INSTITUTIONAL APPEALS

An institution that has received an action by the Commission's Board of Trustees that denies either candidacy or accreditation or that withdraws candidacy or accreditation may appeal that action. The appeals process is governed by a policy adopted by the Commission's Board of Trustees and a procedure outlining the required steps and materials.

The Commission develops a public statement, a Public Disclosure Notice, about an institution that has received an appealable action that states the action, the reasons for the action, and the next steps in the process. This statement is available in the directory of institutions on the Commission's Web site. An institution under withdrawal is required to inform its board, administrators, faculty, students, staff and other constituencies of this change in its relationship with the Commission and how to contact the Commission for information about the institution's status.

COMMISSION POLICIES ON APPEALS OF BOARD ACTIONS
NUMBER: INST.D.90.010

An institution may appeal an adverse action of the Board of Trustees, prior to the action becoming final by filing a written request to appeal following the appeals procedures of the Commission. Adverse actions are defined as those that (1) withdraw or deny accreditation, except in denial of accreditation where the Board denies an early application for accreditation and continues candidate for accreditation status or extends it to a fifth year, (2) withdraw or deny candidacy, or (3) moves the institution from accredited to candidate status.

Grounds for Appeal
The grounds for such an appeal shall be (a) that the Board's decision was arbitrary, capricious, or not supported by substantial evidence in the record on which the Board took action; or (b) that the procedures used to reach the decision were contrary to the Commission's By-laws, Handbook of Accreditation, or other established policies and practices, and that procedural error prejudiced the Board's consideration. The appeal will be limited to only such evidence as was provided to the Board at the time it made its decision.

Appeals Body and Appeals Panel
The Appeals Body will consist of ten persons appointed by the Board of Trustees, following the Board's commitments to diversity and public involvement. From the Appeals Body, the President will establish an Appeals Panel of five persons to hear an institutional appeal. Members of the Panel will include no current members of the Board of Trustees nor members of the Board at the time the adverse action was taken; Panel members shall have no apparent conflict of interest as defined in Commission policies that will prevent their fair and objective consideration of the appeal. One member of the Appeals Panel will be a public member, in keeping with Commission requirements for public members on decision-making bodies. Members of the Appeals Panel will receive training prior to the Appeals Panel hearing. The Appeals Panel will receive appropriate training regarding its responsibilities and regarding the Criteria for Accreditation, Assumed Practices and Federal Compliance Requirements and their application.

The Panel shall convene on a date no later than 16 weeks from the Board decision under appeal. At least one representative of the public shall serve on each Panel. Where necessary to avoid conflict of interest
Institutional Appeals Procedure

or in other exceptional circumstances, the President may select individuals outside the Appeals Body as Panel members. One member of the Panel will be designated as the chair. The President shall notify the institution of the individuals selected for the Panel and shall afford the institution the opportunity to present objections regarding conflict of interest; the President reserves final responsibility and authority for setting all Appeals Panels. The Appeals Panel shall include representation of individuals who are academics, including faculty members, academic deans or others who have a primary responsibility in the teaching and learning process, and administrators who have a primary responsibility of providing oversight in an institution of higher education.

The Board of Trustees shall approve an APPEALS PROCEDURE that identifies the materials for, and sets out the required timetables and procedures of, an appeal. This document will be available on the Commission Web site. Throughout the appeals process, the institution shall have the right to representation of, and participation by, counsel at its own expense.

The Appeals Panel has the authority to make a decision to affirm, amend or reverse the adverse action. The Appeals Panel then conveys that decision to the Board of Trustees, which must implement the Appeals Panel’s decision regarding the status of the institution in a manner consistent with the decision. The Appeals Panel also has the authority to remand the adverse action to the Board of Trustees for additional consideration with an explanation of its decision to remand; the Board of Trustees may affirm, amend or reverse its action after taking into account those issues identified by the Appeals Panel in the explanation of its remand. The Commission will notify the institution of the result of the appeal and of the final action by the Board of Trustees and the reason for that result.

Academics and Administrators
The Commission will assure that on the Appeals Body and each Appeals Panel there is representation of individuals who are academics, including faculty members, academic deans or others who have a primary responsibility in the teaching and learning process, and administrators who have a primary responsibility of providing oversight in an institution of higher education.

The staff of the Commission will be responsible for developing selection criteria and for implementing a nomination process to assure such representation on the Appeals Body subject to review by the Board of Trustees when it elects IAC members. The President of the Commission will be responsible for assuring such representation on each Appeals Panel.

