



# AANZHPBA Appeals Policy



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## 1. Purpose and scope

1.1 This policy sets out the mechanism for appeal by any person, or organisation (the appellant) adversely affected by a decision of the AANZHPBA Association (the Association) that is inconsistent with approved Association policy. An appellant who has been directly and adversely affected by a decision that is inconsistent with approved Association policy and/or procedure may apply to the Executive Officer (EO) of the Association to have the decision considered by the Appeals Committee. An appeal to the Appeals Committee cannot result in a re-making by the Appeals Committee of the appealed decision. Rather, a successful appeal will result in the referral of the matter back to an Association body for the making of a fresh decision subject to any terms and conditions imposed by the Appeals Committee.

## 2. Terms and definitions

<b>Term</b>	<b>Definition</b>
Appeal	Request for review of a decision made by the Association Board or Committee
Appellant	Individual lodging the appeal
Appeals Committee	Committee formed for the review of an Application for Appeal
Association	Australian and New Zealand Hepatic, Pancreatic & Biliary Association
Board	AANZHPBA board of directors
Committee	Committee of AANZHPBA
Executive Officer	Executive Officer of AANZHPBA

## 3. Policy

### 3.1 Internal Review

3.1.1 An appellant may, prior to lodging an appeal, by direct request to the original decision maker, seek a review of any decision made by an Association Board or Committee. A review may be requested where there is evidence that approved policy or procedure was not correctly applied or that there are pertinent matters of fact that existed at the time but were not known to the decision maker that may have persuaded the decision maker to reach an alternate decision.

3.1.2 An appellant may request copies of documents on which the decision was based. The Association Committee or Board will provide such information within four weeks of receipt of a written request, subject to obligations of privilege, privacy and confidentiality which may apply.

3.1.3 Any request for an appeal against a decision must be made within three months of receipt of notice of the decision and will initially be processed as a review. The Association aims to complete the review process within six (6) weeks and will notify the appellant of the outcome.

3.1.4 On receipt of notification from the Association of the outcome of the review the appellant may: i) Accept the decision and the result of the internal review; or ii) Within two (2) weeks request in writing that the EO convene a hearing of the Appeals Committee. iii) If no correspondence is received within two (2) weeks this will constitute acceptance of the review.

## 3.2 Appeal Initiation

3.2.1 The Appeal Request to the EO must include: i) The prescribed appeal fee, and ii) Details of the specific decision that is being contested, and iii) The Grounds of Appeal, based on the allowable Grounds of Appeal (see 3.3), and iv) Details of how the decision being appealed does not conform to approved Association policies and/or procedures, and v) Documented and verifiable evidence in support of the Grounds of Appeal.

## 3.3 Grounds of Appeal

3.3.1 The Decisions which may be considered by the Appeals Committee are: i) Decisions of the Training Committee in relation to selection, in-training assessment, and examination of trainees. ii) Decisions of Boards and Committees in relation to application for completion and certification of AANZHPBA Post-Fellowship training. iii) Decisions of the AANZHPBA Board (the Board) and Decisions of the Treasurer in relation to the financial status of members, trainees, or other persons. iv) Such other decisions of the Association or its Committees as the Board may determine from time to time.

3.3.2 An appeal may only be made 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 relevant and significant information existing at the time of the original decision, and which should have been known to the decision maker was not considered or not properly considered in the making of the original decision. iii) That the original decision was not one at which a rational decision-maker could have arrived in good faith. iv) That irrelevant information was considered in the making of

the original decision. v) That the original decision was made for an improper purpose.

### 3.4 Acceptance of Appeals

3.4.1 Requests for appeals are not accepted where the appellant is seeking an exemption from approved Association policy.

3.4.2 The EO shall, within four (4) weeks of receipt of a properly initiated appeal in accordance with section 3.2 of this policy, advise the appellant and the original decision maker that an appeal will be heard. This advice will include: i) The date, time and place of the hearing (which shall not be less than 6 weeks from the date of notice). ii) The right and expectation of the appellant to appear before the Appeals Committee. iii) The right of the appellant to be accompanied by a legal representative to act as an advisor. iv) The right of the appellant to have a support person present. v) All relevant documentation held by the Association, subject to obligations of privilege, privacy or confidentiality which may apply.

