



*Commission on Colleges  
Southern Association of Colleges and Schools  
1866 Southern Lane  
Decatur, Georgia 30033-4097*

## **APPEALS PROCEDURES OF THE COLLEGE DELEGATE ASSEMBLY OF THE COMMISSION ON COLLEGES**

### **- Policy Statement -**

The Appeals Procedures of the College Delegate Assembly is an administrative process approved by the College Delegate Assembly of the Commission on Colleges allowing applicant, candidate, and member institutions to appeal adverse decisions taken by the Commission. As such, the appeals process is not subject to legal rules of evidence and legal procedures. Throughout the appellate process, the institution bears the burden of proof.

#### **I. Appealable Actions**

An institution may appeal only the following decisions made by the Commission or its standing committees regarding an institution's status of recognition:

- A. Denial of Candidacy for Initial Accreditation
- B. Removal from Candidacy for Initial Accreditation
- C. Denial of Initial Membership
- D. Removal from Membership

#### **II. Selection of the Appeals Committee and the Hearing Officer**

##### **A. The Appeals Committee**

The Appeals Committee shall consist of twelve persons elected by the College Delegate Assembly and who have served on the Commission on Colleges: eight chief executive officers, two faculty/academic personnel, and two public members. A minimum of five members of the Appeals Committee shall constitute a quorum. A decision will be based on majority vote.

Nominations for this committee shall be submitted by the Nominating Committee of the Commission on Colleges to the College Delegate Assembly for election. The Nominating Committee shall consist of five members appointed by the Chair of the Commission on Colleges for one-year terms. Three of those five members must be chief executive officers. Members of the Nominating Committee and the Appeals Committee shall not be serving on the Commission on Colleges or any standing committee of the Commission when appointed or elected, or when serving their term of office.

A member of the Appeals Committee shall recuse him/herself from that appeals hearing if there is a conflict of interest or an appearance of a conflict of interest. As defined by the Commission, conflict of interest, or the appearance of conflict of interest, as applied to members of the Appeals Committee exists if the Committee member (1) is employed within a state where the parent campus of the institution is located, (2) has voted on the accreditation status of the institution—either during the

Commission meeting or the meetings of the Committees on Compliance and Reports—at any time leading to the appealable decision, or (3) has served as a member of the site team which visited the institution and resulted in a committee report at any time leading to the appealable decision.

Conflict of interest, or the appearance of conflict of interest, also exists if the Committee member determines that he or she (1) has been a compensated consultant, an appointee or employee of the institution, or recently has been a candidate for employment at the institution, (2) is a graduate of the institution appealing the Commission's decision, (3) has a close personal or familial relationship with persons at the institution or a strong bias regarding the institution, (4) is a stockholder or board member of the institution, or (5) is a member of an association or activity that an impartial person might reasonably conclude would compromise the capacity of a member of the Appeals Committee to deal objectively with the action under appeal.

Conflict of interest includes but is not limited to the examples cited above.

The Chair of the Commission on Colleges will fill vacancies on the Appeals Committee which occur during terms of office when it is necessary to obtain a quorum.

Members of the Appeals Committee are elected for three-year terms. The terms of four of the members expire each year. Members shall not be elected for consecutive terms.

B. The Chair of the Commission shall appoint the Chair of the Appeals Committee from the committee members. The Committee Chair is appointed for a one-year term and may serve consecutive terms.

C. The Hearing Officer

Three individuals shall be elected by the College Delegate Assembly to serve as Hearing Officers for the Appeals Committee of the College Delegate Assembly. Nominations for these positions shall be submitted by the Nominating Committee of the Commission on Colleges to the College Delegate Assembly for election. Persons nominated by the Committee must be experienced or trained in hearing procedures and be affiliated with a member institution of the Commission on Colleges. Nominees shall not be members of the College Delegate Assembly or members of the Commission on Colleges.

Hearing Officers are elected for three-year terms. The term of one of the officers expires each year. A Hearing Officer may not be elected for consecutive terms.

