



RANZCOG

Royal Australian and New Zealand
College of Obstetricians and Gynaecologists

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A2. Appeals Procedures

A2.1 Policy

A2.1.1 The Appeals Committee shall hear appeals in relation to decisions made by or on behalf of the RANZCOG.

A2.2 Guidelines

A2.2.1 Questions of disputed decisions or assessment can frequently be resolved without recourse to formal appeal. It is advised that any disputed decision or assessment should be addressed in the first instance under the processes described in the College *Exceptional Circumstances, Special Consideration and Reconsideration Policy*, following which the processes described under Regulation A2.4 below (Review Procedures) should be utilised, prior to lodging a formal appeal under Regulation A2.5 of this policy.

A2.3 Reconsideration of Decisions

A2.3.1 Matters pertaining to disputed decisions should in the first instance be addressed to the chairperson of the originating body for reconsideration by the same committee or body which made the disputed decision through the processes outlined in the College's *Exceptional Circumstances, Special Consideration and Reconsideration Policy*. Where questions exist as to the relevance of this policy for the reconsideration of a specific decision, guidance should be sought from the Chief Executive Officer.

[Revised and ratified by the RANZCOG Board, July 2017]

A2.4 Review Procedures

A2.4.1 Requests for review of a decision by the committee or body which has oversight of the disputed decision, or other body, as determined by the Chief Executive Officer, must be addressed in writing to the Chief Executive Officer within three months of the date of the original decision being made. The request must:

- state the decision in respect of which the request for review is being made;
- provide a brief outline of the matters in issue; and
- be accompanied by any further information not previously provided in relation to the matter under review.

A2.4.2 A review will not be undertaken where the Chief Executive Officer considers the matter should first be reconsidered by the originating body pursuant to Regulation A2.3.1 above and the relevant policy. Any review made pursuant to this Regulation A2.4.1 shall not, and does not, constitute an appeal under these Appeals Procedures.

A2.4.3 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.

A2.4.4 Where a request for review is accompanied by additional material deemed by the individual to be relevant and significant, but not previously considered by the body from which the decision originated, the material may, at the discretion of the Chief Executive Officer and prior to the Review Committee being convened, be forwarded to the chairperson of the originating body for possible consideration, regardless of whether the matter has been previously considered pursuant to Regulation A2.3.1 and the relevant policy.

A2.4.5 The Chief Executive Officer shall refer a request for review to the committee or body which has oversight of the disputed decision, or where otherwise appropriate a Review Committee constituted as follows:

- One (1) member of the RANZCOG Board;
- Two (2) College Fellows (who may or may not be a RANZCOG Board member(s) or Councillor(s)); and
- The College Chief Executive Officer or appropriate College House director.



The Review Committee will accept information, whether written or oral, from the chair of the committee involved in making the original decision and its reconsideration. Any additional information received by the Review Committee (from the Chair of the committee making the original decision or otherwise) shall be provided to the individual affected for their further written submission to the Review Committee before a final decision is made.

The individual does not otherwise have the right to attend any meetings of the Review Committee or to make any oral submissions to it, either personally or through any other party.

The powers of a Review Committee are the same as those for the Appeals Committee as set out in Regulation A.2.9.9, and subject to Regulation A2.9.14.

[Revised and ratified by the RANZCOG Board, November 2020]

A2.4.6 All proceedings shall remain confidential, save for information relating to decisions distributed as outlined in Regulation A2.4.8 below.

[Ratified by the RANZCOG Board, November 2020]

A2.4.7 The Review Committee shall make its recommendation(s) in accordance with Regulation A2.9.14 to the RANZCOG Board for approval.

A2.4.8 The College will endeavour to provide the potential appellant with the outcome of the review by the Review Committee in writing within eight weeks of the request, the document being subject to any obligations of privacy and confidentiality that may apply. The document provided will be confined to a list of all persons present, an index of the documentation presented and report of the review recommendation, including reasons for decision.

[Revised and ratified by the RANZCOG Board, November 2020]

A2.4.9 Following the conclusion of the review process, the Chief Executive Officer 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.

[Revised and ratified by the RANZCOG Board, July 2017]

A2.5 Formal Appeals

A2.5.1 Formal appeals must be lodged in writing to the Chief Executive Officer within six months of the original decision being made.

A2.5.2 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 (refer to Regulation A2.6);
- provide a brief outline of the matters in issue;
- state the remedy sought; and
- provide payment of the applicable appeal fee (refer to Regulation A2.10).

A2.6 Grounds for Appeal

A2.6.1 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:

- (a) that an error in law or in due process occurred in the formulation of the original decision;
- (b) 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;
- (c) that irrelevant information was considered in the making of the original decision;



- (d) that procedures that were required by College policies to be observed in connection with the making of the decision were not observed;
 - (e) that the original decision was made for an improper purpose;
 - (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.
- * 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.

A2.7 Time Restrictions for Review and Appeal

- A2.7.1 Pursuant to Regulations A2.3.1 and A2.4.1 requests for informal reviews must be lodged in writing to the Chief Executive Officer within three (3) months of the date of the original decision that is the subject of the review.
- A2.7.2 Pursuant to Regulation A2.5.1 formal appeals must be lodged in writing to the Chief Executive Officer within six months of the original decision being made.

