decisions regarding participation in Continuing Professional Development activities in relation to verification of activities completed and awarding of the Certificate of Completion.

3.1.4. Such other decisions of the College or Committees, as the Board may permit or determine from time to time.

3.2. A request for reconsideration, review or appeal of a decision may only be made on one or more of the following grounds:

3.2.1. The original decision was the result of an error of law.

3.2.2. The original decision was the result of error in due process.

3.2.3. That relevant and significant information, whether available at the time of the original decision or which subsequently became available, was not considered, or not properly considered in the making of the original decision.

3.2.4. That the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

3.2.5. That irrelevant information was considered in the making of the original decision.

3.2.6. That procedures that were required by the College to be observed in connection with the making of the decision were not observed.

3.2.7. That the original decision was made in accordance with a rule or policy without regard to the merits of the particular case.



3.2.8. That the original decision was made for an improper purpose

#### **4. Reconsideration of Decisions**

4.1. Reconsideration of a decision involves bringing the matter to the Chair of the committee or group, or individual that made that decision (the originating body) for their reconsideration.

4.2. Where a decision is disputed, unless there is a compelling case to do otherwise, reconsideration of the decision should be the first step undertaken under this policy.

4.3. The processes of reconsideration of a decision allow an applicant to present additional information relevant to a decision, and to ensure that the originating body has had the opportunity to receive and consider all relevant information.

4.4. A clear reason should be specified as to why reconsideration of the decision might be justified.

4.5. Any person who is dissatisfied with, and adversely affected by the outcome of a reconsideration decision referred to below at Clause 4.6 may, within 28 days of receipt of notice of such decision, apply to have the decision reviewed.

4.6. A reconsideration of a decision is undertaken by the same committee, group or person who made the original decision (i.e. originating body).

4.6.1. The applicant for a reconsideration should lodge the application with the Federal Secretary within 28 days of the date of the original decision using the prescribed form and outlining the reasons for the request and the remedy sought. The applicant should provide any additional material considered relevant to the decision being considered.

4.6.2. The Federal Secretary will cause the originating body to convene as the Reconsideration Committee either at its next scheduled meeting, or by special arrangement.

4.6.3. The Reconsideration Committee will consider:

4.6.3.1. all the original material and documentation;

4.6.3.2. all additional material and documentation supplied by the applicant considered relevant to the decision; and



4.6.3.3. any additional material and documentation considered relevant by the Chair.

4.6.4. Minutes of the Reconsideration Committee deliberations, whether as part of a scheduled meeting or specially convened, will be kept in accordance with the normal Committee practice.

4.6.5. Decisions of the Reconsideration Committee.

4.6.5.1. The decision made by the Reconsideration Committee will be conveyed to the applicant in writing following the meeting.

4.6.5.2. Where possible, the Reconsideration Committee should endeavour to provide the applicant with reasons for the decision.

4.6.5.3. The applicant should be advised of the opportunity to request a review of the decision should they be dissatisfied and adversely affected by the decision.

## **5. Review Procedures**

5.1. A review of a decision involves bringing a matter relating to a disputed decision to the Federal Committee.

5.2. Requests for review should ordinarily be made only after reconsideration of the decision has been undertaken in accordance with this policy. A review will not be undertaken where the matter has not first been reconsidered by the originating body in accordance with Clause 4 above.

5.3. Requests for review must be addressed in writing to the Federal Secretary using the prescribed form within 28 days of the date of the decision of reconsideration. The requests should be accompanied by any further information not previously provided in relation to the matter under review.

5.4. Requests will be considered where a clear reason has been provided as to why the review process might be justified. The review will consider material available to the College, including in relation to adherence to College regulations, policies and procedures, and whether the principles of natural justice / procedural fairness were followed in relation to the decision, including in relation to any reconsideration of an original decision.

5.5. Any review made in accordance with Clause 5 shall not, and does not, constitute an appeal under this policy.



5.6. Where a request for review is accompanied by additional material deemed by the individual to be relevant and significant, which was not previously considered by the originating body, the material may, at the discretion of the Federal Secretary and prior to the Review Committee being convened, be forwarded to the Chair of the originating body for possible comment. This should occur regardless of whether the matter has been previously considered in accordance with this policy and the relevant policy.

5.7. The Federal Secretary shall refer a request for Review to a special meeting of the Federal Committee as the Review Committee.