A Hearing Officer will be designated on a rotating basis by the President of the Commission to preside during a particular appeals hearing. Neither the institution nor the Commission may select the Hearing Officer. If the Hearing Officer has a conflict of interest with the case being appealed, the Officer shall be excused from that appeals case.

As defined by the Commission, conflict of interest, or the appearance of conflict of interest, as applied to the Hearing Officer exists if that individual (1) is employed within a state where the parent campus of the institution is located, or (2) has served as a member of the site team which visited the institution and resulted in a committee report at any time leading to the appealable decision.

Conflict of interest, or the appearance of conflict of interest, also exists if the Hearing Officer determines that he or she (1) has been a compensated consultant, an appointee or employee of the institution, or recently has been a candidate for employment at the institution, (2) is a graduate of the institution appealing the Commission's decision, (3) has a close personal or familial relationship with persons at the institution or a strong bias regarding the institution, (4) is a stockholder or board member of the institution, or (5) is a member of an association or activity that an impartial person might reasonably conclude would compromise the capacity of the Hearing Officer to deal objectively with the action under appeal.

Conflict of interest includes but is not limited to the examples cited above.



### **III. Duties and Authority of the Chair and the Hearing Officer**

In general, the Chair presides over the deliberations of the Appeals Committee and the Hearing Officer presides over the appeals hearing, ruling on all procedural questions prior to, during, or following the hearing.

#### **A. Chair of the Appeals Committee**

The Chair of the Appeals Committee is responsible for presiding over deliberations of the Committee and for actively participating in discussions regarding an institution's grounds for appeal. He or she does not preside during the appeals hearing. In addition, the Chair

1. provides, with the Hearing Officer, an orientation of the Appeals Committee members
2. outlines and explains to the Appeals Committee the range of decisions it is authorized to make
3. consults with the Hearing Officer on procedural matters
4. notifies the President of the Commission and the institution's board chair and chief executive officer of the Committee's decision within seven days of the appeals hearing date.

#### **B. Hearing Officer**

The Hearing Officer is responsible for ruling on all procedural questions brought forward by the institution or by the Commission on Colleges prior to, during, and following the hearing. In addition, the Hearing Officer

1. notifies the Commission and the institution in writing of rights and responsibilities relative to the hearing
2. provides a written outline of procedures to the Commission and the institution, or, if requested by the institution, conducts a pre-hearing conference on procedures
3. provides, with the Appeals Committee Chair, an orientation of the Appeals Committee members
4. presides over the hearing, including (a) setting the time limit of presentations (b) ruling on the admissibility of evidence (c) administering oaths, and (d) ruling on procedural matters
5. meets with the Appeals Committee solely to advise on procedures and limitations
6. assists the Appeals Committee in the development of a draft of its decision

### **IV. Appellate Procedures**

The following procedures must be adhered to in an appeal:

- A. The request for an appeals hearing must be made in writing by the chief executive officer and sent by facsimile to the President of the Commission on Colleges within ten calendar days of the date of the institution's receipt of notification of the adverse decision of the Commission. The original letter must be next day express mailed to the Commission's President.
- B. Grounds for an appeal of a Commission decision are limited to the following:
  1. that the Commission failed to follow its procedures and that this failure was significant in leading to the decision

2. that the Commission's decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or policies of the Commission

The request of an institution for an appeals hearing must identify the specific alleged procedural failures or the specific manner in which the decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or policies of the Commission.