3.4.3 Acceptance of an appeal does not prevent the decision under appeal from remaining in effect until the appeal is heard and determined.

### 3.5 Submissions to the Appeals Committee

3.5.1 In any appeal, the appellant will carry the onus of proof to establish the grounds of the appeal.

3.5.2 At least 4 weeks prior to the hearing the appellant will provide the Association with written submissions and copies of any documents and records upon which he/she wishes to rely. This written submission must be within the context of the original submission for an appeal, and cannot introduce new grounds of appeal. A copy of the submission will be made available to the original decision maker.

3.5.3 Both the appellant and the original decision maker may lodge a rebuttal submission up to 2 weeks before the scheduled appeal date.

3.5.4 The Appellant's submissions and the Decision maker's submissions will be provided to the Appeals Committee and no further material will be accepted after this time.

3.5.5 Should the appellant have late documentation that he/she wishes to present to the Appeals Committee but is prohibited but they may elect to cancel the scheduled meeting and convene a new appeal at a later date. In this situation the fee for the scheduled appeal will be forfeited and a new fee payable prior to a new hearing date being set.

### 3.6 Appeals Committee Composition

3.6.1 An Appeals Committee will be convened by the Board comprising the following members, who must not have been a party to the decision to which the appeal relates, or have any known conflict of interest: i) Three persons who are not members of the Association. ii) A Past President of the Association who is no longer a Board member, or delegate as nominated by the Board. iii) One non-Board member of the Association (not involved in the subject matter of the appeal).

3.6.2 The Chair of the Appeals Committee is nominated by the Board, from the non-Association members of the Appeals Committee.

3.6.3 A quorum for meetings of the Appeals Committee will be the Chair and three other members. All members of the Appeals Committee shall be entitled to vote on decisions and the outcome of the appeal shall be decided on the basis of a majority vote. In the event of a tied vote, the Chair will exercise a casting vote.

3.6.4 A Board nominated Solicitor shall be the Legal Adviser to the Appeals Committee.

3.6.5. The EO may also attend at the invitation of the Board representative on the Appeals Committee.

### 3.7 Rules for Conduct of Meetings of the Appeals Committee

3.7.1 Subject to these rules, the Appeals Committee must act according to the rules of procedural fairness. The Appeals Committee is not bound by the rules of evidence and, subject to these rules and rules of procedural fairness may inform itself on any matter and in such manner as it thinks fit.

3.7.2 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. Witnesses are not compellable.

3.7.3 The Appeals Committee shall conduct its affairs with as little formality as possible and in accordance with the procedures set out in these rules, but otherwise, subject to these rules, shall have full power to regulate its conduct and operation.

3.7.4 An appellant has the right and responsibility to appear before the Appeals Committee and to advocate orally the merits of the appeal himself /herself as represented through written submissions.

3.7.5 The appellant has the right to be advised by a legal representative or support person. Legal advisors and/or support persons may not act as advocates 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.

3.7.6 A representative(s) of the relevant decision maker is expected to attend and address the Appeals Committee on matters relevant to the appeal and will be given equal opportunity to comment on submissions of the Appellant and the Decision maker. The Association Counsel may not act as an advocate but may be invited to address the Appeals Committee regarding any particular legal issue that the Appeals Committee believes cannot adequately be addressed by the original decision maker.

### 3.8 Decisions of the Appeals Committee

3.8.1 An Appeals Committee may, upon considering all submissions: i) Confirm the decision which is the subject of the appeal or ii) Revoke the decision iii) And refer the decision to the Board (upon such terms or conditions as the Appeals Committee may determine).

3.8.2 Amongst other things, a decision of the Appeals Committee cannot: i) Revoke the training or examination assessment of a trainee and replace the assessment with an assessment of its own, or ii) Award AANZHPBA Fellowship training to any appellant.

### 3.9 Reporting

3.9.1 The Appeals Committee will issue a written decision, with reasons for the decision, no more than eight weeks after the completion of the appeal hearing.

3.9.2 The decision of the Appeals Committee takes effect from the date of forwarding of the decision to the parties by the EO.

3.9.3 Where the appellant is successful (ie, the decision under appeal is revoked), 50% of the appeal fee paid will be refunded.

3.9.4 The EO will report to the Board annually on the activities of the Appeals Committee, including the number of appeals lodged and the results of appeals and any recommendations to the Board from the Appeals Committee.