5.8. Any Federal Committee member who considers themselves to have a conflict of interest in reviewing the matter shall declare the conflict of interest and withdraw from the Review Committee.

5.9. The Chair of the Review Committee shall be the Federal Secretary or their nominee from within the Federal Committee.

5.9. The Review Committee will accept information, whether written or oral, from the Chair of the Committee/s involved in making the original decision and its reconsideration. The powers of a Review Committee are the same as those for the Appeals Committee as set out below.

5.10. The Review Committee will consider:

5.10.1. All the original material and documentation.

5.10.2. All additional material and documentation supplied by the applicant.

5.10.3. Any additional material and documentation considered relevant by the Chair.

5.10.4. Whether the principles of natural justice were followed when making the original decision or reconsidering that decision.

5.10.5. Whether the original decision was correct and should be upheld or overturned and a new decision substituted.

5.11. Minutes of the hearing of the Review Committee will be confined to a report listing the documentation presented and a report of the decision to the Committee making the original decision, if any.

5.12. Decisions of the Review Committee.



5.12.1. The decision made by the Review Committee will be conveyed to the applicant in writing following the meeting.

5.12.2. The decision made by the Review Committee will be conveyed to the originating body in writing following the meeting.

5.12.3. The Review Committee is not required to provide the applicant with reasons for the decision but, where changing the decision, should endeavour to provide reasons to the originating body.

5.12.4. The applicant should be advised of the availability of Appeal.

5.13. The College will endeavour to provide the potential appellant with the outcome of the review by the Review Committee in writing within four weeks of the request, the document being subject to any obligations of privacy and confidentiality that may apply.

## **6. Formal Appeals**

6.1. Following the conclusion of the review process, the Federal Secretary must be satisfied that all other avenues to resolve the issues of concern to the potential appellant have been exhausted before a formal appeal can be lodged and an Appeals Committee constituted.

6.2. Formal appeals must be lodged in writing to the Federal Secretary within 28 days of the review decision being made.

6.3. The formal appeal lodged in writing must:

- state the decision in respect of which the appeal is made;
- clearly state the grounds for the appeal;
- provide a brief outline of the matters in issue;
- state the remedy sought; and
- provide payment of the applicable appeal fee

## **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:



7.1.1. The original decision was the result of an error of law.

7.1.2. The original decision was the result of error in due process.

7.1.3. That relevant and significant information, whether available at the time of the original decision or which subsequently became available\*, was not considered, or not properly considered in the making of the original decision.

7.1.4. That the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

7.1.5. That irrelevant information was considered in the making of the original decision.

7.1.6. That procedures that were required by the College to be observed in connection with the making of the decision were not observed.

7.1.7. That the original decision was made in accordance with a rule or policy without regard to the merits of the particular case.

7.1.8. That the original decision was made for an improper purpose

\* Note: 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. Appeals Committee Composition**

8.1. The Appeals Committee is to be convened by the Federal Secretary.

8.2. The Appeals Committee shall be comprised of

8.2.1. A member of the Federal Committee;

8.2.2. One fellow and one member of the College;

8.2.3. Up to two appropriately qualified or interested persons who are not required to be fellows of the College, and one of whom shall be a legal advisor drawn from the College's legal advisers.

8.2.4. A professional mediator drawn from The Institute of Arbitrators & Mediators Australia.



8.3. The member of the College, who is not a fellow, shall be appointed the Chairperson of the Appeals Committee.

8.4. A quorum of the Appeals Committee will be the Chairperson and two other members.

8.5. Each member of the Appeals Committee shall be entitled to one vote. In the event of an equality of votes, the Chairperson may exercise the deciding vote.

## **9. Appeal Procedures**

9.1. After determining that the appeal will proceed, the Federal Secretary or nominee shall:

9.1.1. Acknowledge receipt of the appeal, including receipt of payment of the appeal fee.

9.1.2. Convene the Appeals Committee.

9.1.3. Determine the date of the appeal hearing, which shall be held within three (3) months of the lodging of a formal appeal.

9.1.4. At least 21 days prior to the hearing date the CEO or nominee will advise the appellant in writing:

- the date, time and location of the appeal;
- the membership of the Appeals Committee;
- the right of the appellant to present their case to the Appeals Committee in person; and
- the right of the appellant to have a personal advocate, colleague or mentor present at the hearing in an observer capacity, but who may, only with the consent of the Appeals Committee, act as advocate in accordance with this policy.