- C. An institution requesting an appeals hearing shall, at the time of the request, pay the treasurer of the Southern Association of Colleges and Schools a deposit of \$15,000 to cover the travel, lodging, meal and other charges incurred by the Hearing Officer and by convening the Appeals Committee. If the expenses incurred exceed the deposit, the institution will be assessed the additional amount. If expenses are less, then the difference will be refunded to the institution.
- D. When the President of the Commission on Colleges acknowledges in writing the institution's request for an appeals hearing, the President of the Commission will also notify the institution of the dates of the hearing (Monday, Tuesday, or Wednesday of the third week of February for actions taken the previous December; and Monday, Tuesday, or Wednesday of the third week in August for actions taken in June). The institution must notify the President of the Commission of its preference of day within the designated week. The Commission will make every effort to honor that preference but cannot guarantee the date. The date for the hearing will be determined by the availability of members of the Appeals Committee to hear the case and by the establishment of a quorum. The final determination of the date will be made by the President of the Commission after consultation with the Hearing Officer and members of the Appeals Committee.
- E. At least 30 days before the date of the appeals hearing, the Commission must submit to the institution and the appeals Hearing Officer documents (administrative record) used by the Commission leading to and arriving at the decision regarding the institution. The administrative record includes the following: (1) minutes of the Committee on Compliance and Reports as pertain exclusively to the institutional case, (2) minutes of the Executive Council as pertain exclusively to the institutional case, (3) a historical summary of Commission actions involving the institution, (4) a transcript of the meeting on the record conducted by the Committee on Compliance and Reports prior to the decision of the Commission to take adverse action, (5) official Commission correspondence leading to the adverse action and also related to the appeal, (6) all case materials forwarded to the Committee on Compliance and Reports and used as a basis for the recommendation of an adverse action, and (7) other documents bearing on the substance of the appeal.

At least 14 days before the date of the appeals hearing, the institution must submit to the President of the Commission and the Hearing Officer the brief it intends to present at the hearing. The brief must specifically direct Appeals Committee members to citations in the Commission's administrative record which justify the institution's grounds for appeal. The institution must cite page numbers of the text supporting its position. The institution is required to submit ten copies of its brief. Failure of the institution to provide a brief within the specified period time will be cause for case dismissal by the Hearing Officer.

At least ten days before the date of the appeals hearing, the Commission on Colleges is required to submit copies of the Commission's administrative record and the institution's brief to the Chair and members of the Appeals Committee.

At least seven days before the date of the appeals hearing, the Commission on Colleges must submit to the institution, the appeals Hearing Officer, and the Chair and members of the Appeals Committee, its response to the brief of the institution.

Neither the institution nor the Commission may submit additional briefs or any other materials during or following the appeals hearing.

- F. Throughout the appellate process, the institution will bear the burden of proof.



G. The Commission bases its adverse decision on committee reports, institutional responses and any other documentation and evidence presented by the institution. *If the institution failed to present documentation and evidence at the time the Commission took adverse action, it cannot make that information available for consideration by the Appeals Committee under any circumstances. In addition, neither the Commission nor the institution may include new materials as part of their briefs presented to the Appeals Committee nor may they introduce new evidence during the appeals hearing. It is incumbent upon all parties to ensure that all evidence to be presented at the hearing is submitted as required by these procedures.*

H. Appeals hearings are closed to the public and include only those persons who can speak to the grounds for appeal. No more than six persons and one attorney of counsel may appear for each of the parties. Both parties may be present during the hearing.

At least 14 days before the date of the hearing, the institution and the Commission must submit to the Hearing Officer and to the other party the names and titles of those individuals selected to appear. Once the names have been submitted to the Hearing Officer and to the other party, there may be no substitutions without prior approval from the Hearing Officer.

I. Since the institution bears the burden of proof, the institution will be the first party to present its case during the appeals hearing.

J. The Hearing Officer will limit the presentation of the institution and the Commission to one hour each, and shall notify both before the hearing of such time limit. The one hour does not include a time period for questioning from the members of the Appeals Committee. At the request of the Commission or the institution, the Hearing Officer may allow time for final response by either party, not to exceed one-half hour. These time limits can be extended only by the Hearing Officer. Since the institution bears the burden of proof, the institution will be the first party to present a final response.

K. Within seven days of the date of the appeals hearing, the Chair of the Appeals Committee shall inform the President of the Commission on Colleges and the institution's chief executive officer and chair of the board in writing of the decision. This notification must include specific reasons for the decision, must address each of the grounds for appeal identified by the institution, and must address the Commission's findings with regard to standards on which the Commission's decision was based.

The notification will be sent by facsimile and will be deemed acceptable by transmission. The original letters will be next-day express mailed to each party.

