### MAX RADY COLLEGE OF MEDICINE  
**POLICY & PROCEDURES ON ACADEMIC APPEALS**

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<th>Effective Date:</th>
<th>October 12, 2016</th>
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<td>Revised Date(s):</td>
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<td>Approving Body:</td>
<td>College Executive Council</td>
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| Authority: | The University of Manitoba Act  
Section 34(1)(d) & College By-law |
| Responsible Executive Officer: | Dean, College of Medicine |
| Delegate: (If applicable) | Associate Dean, Academic Affairs, College of Medicine |
| Contact: | Chair, College of Medicine Academic Appeals Committee |
| Application: | College of Medicine – Faculty, Staff and Learners |
| Exclusions: | This Policy does not apply to appeals of non-academic related matters addressed by separate policies and procedures; for e.g.:  
- Appeals by graduate students in PhD or Masters programs (including the Masters of Physician Assistant Studies Program);  
- Appeals regarding admission;  
- Appeals regarding matters of accommodation and/or other human rights related issues;  
- Appeals regarding disciplinary matters; &  
- Awards matters.  
In situations where no appeal route is available, a Learner may make a written request to the Dean. |

### Part I  
**Reason for Policy**

1.1 This Policy is intended to provide guidance on the consideration, hearing and determination of academic appeals pursued by Learners beyond the appeals processes that exist within their Programs.

### Part II  
**Policy Content**

#### Definitions

2.1 The following terms have the following defined meanings for the purposes of this Policy:
(a) **Appeal** – means an academic appeal filed by a Learner of a final decision made by a Program (as the Dean’s delegated representative - for e.g., by the UGME Student Appeals Committee) that is directly related to the Learner’s own academic standing in the College, and is based upon one or more of the grounds set out in this Policy (such Appeals may be referred to in this document in non-capitalized form; i.e., an “appeal”);

(b) **Appellant** – means the Learner appealing a decision made by a College Program which affects the Learner’s own academic standing;

(c) **Chair** – means the Chair of the College’s Academic Appeals Committee;

(d) **College** – means the College of Medicine, Faculty of Health Sciences, University of Manitoba;

(e) **Committee** – means the College Academic Appeals Committee established to consider, hear and determine appeals made pursuant to this Policy;

(f) **Dean** – means the Dean of the College;

(g) **Learner** – means an individual registered in a Program and may also be referred to as a “Student”;

(h) **Members** – means members of the Committee;

(i) **MMSA** – means the Manitoba Medical Students Association;

(j) **PARIM** – means the Professional Association of Residents and Interns of Manitoba;

(k) **Party** – means either the Appellant or Respondent and “Parties” means both of them;

(l) **Policy** – means this College policy on appeals and includes the Procedures;

(m) **Procedures** – means the procedures set out in this document to establish and provide guidance on the process by which appeals are addressed;

(n) **Program** – means any one of the following College programs (or departments within such program) whose decision is being appealed:

(i) International Medical Graduate Program (also commonly referred to as the “IMG Program” and which has several sub-programs (e.g., “IMGACL” and “MLPIMG”), but excluding the Non-Registered Specialist Assessment Program (“NRSAP”), for which there is no appeal (as the University merely provides assessments of physicians practice-ready status under the NRSAP);

(ii) Postgraduate Medical Education (also commonly referred to as “PGME”); and

(iii) Undergraduate Medical Education (also commonly referred to as “UGME”); and
Respondent – means the representative of the Program (or department on behalf of the Program), designated by the Dean or by an Associate Dean, Program Director, and/or Department Head, to respond to an appeal.

**College Academic Appeals Committee**

2.2 There shall be a College Academic Appeals Committee:

(a) That shall receive and consider appeals made by Learners under this Policy and render decisions in relation thereto;

(b) That shall review this Policy periodically and, if necessary, recommend changes to the College Executive Council;

(c) That shall prepare and submit an annual report for presentation to the Dean and College Executive Council (including the number and types of appeals heard, without compromising confidentiality);

**Right to Appeal**

2.3 The Committee shall hear an appeal by an Appellant only after all reasonable avenues of appeal within the Program concerned have been exhausted and the Learner is not accepting of the result at the Program level.