A2.8 Appeals Committee Composition

- A2.8.1 The Appeals Committee will comprise:
- Three (3) persons (one (1) of whom shall be the Chairperson) who are not College members; and
 - Two (2) College Fellows who were not party to any decision to which the appeal relates (in the event of an appeal involving a subspecialist, one of the Fellows should be a subspecialist from that particular subspecialty).
- A2.8.2 The Chief Executive Officer of the College, or nominee, shall be in attendance at the hearing of the Appeal, but shall not be part of the Appeals Committee.
- A2.8.3 A quorum for meetings of the Appeals Committee will be the Chairperson and three (3) other members. All members of the Appeals Committee shall be entitled to vote on decisions. Decisions of the Appeals Committee shall be decided by a majority of votes of members. In the event of an equality of votes, the Chairperson may exercise a casting vote.

A2.9 Appeal Proceedings

- A2.9.1 After determining that the appeal will proceed, the Chief Executive Officer or nominee shall:
- (a) Acknowledge receipt of the appeal, including receipt of payment of the appeal fee.
 - (b) Convene the Appeals Committee.
 - (c) Determine the date of the appeal hearing, which shall be held within three (3) months of the lodging of a formal appeal.
 - (d) At least 21 days prior to the hearing date the Chief Executive Officer 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 his or her 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, with the consent of the Appeals Committee, act as advocate in accordance with Regulation A2.9.3.
- A2.9.2 Appellants are required to lodge all written submissions and copies of any documents and records upon which he/she wishes 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.



- A2.9.3 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 his/her appeal if required to present in person. Such a request for an appellant to be so represented must be made in writing to the Chairperson 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.
- A2.9.4 Sponsoring hospitals may appeal on behalf of Specialist IMGs they are seeking to employ.
- A2.9.5 The Appeals Committee must act according to the rules of procedural fairness / natural justice and decide each appeal on its merits. 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.
- A2.9.6 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.
- A2.9.7 All proceedings shall remain confidential, save for information relating to decisions distributed as outlined in Regulation A2.9.13 below.
- A2.9.8 Decisions of the Appeals Committee shall be on a simple majority voting basis by those comprising the Committee at the hearing of the appeal.
- A2.9.9 The Appeals Committee may:
- (a) Confirm the decision which is the subject of the appeal.
 - (b) Revoke the decision which is the subject of the appeal and refer it back to the RANZCOG Board, or other appropriate body or committee, for the making of a fresh decision (upon such terms and conditions as the Appeals Committee may determine).
 - (c) Revoke the decision which is the subject of the appeal and make an alternative decision for notification to the RANZCOG Board, in accordance with Regulation A2.9.14 below.
- A2.9.10 In all cases the Appeals Committee's decision is final.
- A2.9.11 Decisions of the Appeals Committee must be notified to the RANZCOG Board.
- A2.9.12 The Chief Executive Officer, on behalf of the Appeals Committee, will notify the appellant in writing of the decision, and reasons for the decision, within three (3) weeks of the appeal hearing.
- A2.9.13 Decisions of the Appeals Committee will be disseminated as follows:
- A2.9.13.1 The Appeals Committee Reasons Document will be conveyed to the RANZCOG Board (by e-mail in the first instance, followed by distribution in papers at the next scheduled meeting of this group).
 - A2.9.13.2 The decision of the Appeals Committee, along with the summary of the reason(s) for the decision, will be conveyed to the chairperson of the originating body that was responsible for the decision that was the subject of the appeal, as well as the director and manager of the College department responsible for the coordination of that body to facilitate any further processes required as a result of the decision, as well as review of processes surrounding the original decision. The chairperson of the committee may choose to share the decision and summary reasons for the decision with members of the body.

There are occasions where a decision may be felt by the College President or Chief Executive Officer to have direct relevance and ramifications beyond the committee from which the decision that was the subject of the appeal originated. In such cases, 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.
- A2.9.13.3 A de-identified notice of the outcome of the appeal may appear on the College website or in a suitable College publication should the College President and/or the RANZCOG Board wish it to be publicised.



[Revised and ratified by the RANZCOG Board, December 2017]

- A2.9.13.4 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). An appellant is not entitled to the transcript of other recording of the hearing, without the consent of the Appeals Committee, which may do so only in extraordinary circumstances and for a proper reason.

[Revised and ratified by the RANZCOG Board, November 2020]

- A2.9.14 Neither a Review Committee nor the Appeals Committee may make a decision or recommendation to:
- A2.9.14.1 elevate an appellant above others in a competitive selection or assessment process without reference to the scoring process;
 - A2.9.14.2 recommend a pathway to Fellowship for an IMG without reference to a new IMG assessment by a new assessment panel or committee;
 - A2.9.14.3 revoke a clinical or examination assessment and replace the assessment with a decision of its own; or
 - A2.9.14.4 award Fellowship to any appellant.

[Revised and ratified by the RANZCOG Board, July 2017]

A2.10 Fees

- A2.10.1 The Chief Executive Officer will advise the appellant of the applicable fee prior to lodgement of the formal appeal.
- A2.10.2 The appellant shall submit payment of the fee with the formal letter of appeal.
- A2.10.3 The College will refund the fee paid to the appellant in the case that the appeal is upheld.
- A2.10.4 The Chief Executive Officer of the College has the power to waive the application fee in appropriate circumstances, and the Chair of the Appeals Committee shall have the power to review decisions of the Chief Executive Officer on application of the appellant.
- A2.10.5 An appellant requiring a face-to-face hearing will meet all costs that they incur, including, but not limited to, travel and accommodation, regardless of the outcome of the appeal.

A2.11 Approval Authority

- A2.11.1 Amendments to this policy and the procedures shall be approved by the RANZCOG Board.

[Revised and ratified by the RANZCOG Board, July 2017]

A2.12 Implementation and Monitoring

- A2.12.1 The Chief Executive Officer shall be responsible for the implementation of the College Appeals Procedures and their effectiveness pursuant to these regulations and any other relevant documents.

[Revised and ratified by the RANZCOG Board, May 2015]