9.2. Appellants are required to lodge all written submissions and copies of any documents and records upon which they wish to rely to the Appeals Committee 14 days prior to an appeal hearing. 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.





9.3. Appellants shall have the right to appear and address the Appeals Committee in relation to his or her written submissions. The appellant shall be entitled to have a support person attend the hearing with him or her. That support person may be the complainant's legal representative. The support person may, with leave of the Appeals Committee, act as an advocate.

9.4. A personal advocate, colleague or mentor may represent the appellant in those cases where the Appeals Committee considers that an appellant could not present or would be disadvantaged in their appeal if required to present in person. Such a request for an appellant to be so represented must be made in writing to the Chair of the Appeals Committee no later than seven (7) working days prior to the date of the appeal hearing. In those cases where the appellant is granted leave to be so represented by an advocate, the Appeals Committee may appoint a person to act as counsel assisting in the hearing of the appeal.

9.5. The Appeals Committee must act according to the rules of procedural fairness / natural justice and decide each appeal on its merits.

9.6 The Appeals Committee is not bound by the rules of evidence and, subject to the rules of procedural fairness / natural justice, may inform itself on any matter and in such a manner as it thinks fit.

9.7. The Appeals Committee shall be entitled to consider all relevant information which it thinks fit and may invite any person to appear before it or to provide information.

9.8. The Appeals Committee shall conduct its affairs with as little formality as possible, but otherwise shall have full power to regulate its conduct and operation.

9.9. The proceedings of the Appeals Committee will be recorded, and the proceedings transcribed. The transcript of proceedings shall be kept confidential (except as required by law).

9.10. Minutes of the hearing shall only record the Appeals Committee's decision, the reasons for the decision, and any recommendations made as outlined below.

9.11. The Appeals Committee may:

9.11.1. Confirm the decision which is the subject matter of the appeal.

9.11.2. Revoke the decision which is the subject matter of the appeal.



9.11.3. Revoke the decision which is the subject matter of the appeal and refer the decision to the relevant body or Committee for further consideration (upon such terms and conditions as the Appeals Committee may determine).

9.11.4. Revoke the decision which is the subject of the appeal and make an alternative recommendation to the Federal Board for final determination by the Board.

9.11.5. Make a recommendation as to whether any or all of the costs associated with the dispute resolution should be waived.

9.12. The Appeals Committee will provide a written decision with reasons within 3 weeks of the appeal hearing, or within 3 weeks of receiving written submissions after the Dispute hearing (whichever is the latter). A copy of the Disputes Committee's written decision is to be provided to all parties no later than 7 days after the decision has been made.

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

9.14. Decisions of the Appeals Committee must be notified to the Federal Board.

## **10. Appeals Hearing Process**

10.1. The College shall endeavour to convene the Appeals Committee within 3 months of an Appeal having been lodged and shall hear the Appeal as soon as practicable.

10.2. The Appeals Committee will not, except in exceptional circumstances, consider a matter de novo.

10.3. The Appeals Committee will meet for up to one hour at the commencement of each hearing to consider the matter before it.

10.4. The hearing is to be conducted with all parties present, however, the Appeals Committee may, in its absolute discretion, hear the parties separately.

10.5. All questions must be directed to the Chairperson.



10.6. The Chairperson may invite the appellant, then any other party appearing before the Appeals Committee, to summarise his or her position.

10.7. The Chairperson will then invite the appellant to present his or her submission and may direct the appellant, at any time, to any point of that submission or invite questions on any point of that submission.

10.8. The Chairperson will then invite members of the Appeals Committee to seek clarification from the complainant of any matters raised.

10.9. The Chairperson will then invite any person attending to provide information to the Appeals Committee.

10.10. The appellant will then be asked to respond or make submissions in relation to the material presented by the other parties or participants.

10.11. The appellant and other parties will then be asked to withdraw from the meeting while the Appeals Committee discusses the matter. The appellant and other parties will be asked to remain available to clarify any further matters if required.

10.12. If further clarification is sought, all of the parties will reconvene before the Appeals Committee and clarify those further matters. The appellant will then be asked to make any final submissions.

10.13. If the Appeals Committee decides, in its absolute discretion, that the appellant ought to be given an opportunity to provide further written submissions, leave will be granted in relation to same.

10.14. The Appeals Committee will reach a determination within 3 weeks of the hearing, or receipt of final written submissions, whichever is the latter. That decision will be conveyed to all participants in writing by the Federal Secretary in accordance with clause 9.12.