L. Commission staff members are responsible for sending all material concerning the appeals case to members of the Appeals Committee and its Hearing Officer; for providing support services, including lodging, transportation and meeting space for the Committee; for confirming the date of the appeals hearing; and for securing the services of a court reporter.

## V. Conditions

A. Appeals are administrative, not judicial hearings, with each party to the appeal advocating its position. Therefore, legal Rules of Evidence and legal procedures, such as the examination of the competency of members of the Appeals Committee, the use of sidebars, or cross-examining those present, are prohibited.

B. During the appeals hearing, the institution shall bear the burden of proof.

1. To gain a reversal of the Commission's decision, the institution must present evidence which, in the judgment of the Appeals Committee, demonstrates that the Commission's decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or policies of the Commission.

2. In order to gain a remand, the institution must present evidence which, in the judgment of the Appeals Committee, demonstrates that the Commission failed to follow its procedures and that this failure was significant in leading to its decision.
  3. If the institution fails to provide evidence adequate to gain a reversal or a remand, the initial decision of the Commission must be affirmed.
- C. The accreditation status of an institution for which an appealable action has been taken shall remain as it was before such action until the ten-day period for filing an appeal has expired. Receipt of a notification of an appeal from an institution by the President of the Commission on Colleges during this ten-day period will cause that previous status to be continued until a final decision is made on the appeal. If the result of an appeal is to affirm the Commission's decision, the date of the final decision by the Appeals Committee shall be treated as the effective date and is defined as the date of the notification letter to the institution and to the President of the Commission.
- D. All Appeals Committee members with no conflict of interest with the case being appealed will be invited to serve.

## **VI. Rights and Limitations**

- A. The institution and the Commission have the following rights in an appeal:
1. To have available legal counsel or a representative of their choice to advise them at the hearing. Legal counsel representing each of the parties will be permitted to present or assist in the presentation of the case during the hearing. Legal counsel will not be permitted to conduct a cross-examination of representatives from the opposing party.  
  
If either the institution or the Commission requests a pre-hearing conference, the conference will be conducted by the Hearing Officer with representatives from both parties in attendance.
  2. To present written or oral testimony and/or evidence pertinent to the grounds for the appeal consistent with the prior submission requirements of IV.E. above. Only the Appeals Committee has the right to question individuals present at the hearing. All individuals who testify will testify under oath as administered by the Hearing Officer or the court reporter.
  3. To receive a transcript and any other related records of the proceedings, upon payment of the costs of reproduction. The Committee's discussions and deliberations, all votes taken, and the discussion on the final decision itself are not conducted on the record. Presentations by the institution and the Commission, questions asked of these representatives by the Committee members, and responses to such questions are to be recorded and transcribed. Transcripts are a matter of record of the proceedings and are not used in the deliberations of the Appeals Committee.
- B. The decision of the Commission shall be reviewed based exclusively upon the conditions existing at the time of that decision and shall be subject to the following limitations:
1. No evidence concerning the remedying of deficiencies since the time of the Commission's adverse action shall be presented at or before the hearing under any circumstances. The Appeals Committee is prohibited from considering such evidence in reaching its decision.  
  
No new evidence made available since the time of the Commission's adverse action shall be presented at or before the hearing. The Appeals Committee is prohibited from considering such evidence in reaching its decision.  
  
The Appeals Committee shall not, in its decision or otherwise, instruct the Commission staff, the Commission, or its committees to consider evidence concerning the remedying of

deficiencies since the date of the Commission's original decision. The Hearing Officer will rule on any question regarding the application of this provision.

2. The Hearing Officer **must disallow** evidence presented by the Commission or the institution
  - a. which is not pertinent to the grounds for appeal
  - b. which concerns the remedying of deficiencies since the time of the Commission's adverse decision
  - c. which was not available to the Commission at the time of its adverse decision.
- C. The Hearing Officer and the Chair and members of the Appeals Committee may not disclose the decision of the Committee prior to receipt of official notification by the institution and by the Commission nor may they disclose the content of confidential discussions or deliberations leading to the Committee's decision.