2.4 The Committee shall hear an appeal from the same Appellant against the same Program decision only once.

**Grounds for Appeal**

2.5 The grounds for an appeal to be heard by the Committee shall include the following, which adversely affects the Appellant’s own academic standing in the College:

(a) Failure of the Program to follow applicable laws, policies and/or procedures, including the University Academic Calendar and the rules of natural justice and procedural fairness; and/or

(b) Failure of the Program to reasonably consider all factors relevant to the decision being appealed.

**Committee Composition and Terms of Reference**

2.6 **Membership:** The Committee membership shall consist of the following individuals:

(a) **Faculty Representation:** Up to ten (10) faculty representatives of the College, as appointed by the Associate Dean, Academic Affairs (as the Dean’s designated representative);

(b) **Learner Representation:** The Associate Dean, Academic Affairs, or the Chair (or a representative of the foregoing) shall consult with the following associations or individual, as required, to ensure that:
(i) there is a Learner representative appointed to the Committee membership from the same Program as an Appellant for the purposes of considering and hearing an appeal; and

(ii) reasonable opportunity is provided for Learner representation at other Committee meetings:

- The MMSA, in relation to appeals filed by UGME Learners;
- PARIM, in relation to appeals filed by PGME Learners; and
- The Director of the IMG Program, in relation to appeals filed by IMG Learners;

2.7 **Committee Chair:** The Committee Chair shall be appointed by the Associate Dean, Academic Affairs (as the Dean’s designated representative), and shall be from the Committee Faculty membership.

2.8 **Committee Vice-Chair/Acting Chair:** The Committee Vice-Chair shall be appointed by the Committee Chair, as may be required from time to time, and shall be from the Committee Faculty membership. Should the Vice-Chair be unable to sit, another Member of the Committee shall be appointed by the Chair as Acting Chair. If the Chair is unable to sit for any reason, the Vice-Chair shall assume the Chair’s duties. Should the Vice-Chair be unable to sit, the Acting Chair shall assume the Chair’s duties.

2.9 **Diversity of Membership:** The College strives to achieve diverse membership on its committees that is reflective of its commitment to diversity and inclusion and this should be a consideration in the appointment of Members.

2.10 **Term of Office:**

(a) **Faculty Members:** Faculty Members shall retain their Member appointment until rescinded by the Associate Dean, Academic Affairs (as the Dean’s designated representative) or until they resign from Committee membership;

(b) **Learner Representatives:** Learner representatives shall hold their Committee Member appointment only for the period of time they are appointed by the Associate Dean, Academic Affairs, or Chair (or a representative of the foregoing) to attend a Committee meeting or hearing.

2.11 **Meetings/Hearings:** The Committee shall meet at the call of the Chair to consider and hear appeals. The Committee shall otherwise meet at least once annually, at the call of the Chair, to discuss/prepare its annual report required for the Dean and the College Executive Council and to review this Policy and discuss any recommended revisions.

2.12 **Closed Sessions:** Hearings shall be conducted as closed sessions, unless one Party requests an open hearing and the other Party and Chair agree with the request.

2.13 **Notice of Meetings/Hearings:** Notice of appeal hearings shall be as set out in the Procedures. Notice of other Committee meetings shall be provided at least forty-eight (48) hours in advance of the meeting, unless waived by the Members at the meeting.
2.14 **Quorum:** A quorum for a Committee meeting shall be four (4) Members. For appeal hearings, the quorum is also four (4) Members, ensuring at least one (1) Faculty Member is present, and one (1) Learner representative is present from the same Program as the Appellant. If quorum is compromised on the day of any appeal hearing, the Chair will offer the Parties the opportunity to waive quorum and continue or reschedule as soon as possible. The appeal hearing will be rescheduled if either Party so requests.

2.15 **Voting:** Matters before the Committee shall be voted upon, if consensus cannot be reached. The Committee Chair shall vote only in case of a tie.

2.16 **Best Interests:** Committee Members shall deal with matters before the Committee in such a way that the best interests of the College take precedence over the interests of any of its constituent parts, should those interests conflict or appear to be in conflict.

2.17 **Consultation:** The Committee may call upon various resources as it deems required to resolve any matter before it, including without limitation, consultation with University legal counsel. However, the Committee will consider all matters relating to the interpretation of governing documents applicable to the College.

2.18 **Confidentiality:** All Members, resource persons and administrative support persons in attendance at a Committee meeting or hearing, or otherwise privy to Committee information, both written and verbal, are required to protect and keep confidential Committee information received, unless such information is otherwise approved for distribution by the Committee in accordance with applicable laws.

