Southern Association of Colleges and Schools
Commission on Colleges
1866 Southern Lane
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THE APPEALS PROCEDURES OF THE COLLEGE DELEGATE ASSEMBLY

Policy Statement

The Appeals Procedures of the College Delegate Assembly is an administrative process approved by the College Delegate Assembly of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) allowing applicant, candidate, and member institutions to appeal adverse decisions taken by the SACSCOC Board of Trustees. 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 SACSCOC Board of Trustees 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 who have served on the SACSCOC Board of Trustees: 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 SACSCOC to the College Delegate Assembly for election. The Nominating Committee shall consist of five members appointed by the Chair of the SACSCOC Board of Trustees 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 SACSCOC Board of Trustees or any standing committee of the Board when appointed or elected, or when serving their term of office.

A member of the Appeals Committee shall recuse him/herself from an appeals hearing if there is a conflict of interest or an appearance of a conflict of interest. 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 SACSCOC Board 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 a review committee 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. Members of the Appeals Committee who do not have a conflict of interest, or the appearance of a conflict of interest, with the case will certify such by handwritten signature prior to the appeals hearing.

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

The Chair of the SACSCOC Board of Trustees may specially appoint alternate members to the Appeals Committee 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. Alternate members specially appointed by the Chair shall be limited to one-year of service.

B. The Committee Chair

The Chair of the SACSCOC Board of Trustees shall appoint the Chair of the Appeals Committee from the committee members following their election by the College Delegate Assembly. 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 SACSCOC 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 SACSCOC. Nominees shall not be members of the College Delegate Assembly or members of the SACSCOC Board of Trustees.

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 SACSCOC to preside during a particular appeals hearing. Neither the institution nor the SACSCOC Board of Trustees 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 SACSCOC policy, 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 a review committee 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 SACSCOC Board 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. The Hearing Officer presiding over the appeal will certify that he or she has neither a conflict of interest, nor the appearance of a conflict of interest, by handwritten signature prior to the appeals hearing.

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 SACSCOC 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 SACSCOC prior to, during, and following the hearing. In addition, the Hearing Officer

1. notifies SACSCOC and the institution in writing of rights and responsibilities relative to the hearing

2. provides a written outline of procedures to SACSCOC 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 official date of notification of the adverse action by the SACSCOC Board of Trustees is the date of the notification letter to the institution. The request for an appeals hearing must be made in writing, signed by the chief executive officer, and transmitted electronically to the President of SACSCOC within ten calendar days of the date of the notification letter. Receipt of the institution's election submission by SACSCOC constitutes the effective date of the request. The original letter must be next-day express mailed to the SACSCOC President.

B. Grounds for an appeal of the SACSCOC Board of Trustees' decision are limited to the following:

   1. that the Board failed to follow its procedures and that this failure was significant in leading to the decision

   2. that the Board's decision wa.25s arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or policies of SACSCOC.

   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 SACSCOC.

   If an institution has been removed from accreditation based solely on finances, it can make available to the Appeals Committee new and verifiable financial information that is material to the Board's adverse decision.

C. An institution requesting an appeals hearing shall, at the time of the request, pay the Southern Association of Colleges and Schools Commission on Colleges a deposit of $15,000 to cover the travel, lodging, meals, 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 SACSCOC acknowledges in writing the institution's request for an appeals hearing, the President of SACSCOC will also notify the institution of the dates of the hearing (typically, the last week of February for actions taken the previous December; and the last week in August for actions taken in June). The institution must notify the SACSCOC President of its preference of date within the designated week. SACSCOC 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 SACSCOC after consultation with the Hearing Officer and members of the Appeals Committee.

E. At least thirty (30) days before the date of the appeals hearing, SACSCOC must submit to the institution and the appeals Hearing Officer documents (administrative record) used by the SACSCOC Board 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 Committees on Compliance and Reports prior to the decision of the Board 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 Committees 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 fourteen (14) days before the date of the appeals hearing, the institution must submit to the President of SACSCOC 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 administrative record which justify the institution's grounds for appeal. The institution must cite page numbers of the text supporting its position. Failure of the institution to provide a brief within the specified period of time will be cause for case dismissal by the Hearing Officer.

   At least ten (10) days before the date of the appeals hearing, SACSCOC is required to submit copies of the administrative record and the institution's brief to the Chair and members of the Appeals Committee.

   At least seven (7) days before the date of the appeals hearing, SACSCOC 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 SACSCOC 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 SACSCOC Board of Trustees 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 available at the time the SACSCOC Board of Trustees took adverse action, it cannot make that information available for consideration by the Appeals Committee under any circumstances. In addition, neither SACSCOC 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 unless, in the case of an institution removed from accreditation based solely on finances, it makes available new and verifiable financial information that has become available since adverse action was taken and that is material to the reason for the SACSCOC Board of Trustees' adverse decision.*

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 fourteen (14) days before the date of the hearing, the institution and SACSCOC 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 SACSCOC to one hour each and shall notify both before the hearing of such a time limit. The one hour does not include a time period for questioning from the members of the Appeals Committee. At the request of SACSCOC 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 (7) days of the date of the appeals hearing, the Chair of the Appeals Committee shall inform the President of SACSCOC 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 SACSCOC Board of Trustees' decision was based.