## VII. Actions

- A. The Appeals Committee, after the presentation of oral and/or written testimony, must determine whether the institution has demonstrated either of the following:
  1. that the Commission failed to follow its procedures and that the failure was significant in leading to the decision
  2. that the Commission's decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or policies of the Commission.
- B. The Appeals Committee shall act within the following limitations:
  1. The Appeals Committee shall AFFIRM the Commission's decision, unless it finds that the institution
    - a. has demonstrated that the Commission failed to follow its procedures and that the failure was significant in leading to the decision, or
    - b. has demonstrated that the Commission's decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or policies of the Commission.

The decision by the Appeals Committee to affirm the Commission's decision is final and is not subject to further appeal.

The effects of AFFIRMATION of the decision are listed below:

- a. Denial of Candidacy for Initial Accreditation. Institution has no status with the Commission. Institution may reapply for membership, subject to provisions defined in the Commission's "Accreditation Procedures for Applicant Institutions."
- b. Removal from Candidacy for Initial Accreditation. Institution holds no status with the Commission. Institution may reapply for membership, subject to provisions defined in the Commission's "Accreditation Procedures for Applicant Institutions."
- c. Denial of Initial Membership. Institution holds no status with the Commission. Institution may reapply for membership, subject to provisions defined in the Commission's "Accreditation Procedures for Applicant Institutions."

- d. Removal from Membership. Institution is dropped from membership (no longer accredited) effective on the date the original decision is affirmed. Institution may reapply for membership, subject to provisions defined in the Commission's "Accreditation Procedures for Applicant Institutions."
2. The Appeals Committee shall reverse the Commission's decision if it finds that the institution has demonstrated that the Commission's decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles* or policies of the Commission. The decision by the Appeals Committee to reverse is final.

The effects of REVERSAL of the original decision are listed below:

- a. Denial of Candidacy for Initial Accreditation. Institution is granted Candidate status retroactive to the date which would have been specified at the time if the original decision had been positive.
  - b. Removal from Candidacy for Initial Accreditation. Institution continues in Candidate status. This status was automatically restored when appeal was made.
  - c. Denial of Initial Membership. Institution is admitted to membership retroactive to the date which would have been specified at the time if the original decision had been positive.
  - d. Removal from Membership. Institution continues in membership with any outstanding sanctions for a maximum of one year and in accordance with the Commission policy "Sanctions, Denial of Reaffirmation, and Removal from Membership."
3. The Appeals Committee shall remand the case either to the Committees on Compliance and Reports, the Executive Council, or the Commission on Colleges if it finds that the institution has demonstrated that one of the above groups failed to follow its procedures and that the failure was significant in leading to the decision.

The Appeals Committee shall remand to the specific group where the procedural error first occurred with specific instructions to review the case taking into consideration any findings of the Appeals Committee.

If the Appeals Committee remands, the reconsideration shall occur at the next meeting of the Commission and its standing committees following the date of the decision of the Appeals Committee, and the procedure will be as follows:

- a. In the case of a remand to one of the Committees on Compliance and Reports, the Committee on Compliance and Reports will make a recommendation to the Executive Council, which will make a recommendation to the Commission on Colleges. The action of the Commission is final subject to any rights which the institution might have as described in Commission policies. If the Commission affirms its original decision, the institution may again appeal based on the grounds for appeals as outlined in V. The case will be heard again by the Appeals Committee, which will then make a final decision to affirm or reverse. It cannot remand again.
- b. In the case of a remand to the Executive Council, the Council will make a recommendation to the Commission on Colleges. The action of the Commission is final subject to any rights which the institution might have as described in Commission policies. If the Commission affirms its original decision, the institution may again appeal based on the grounds for appeal as outlined in V. The case will

be heard again by the Appeals Committee, which will then make a final decision to affirm or reverse. It cannot remand again.

- c. In the case of remand to the Commission on Colleges, the Commission will take final action subject to any rights which the institution might have as described in Commission policies. If the Commission affirms its original decision, the institution may again appeal based on the grounds for appeal as described in V. The case will be heard again by the Appeals Committee, which will then make a final decision to affirm or reverse. It cannot remand again.

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