2.19 **Avoidance of Conflicts of Interest:** Committee Members must inform the Chair prior to considering or hearing an appeal, if they have a conflict of interest or potential conflict of interest (e.g., a Faculty Member was involved in an earlier stage of decision-making respecting the matter under appeal). In such cases, the Chair may excuse the Member from considering the appeal and replace him/her with another Member.

2.20 **Minutes:** Minutes are to be taken of business occurring during Committee meetings and appeal hearings (except during private, “in camera” deliberations) and are to be treated as confidential. Minutes taken during an appeal hearing shall form part of the official record of the appeal.

2.21 **Due Dispatch:** The Committee shall endeavor to ensure that all appeals are addressed with due dispatch.

2.22 **Administrative Support from the Dean’s Office:** The Committee shall receive administrative support from one or more representatives of the Dean’s Office. Such administrative support shall include:

(a) Acknowledging receipt of appeal documentation;

(b) Providing appeal documentation received to the Chair;

(c) Requesting and collecting information requested by the Chair (for e.g., missing information from Appellant, or requesting the Respondent’s response);

(d) Assisting the Chair with facilitating Committee meetings and hearings;
Preparation and distribution of meeting and hearing materials;

Minute-taking of meetings and hearings; and

Maintaining Committee records, including ensuring that copies of appeal documentation shared with Members is confidentially destroyed following an appeal.

2.23 Committee Documents: All Committee documentation, including documentation and received from the Parties, is considered confidential and will be subject to the provisions of The Freedom of Information and the Protection of Privacy Act and The Personal Health Information Act. Files of completed cases will be retained by the Dean’s Office in accordance with its records retention schedules, as amended, from time to time.

Part III
Procedures

Filing an Appeal

3.1 General: Nothing in these Procedures should be interpreted as relieving the Appellant of the responsibility of making submissions and presenting evidence in support of his/her appeal.

3.2 Appellant assistance: It is recommended that the Appellant contact the University’s Office of Student Advocacy for assistance as soon as possible prior to filing an appeal.

3.3 Appeal submission deadline: An Appellant appealing a final decision from their Program must submit their appeal in writing to the attention of the Committee Chair, care of the Dean’s Office, within twenty (20) working days from the date of the final decision from the Program. The Appellant is advised to confirm the receipt of his/her appeal if he/she does not receive an acknowledgement of receipt within five (5) working days.

3.4 Appeals submitted past the deadline: If the Appellant files an appeal beyond the deadline, the Appellant must provide written reasons for the delay. The Chair shall have the discretion to extend the deadline for filing the appeal if it is determined that there are special circumstances that justify or excuse the delay. The Chair’s decision in this regard is final and not appealable.

3.5 Required information from Appellant: The Appellant must submit all documentation that he/she intends on relying on for the appeal and must include the following:

(a) A completed and signed Committee Appeal Form, as may be prescribed for use from time to time by the College and made available on the College website;

(b) A letter to the Chair clearly explaining the Program decision being appealed (including supporting background detail and documentation, such as the letter of decision from the last appeal level);

(c) The remedy sought from the Committee (this should not be different from that requested at the last appeal level);

(d) The Appellant’s name, contact information (including email address) and University student number. It is the Appellant’s responsibility to inform the Chair immediately of
any change to his/her contact information. If reasonable attempts to contact the Appellant are unsuccessful, notice will be given by registered mail that, unless contact is made within thirty (30) days of the date of the notice, the appeal will be deemed abandoned and the file closed.

(e) The names and positions of any witnesses, recognizing that the Chair may limit or disallow their submission of evidence;

(f) The name of a support person (e.g., friend or family member) or legal counsel or student advocate that the Appellant will have accompany or support them for the purposes of the Appeal. It is the Appellant’s responsibility to determine the adequacy of their support in this regard. The Appellant must still present his or her own appeal. Support persons, legal counsel and student advocates have no standing to speak for or on behalf of the Appellant at this level of appeal. They may only attend as observers.

Consideration of Appeal Documentation

3.6 Receipt and Review: The Chair will acknowledge receipt of the appeal documentation to the Appellant and consider whether the appeal will be heard. If the Chair has any concern as to whether the appeal should be heard (for example, due to concerns over jurisdiction, or grounds of appeal), a meeting of the Committee must be convened to consider the matter. The benefit of the doubt in terms of proceeding to hearing will always be resolved in favour of the Appellant.