Conflict of Interest
The Commission will not knowingly allow to participate in an appeal any Appeals Panel member whose past or present activities or relationships could affect his/her ability to be impartial and objective in that appeal. Therefore, an Appeals Panel member must agree to act with objectivity and without conflict of interest when reviewing an appeal. An Appeals Panel member confirms agreement to abide by this policy in a Statement of Conflict of Interest, Confidentiality, and Disclosure provided annually to the Appeals Body and to a Panel member prior to hearing an appeal. This Statement will identify situations involving conflict of interest and provide examples of situations that raise the appearance or potential of conflict of interest. The Statement will require that the Panel member affirm prior to participating in an appeal that he/she has no conflicts, predispositions, affiliations or relationships known to that Panel member that could jeopardize, or appear to jeopardize, objectivity and indicate his/her agreement to follow this policy. If an Appeals Panel member has such conflicts, predispositions, affiliations or relationships that he/she believes or, the Commission determines, constitute a Conflict of Interest, that Panel member must withdraw from the appeal.
Confidentiality

An Appeals Panel member agrees to keep confidential any information provided by the institution under review and information gained as a result of participating in an appeal. Keeping information confidential requires that the Panel member not discuss or disclose institutional information except as needed to further the purpose of the Commission’s decision-making processes. It also requires that the Panel member not make use of the information to benefit any person or organization. Maintenance of confidentiality survives any action and continues after the process has concluded. (See PEER.A.10.010, Standards of Conduct, for a list of examples of confidential information available to IAC members.)

Submission of Financial Information Subsequent to Adverse Action

When the Board of Trustees takes an adverse action based solely on or involving financial grounds, the institution shall have an opportunity to submit financial information to the Board of Trustees to be considered prior to the action becoming final. The financial information must be: 1) significant and material to the financial deficiencies cited in the grounds for the adverse action; 2) not available at the time of the adverse action. The institution may submit this material on one occasion only prior to the formal consideration of any appeal filed by the institution. The Board of Trustees will determine at its sole discretion whether the information is significant and material, and, if it is material, whether this information would cause it to take a different action. The Board’s decision whether the information is significant and material and whether to continue with its action subsequent to reviewing this material is final and not appealable.

An institution may submit financial information under this policy in addition to filing an appeal or it may submit financial information instead of, or in lieu of, filing an appeal. Should it submit financial information and forego requesting an appeal by the deadline stated in the APPEALS PROCEDURE, it shall also submit a formal waiver in writing of its right to appeal in conjunction with the adverse action.

The APPEALS PROCEDURE identifies the materials for, and sets out the required timetables and procedures of, submission of financial information. This document shall be available on the Commission’s Web site.

Institutional Change During Appeal Period

During the period in which an appeal from a decision of the Commission by an institution is under consideration, the institution cannot initiate any change that would by policy require Commission approval.

Policy Number Key
Section INST: Institutional Policies
Chapter D: Sanctions and Adverse Actions
Part 90: Appeals

Last Revised: April 2013
Notes: Policies combined November 2012 - 2.6(d), 2.6(d)1, 2.6(d)2, 2.6(d)3, 2.6(d)4
Related Policies:
COMMISSION PROCEDURE FOR APPEAL OF BOARD ACTIONS

The Appeals Process will consist of the following procedures, timetables, and documents:

Institution’s Filing of Intent to Appeal
The institution will file a letter of intent within two weeks of the date of electronic transmission of the official action letter from the Commission. (The Commission may adjust the deadline to account for holidays or Commission events.) The institution will also receive a copy of the action letter by certified mail. Although the letter of intent may be transmitted to the Commission electronically, the institution’s letter must also be filed with the Commission by certified or expedited mail requiring signature of receipt. The Commission will acknowledge the letter within two business days of receipt of the electronic or certified transmission, whichever it receives first, and will outline in its response the specific timeline for the appeal.

Institution’s Filing of the Appellate Document
The institution will file the appellate document with the Commission within six weeks of the date of electronic transmission of the official action letter from the Commission. (The Commission may adjust the deadline to account for holidays or Commission events.) The appellate document shall consist of the institution’s written argument supporting its appeal along with evidence and other relevant written information that will establish the institution’s asserted grounds for appeal. The institution may submit the appellate document electronically but must also submit two copies of the entire submission in paper form. (Note that the institution must submit all documents related to its appeal either with the appellate document or with the rebuttal.)

Teach-Out Plan: The institution may also be required to file a teach-out plan subsequent to the Board action according to a timetable set by the Commission President in the action letter. The Appeal will move forward once the institution has filed a Teach-Out Plan that meets Commission requirements.

The Commission’s Response
The Commission’s written response to the institution’s appellate document will be filed by the Commission with the institution ten weeks after the date of electronic transmission of the official action letter from the Commission, or typically four weeks after receipt of the institution’s document, whichever is later. (The Commission may adjust the deadline to account for holidays or Commission events. Note that the timing of this event may be altered if the institution also files a financial appeal as outlined in the next section of this document.)

