

**The Hong Kong College of Psychiatrists
Review Committee**

Procedural Guidelines on Appeals to the College

General

1. These guidelines apply to appeals to the Hong Kong College of Psychiatrists against a result in an examination conducted by the Hong Kong College of Psychiatrists the passing of which is required for admission to Membership or Fellowship of the College.
2. An appeal is first considered by a panel, consisting of the Chairman and at least 4 members of the Review Committee of the College. Unless the appeal is dismissed summarily, the Review Committee will make a recommendation to the College Council. The appeal will then be determined by the College Council.
3. Members of the Review Committee are appointed by the College Council and, apart from the Chairman who is the Vice-President (General Affairs), should not be a current member of the College Council, the Chief Examiner, the Chairman of Board of Examiners, the Chairman of Education Committee, the Supervisor or the Examiner of the appellant.
4. The appellant must set out in the request for review the specific issues which are intended to be raised in the appeal, so as to give the Review Committee an opportunity to deal with those issues during the appeal.
5. An appeal may be instituted only on the ground that the process of an examination has been conducted improperly (such as procedural irregularity or bias), but not on matters of academic, clinical or professional assessment by the examiners.
6. Matters of academic, clinical or professional assessment are entirely within the discretion of the examiners. If an examination is found to have been conducted improperly, the College will not usurp the function of the examiners to substitute a different result for the examination or assessment, but will remit the case back to the Board of Examiners for re-assessment or other remedial measures.

Institution of Appeal

7. An appeal shall be instituted by the appellant:-
 - (a) giving to the Honorary Secretary of the College a notice of appeal in writing, and
 - (b) paying the administrative fee for appeal prescribed by the College,within 30 days from the date of the letter notifying the appellant of the decision of the College on reviewing an examination result.
8. Administrative fee for appeal will be fully refunded if the appeal is substantiated, and no refund will be given if the appeal is dismissed.

9. The notice of appeal must state clearly the decision appealed against and the specific grounds of the appeal. Supporting evidence, where available, should be submitted together with the notice of appeal.
10. Upon receipt of the notice of appeal, the Honorary Secretary will acknowledge in writing receipt of the notice.

Respondent's Submission

11. The Honorary Secretary will send a copy of the notice of appeal to the Board of Examiners ("the respondent") whose decision is being appealed against, and invite the respondent to make written submission in response to the appeal. Any submission by the respondent will be copied to the appellant.

Declaration of Interest

12. The Honorary Secretary will send to the Review Committee the notice of appeal and the written submission of the respondent. Any member of the Review Committee should immediately declare any potential conflict of interest to the Honorary Secretary. The Honorary Secretary will seek the direction of the Chairman of the Review Committee whether the member should withdraw from the appeal process. If the Chairman of the Review Committee declares potential conflict of interest, the other members of the Review Committee will elect one from among themselves to act in his place for that particular appeal.

Summary Dismissal of Appeal

13. If the Chairman of the Review Committee considers that no *prima facie* case for the appeal is disclosed in the papers, the Review Committee may by circulation of papers pass a resolution to dismiss the appeal summarily. The appellant and the respondent will be informed in writing of such dismissal.

Consideration by Review Committee

14. Unless the appeal has been dismissed summarily, it will be considered by the Review Committee at a meeting.
15. The appellant will be informed before the meeting of the membership of Review Committee. If the appellant objects to any member considering the appeal, he/she must give reason(s) for the objection. The Chairman of the Review Committee will consider and decide whether to accept the objection. If the appellant objects to the Chairman of the Review Committee considering the appeal, other members of the Review Committee will consider and decide whether to accept the objection, and to elect among themselves a member to act in his place when necessary. The appellant will be notified accordingly.
16. If there are insufficient members to form a quorum, the Chairman can appoint ad hoc members to the Review Committee. An ad hoc member shall have the same powers as a member. The meeting may be postponed until a quorum is formed.
17. A member of the Review Committee shall not communicate privately with any person on matters relating to the appeal.

Notice of Meeting

18. The appellant and one representative of the respondent will be invited to attend the meeting of the Review Committee. Legal representation is not allowed.

19. Notice of a Review Committee meeting shall be given by the Honorary Secretary in writing at least 7 days before the day of the meeting, unless the Chairman of the Review Committee directs that shorter notice may be given. The notice shall state the date, time and place at which the meeting is to be held.
20. The appellant and the respondent may be asked to furnish evidence or other information in advance of or at the meeting in such form approved by the Review Committee.
21. Notice and documents of a meeting will be sent by double-registered mails to the address provided by the appellant in his letter of appeal if it differs from the gazetted address. The proceedings at a meeting of the Review Committee shall not be invalidated by non-receipt of such notice or document by any person entitled to receive it.

At the Meeting

22. At a meeting of the Review Committee, 5 members shall be a quorum. A quorum must be maintained throughout the meeting.
23. If a quorum is not present within 30 minutes of the time appointed for the meeting, the meeting may be dissolved. In that case another meeting shall be convened as soon as practicable.
24. The Review Committee may hold a preliminary discussion before the appellant and the respondent are called in.
25. The appellant and the respondent are then called in. They shall be invited to address the Review Committee in the following order:-
 - (a) the respondent, in response to the stated grounds of appeal;
 - (b) the appellant, in response to the written submission and the oral address of the respondent;
 - (c) where there are new matters raised by the appellant, with the permission of the Chairman the respondent may further address those new matters, in which case the appellant may also make a reply.
26. The Chairman may limit the time allowed for each party's oral address.
27. The Review Committee may put questions to the appellant and the respondent.

Recommendation by Review Committee

28. The Review Committee shall not commence deliberation on the appeal until both the appellant and the respondent have left the meeting.
29. The Review Committee shall consider all written submissions and oral addresses before making a recommendation on the appeal.
30. On any question to be determined by the Review Committee, each member present (including the Chairman) shall have one vote and the question shall be decided by a majority of the votes. No member shall abstain from voting on the question.

31. The Review Committee shall make a recommendation to the College Council on whether the decision appealed against should be affirmed or revoked and what remedial measures should be taken. An adequate statement of the reasons for the recommendation should be given.
32. The Review Committee shall report in writing to the College Council its recommendation and the reasons.

Determination by College Council

33. The College Council shall determine the appeal in its council meeting, having regard to the documents in the case and the recommendation of the Review Committee. The College Council shall not be bound by the recommendation.
34. A member of the College Council shall not communicate privately with any person on matters relating to the appeal.
35. Any member of the College Council should declare any potential conflict of interest to the Chairman of the meeting before the appeal is considered. The Chairman of the meeting will decide whether the member should withdraw from the appeal process. If the Chairman of the meeting declares potential conflict of interest, other members of the Council will elect one from among themselves to act in his place for that particular appeal.
36. The Chairman of the Review Committee, the Chief Examiner, the Chairman of Board of Examiners, the Chairman of Education Committee, the Supervisor and the Examiner of appellant concerned, as the case may be, shall not take part in the voting of the appeal.
37. The College Council shall determine the appeal by simple majority of the members adjudicating on the appeal. Each member (including the Chairman) shall have one vote. Method of voting will be determined by the Chairman at the meeting.
38. The burden is on the appellant to prove that the decision appealed against should be revoked. If the votes are equally divided on whether the decision should be revoked, the College Council should dismiss the appeal as the appellant has failed to prove his case to the majority of the Council.
39. The College Council should make a determination on the appeal and give reasons for the determination.
40. The Honorary Secretary shall notify in writing the appellant and the respondent of the determination of the College Council and the reasons thereof.
41. The determination of the College Council shall be final.

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