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

L. SACSCOC staff members are responsible for providing all materials 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. In order to gain a remand, the institution must present evidence which, in the judgment of the Appeals Committee, demonstrates that the SACSCOC Board of Trustees failed to follow its procedures and that this failure was significant in leading to its decision. An institution removed from accreditation based solely on finances may also gain a remand if it presents new and verifiable financial information that has become available since the adverse action was taken and that is material to the reason for the Board's decision.

   2. If the institution fails to provide evidence adequate to gain a remand, the initial decision of the SACSCOC Board of Trustees 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 SACSCOC 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 SACSCOC Board's decision, the date of the final decision by the Appeals Committee shall be treated as the effective date of the adverse decision and is defined as the date of the notification letter to the institution and to the SACSCOC President.

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 SACSCOC 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 SACSCOC 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 SACSCOC, 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 SACSCOC Board of Trustees shall be reviewed based exclusively upon the conditions existing at the time of that decision, except in the case of an institution removed from accreditation based solely on finances that has available new and verifiable financial information that is material to the Board's adverse decision, and shall be subject to the following limitations:

1. No evidence concerning the remedying of deficiencies since the time of the Board'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 Board'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 only exception is that of the case of an institution removed from accreditation based solely on finances that has available new and verifiable financial information that is material to the Board's adverse decision.

   The Appeals Committee shall not, in its decision or otherwise, instruct SACSCOC staff, the SACSCOC Board of Trustees, or its committees to consider evidence concerning the remedying of deficiencies since the date of the Board'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 SACSCOC 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 SACSCOC Board of Trustees' adverse decision.

   c. which was not available to the Board at the time of its adverse decision, except in the case of an institution removed from accreditation based solely on finances that has available new and verifiable financial information that is material to the Board's 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 SACSCOC, 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 SACSCOC Board of Trustees failed to follow its procedures and that the failure was significant in leading to the decision

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

B. The Appeals Committee shall affirm, amend, or remand the decision within the following limitations:

1. The Appeals Committee shall AFFIRM the SACSCOC Board of Trustees' decision, unless it finds:

   a. that the institution has demonstrated that the Board failed to follow its procedures and that the failure was significant in leading to the decision, or

   b. that the institution has demonstrated that the Board's decision was arbitrary, that is, was unreasonable and not based on, or consistent with, the published *Principles of Accreditation* or SACSCOC policies, or

   c. that an institution, removed from accreditation based solely on finances, has produced evidence that it has available new and verifiable financial information and that the financial information is material to the Board's adverse decision.

The decision by the Appeals Committee to affirm the Board'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 SACSCOC. Institution may reapply for membership, subject to provisions defined in SACSCOC's *Accreditation Procedures for Applicant Institutions*.

b. Removal from Candidacy for Initial Accreditation. Institution holds no status with SACSCOC. Institution may reapply for membership, subject to provisions defined in SACSCOC's *Accreditation Procedures for Applicant Institutions*.

c. Denial of Initial Membership. Institution holds no status with SACSCOC. Institution may reapply for membership, subject to provisions defined in SACSCOC'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 SACSCOC's *Accreditation Procedures for Applicant Institutions*.

2. The Appeals Committee shall AMEND the decision of the Board of Trustees if it finds that the institution has demonstrated that the Board'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 amend is final.

The effects of AMENDMENT 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 to a Committee on Compliance and Reports, the Executive Council, or the SACSCOC Board of Trustees 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 or if the Appeals Committee finds that an institution, removed from accreditation based solely on finances, has produced evidence that it has available new and verifiable financial information and that the financial information is material to the Board's adverse 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. The Appeals Committee shall remand to a Committee on Compliance and Reports the case of an institution, removed from accreditation based solely on finances, if it finds that the institution has produced evidence that it has available new and verifiable financial information and that the financial information is material to the Board's adverse decision.

   If the Appeals Committee remands, the reconsideration shall occur at the next meeting of the SACSCOC Board of Trustees and its standing committees following the date of the decision of the Appeals Committee, and the procedure will be as indicated below. If the Appeals Committee remands the case of an institution removed from accreditation based solely on finances, it may also authorize a committee to visit the institution before the next meeting of the Board of Trustees to determine the impact of the new financial information on the institution's ongoing compliance with the *Principles of Accreditation*.

   The effects of a REMAND of the Board's decision are listed below:

   a. In the case of an institution removed from accreditation based solely on finances that is remanded 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 SACSCOC Board of Trustees. The action of the Board is final subject to any rights which the institution might have as described in SACSCOC policies.

   b. In the case of a remand to the Executive Council, the Council will make a

recommendation to SACSCOC Board of Trustees. The action of the Board is final subject to any rights which the institution might have as described in SACSCOC policies.

c. In the case of remand to the SACSCOC Board of Trustees, the Board will take final action subject to any rights which the institution might have as described in SACSCOC policies.

Arbitration

Following a full and final written decision by the Appeals Committee of the College Delegate Assembly conducted according to this policy, a Candidate for Initial Accreditation which has been denied membership and a Member Institution that has been removed from membership in SACSCOC has consented to resolve disputes in accordance with the binding arbitration procedures set forth in SACSCOC's *Arbitration* policy as required by 20 U.S.C. §1099b(e) and 34 C.F.R. §602.20(e).

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