Institution’s Filing of the Rebuttal
The institution’s rebuttal, if any, to the Commission’s response shall be filed by the institution with the Commission twelve weeks after the date of electronic transmission of the action letter, or typically two weeks after receipt of the Commission’s response, whichever is later. This is the final opportunity for the institution to submit any other documents, relevant to the grounds for appeal that it wants to make available to the Appeals Panel.

Establishing the Appeals Panel
The Commission will finalize the membership of the Appeals Panel and make the arrangements for the hearing. The Appeals Panel members will largely be drawn from the Appeals Body, a group of experienced peer reviewers who are not current or recent Trustees. At least one of the Appeals Panel members will be a public member as defined in Commission policy. However, the President of the Commission has the discretion to appoint as Panel members individuals who are not currently members of the Appeals Body; in
some cases, such Panel members may not be peer reviewers. The institution will receive a roster of the Panel members and institutions about the date, time and location of the hearing once the hearing arrangements are complete.

**The Appeal Hearing**
The Hearing may take place as soon as thirteen weeks after the date of electronic transmission of the official action but no later than seventeen weeks after that date. The Hearing is conducted according to the protocol outlined below.

**Hearing Protocol**
- All documents will be forwarded by the Commission President to the Appeals Panel members at least one week before the Appeals hearing. The institution sends no documents or communications directly to Panel members.
- The hearing will be conducted by the Appeals Panel at a site and time set by the Commission's President.
- Each party may have legal counsel present to advise and, when recognized by the Chair, to speak on behalf of that party.
- The institution may present no written evidence or documents at the hearing. The institution’s presentation to the Appeals Panel shall be confined to oral statements and responses to questions by Panel members.
- The hearing is not public, and attendees at the hearing are confined to representatives participating in the hearing on behalf of the institution, Panel members, Commission staff, legal counsel, and a court reporter who will transcribe the session.
- A transcript of the hearing, arranged for by the President, will be prepared and sent to each party.

**Findings**
The Appeals Panel may affirm the Board of Trustees' action or it may amend or reverse the action. If the Appeals Panel acts to affirm the Board of Trustee's action, the action of the Board becomes final and shall not be further appealable. If the Appeals Panel amends the grounds for the action but sustains the decision, the action of the Appeals Panel becomes final and shall not be further appealable. If the Appeals Panel reverses the Board's action, the Panel then conveys its decision to the Board of Trustees for implementation in a manner consistent with the outcome of the appeal. The Appeals Panel will inform the institution and the Board of the Panel findings and decision in writing within four weeks of the hearing. The Appeals Panel's decision is final, and the institution does not have the opportunity to appeal again.

Alternatively, the Appeals Panel has the authority to remand the adverse action to the Board of Trustees for additional consideration after the Appeals Panel has completed its consideration. The Appeals Panel provides the Board with a letter of explanation of its decision to remand. The Board, after receiving the letter and taking into account the Appeals Panel's explanation of its reasons for remanding the action, will affirm, amend, or reverse its previous action within sixty (60) days of receiving the Appeals Panel's remand. The Board will inform the institution of its final action. In this situation, the Board's decision is final, and the institution does not have the opportunity to appeal again.

If the Appeals Panel has made a final decision, the Board will review and act to implement the Panel's decision no later than sixty (60) days from the transmission of the Panel's findings. The Board may consider the Panel's decision at its next regularly scheduled meeting or make use of any process for considering institutional actions provided for in the Commission's Bylaws. If the Panel has recommended that the action be reversed or if the Panel remands the action with a letter of explanation, the Board has the discretion to define the terms and conditions (e.g., date of next evaluation, monitoring, sanction, etc.) of
the institution’s accredited or candidate status in conjunction with its implementation of the reversal. The institution makes no appearance before the Board in conjunction with this or any action subsequent to the appeals hearing.

**OVERVIEW OF THE STEPS OUTLINED ABOVE**

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<td>hearing</td>
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<td>Appeals Panel findings</td>
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Financial Reconsideration Provision
If the Commission’s Board of Trustees took the adverse action based on or partly based on financial grounds, the institution may submit new financial information in lieu of an appeal OR in addition to an appeal. New financial information consists of information regarding improvements or changes in the financial situation of the institution subsequent to the action of the Board.

Letter of Intent
The new financial information must be submitted within two weeks of electronic transmission to the institution of the official action letter from the Commission. The financial information must clearly indicate whether the institution is submitting the information in addition to OR in lieu of an appeal. If the institution is submitting the information in lieu of an appeal, the institution must include a cover letter, signed by the president of the institution or other corporate officer, clearly stating that the institution is waiving its right to appeal. If the institution is pursuing an appeal in addition to filing new financial information, the institution must also file a Letter of Intent and meet all the other deadlines for the appeals process identified in this Procedure and in the Commission’s acknowledgement of the Letter of Intent. The institution may submit the new financial information electronically but must also submit two copies of the entire submission in paper form.

If the institution intends to appeal the action in addition to submitting new financial information and has so stated in its initial response to the Commission’s action letter, the appellate document should then be submitted within six weeks of the electronic transmission of the action letter. The appeals process will be suspended after receipt of the appellate document until the Financial Reconsideration Process has concluded.

Review of Information
The Commission’s Board of Trustees will review the new financial information. The Board will review and make a decision regarding the new financial information no later than ninety days from its transmission. The Board may consider the information at its next regularly scheduled meeting or make use of any process for considering institutional actions provided for in the Commission’s Bylaws. The institution will make no appearance in conjunction with the Board’s review. The Board will consider the following three questions in consideration of the new financial information: 1) Is the financial information indeed new?; 2) Is the financial information material?; and 3) Would the information have caused the Board to take a different action had it been available at the time of the accrediting action?

Outcome of the Financial Reconsideration — Negative
If the Board decides against the institution on any of the questions outlined under “Review of Information” above, then the financial reconsideration will result in a negative conclusion. If the institution did not file an appeal, the accrediting action to deny or withdraw status becomes final. If the institution did file an appeal, the appeal will recommence.

The Board will issue a written notification to the institution of its decision within two weeks of the decision having been made. It will include a revised timetable to complete the appeal, if applicable. Because the Board’s original action stands without modification, there will not be an opportunity for the institution to revise the appeal document that it previously filed.
Outcome of the Financial Reconsideration — Affirmative
If the Board decides affirmatively on each question outlined under “Review of Information” above, then the Board must decide whether it will take a different action or reissue its previous action.

- If the Board sustains its original action on the same grounds, with or without the grounds related to finances, and the institution had filed an appeal, the appeal will recommence. The letter will include a revised timetable to continue the appeal previously filed. Because the Board’s original action stands, the institution’s appeals document will move forward in the process, and there will not be an opportunity for the institution to revise that document. If the institution did not file an appeal, the accrediting action to deny or withdraw status becomes final.

- If the Board decides that it will take a different action, it may then immediately act to place the institution in status, which may be candidate for accreditation, accreditation, or accreditation subject to sanction or show-cause or monitoring.

Alternatively, the Board may define a process to evaluate the institution to make a recommendation as to the appropriate status.

- The Board will issue a written notification to the institution of its decision within two weeks of the date the decision was made. That letter will identify the institution’s status, as identified by the Board in its action, or it will outline a timetable for any evaluation the Board determines is necessary to establish an appropriate status and accrediting cycle for the institution. Any appeal previously filed by the institution will be permanently closed.

If the Board has called for an evaluative process to help establish an appropriate status for the institution or the terms and conditions related to that status (e.g., evaluation dates, monitoring, sanctions, etc.), then the institution will remain accredited on appeal until that process is concluded, and the Board takes action. The Board will act to establish the institution’s status and any terms or conditions related to that status no later than 120 days after its decision to call for an evaluative process to advise the Board on determining the institution’s status. The Board may take action at its next regularly scheduled meeting or make use of any process for considering institutional actions provided for in the Commission’s Bylaws. The Board will issue a written notification to the institution of the final action within two weeks of the action having been taken.

Intent to Appeal Reconsidered Action
If for any reason the Board in its reconsideration on finances acts to deny or withdraw status on other grounds, not identified in the original action, the institution has two weeks from the date of its receipt of the reconsideration action to file a Letter of Intent to appeal if it did not previously file an appeal, and the appeals timetable will be set from that reconsideration action. If the institution has already filed an appeal, it will have two weeks from receipt of the letter conveying the reconsideration action to revise its appellate document and related materials to address the new grounds, and the appeals timetable will be reset from that reconsideration action.
If the Board acts in its reconsideration to continue status with monitoring, sanction, or show-cause or to place the institution in candidate for accreditation status, rather than denial or withdrawal, this action is not appealable. Any pending institutional appeal regarding the original Commission action to deny or withdraw status will be closed.

Teach-Out
An institution that has received a denial or withdrawal action must file a teach-out plan with the Commission. This plan must be determined to meet Commission expectations regarding teach-out prior to the Commission initiating or proceeding with an appeals process.

Institutional Fees for Appeals of Board Action
The fees for an appeal are outlined in the Commission Dues and Fees Schedule, which is updated annually and posted on the Commission’s Web site. The fees include a flat fee as well as all costs of conducting and transcribing the hearing and assembling and supporting the panel members. The institution shall include a deposit check in the amount stipulated in the Commission dues and fees schedule when it submits its appeals materials. Subsequent to the hearing, the direct expenses will be tallied and the Commission will bill the institution for its remaining share or will refund any overage as appropriate. The institution must be current regarding all dues and fees owed to the Commission at or before the adverse action before the Commission will initiate any appeal.