3.7 Hearing: If the Chair/Committee determines that the Committee has jurisdiction to hear the appeal and there are sufficient grounds, the appeal process shall continue to a hearing. The same Members that may have considered the appeal in terms of proceeding to hearing should also hear the appeal, if possible.

3.8 No Hearing: If the Committee determines that there is no jurisdiction to hear the appeal, and/or there are insufficient grounds to consider the appeal, the matter shall be considered closed and the appeal will be deemed dismissed. The Chair will inform the Parties of the Committee’s decision by letter. The letter shall also advise the Appellant of his/her right to appeal to the University Senate level, in accordance with the University policy, “Senate Committee on Appeals.”

Response Requirements for Hearing

3.9 Request for Response by Respondent: The Chair shall inform in writing the affected Program Associate Dean and Program Director when an appeal is proceeding to a hearing, and request a written response to the appeal, within ten (10) working days, or until such time as the Chair may allow if a written request for an extension is made by the Respondent prior to the deadline. The Chair’s decision as to whether to allow an extension is not appealable. The Appellant’s appeal documentation shall be provided to aid in the preparation of the response. If the deadline is not met, the appeal will proceed without the Respondent’s written submission.

3.10 Respondent’s response requirements: The Respondent’s response must include the following information:

(a) A letter to the Chair clearly outlining the response to the appeal;

(b) All documentation relevant to the issuance of the Program decision being appealed (unless already submitted by the Appellant);
(c) The name(s) of the Program representative(s) who will act as the Respondent;

(d) The names and positions of any witnesses, recognizing that the Chair may limit or disallow their submission of evidence.

**Hearing Coordination**

3.11 **Notification of appeal hearing time and date:** The Chair will:

(a) Canvass the Parties, and the Members for a mutually agreeable time and date for the appeal hearing to occur;

(b) Secure a suitable location for the appeal hearing to occur;

(c) Notify the Appellant, Respondent and attending Members of the appeal hearing time, date and location;

(d) Distribute a package containing the following, at least five (5) days prior to the hearing, to the Parties and attending Members (unless a shorter time period is mutually agreed upon by the Parties and attending Members):

   (i) The Appellant’s appeal documentation;

   (ii) The Respondent’s response documentation; and

   (iii) The names of the Members who will hear the appeal.

3.12 **Additional documentation:** Any additional documentation submitted by either the Appellant or Respondent outside of the timelines allowed for consideration by the Committee shall only be allowed at the discretion of the Chair, who must consider whether sufficient time for review will be afforded to the other Party to the appeal. The Chair’s decision in this regard is not appealable.

**At the appeal hearing**

3.13 **Standing:** Members, the Appellant and the Respondent will have standing to speak during the appeal hearing. While the Appellant may be accompanied by a support person or legal counsel, such individuals may only attend as observers and may not speak for or on behalf of the Appellant. The Appellant must present his or her own appeal.

3.14 **Attendance at hearing:** The Appellant and the Respondent have the right to not appear in person at the hearing and request that the Committee consider the appeal based on the merits of their written submissions alone.

3.15 **Commencement:** At the beginning of the hearing, the Chair shall:

(a) Call the hearing to order;

(b) Introduce the Parties, identify their standing, and identify those who may be in attendance as support persons, advocates, legal counsel or witnesses;

(c) Outline the procedural order for the hearing;
Confirm that minutes are being taken by an administrative support representative of the Dean’s office;

Confirm that all matters relating to the appeal must be kept confidential;

Ask the Appellant and Respondent whether they:

(i) Have any questions relating to the appeal hearing or applicable governing documents;

(ii) Have any concerns in relation to conflicts of interest regarding any Member present. If such concerns exist, they shall be addressed by the Chair in consultation with the Committee; however, the Member affected shall not have a vote on the matter.

**Chair’s Discretion:** During the appeal hearing, the Chair:

(a) May limit oral evidence or oral submissions based on relevance, repetition or privacy;

(b) May limit or refuse evidence from witnesses and preclude their attendance during the hearing except for the portion during which they may be permitted to present evidence;

(c) Determines all questions on admissibility of evidence and the procedural order for the hearing;

(d) May allow the submission of new information by the Appellant or the Respondent only with the consent of the opposing Party;

**Recess:** The appeal hearing must recess if any Member or Party leaves the room temporarily. In addition, any Party may request from the Chair a recess at any point in the appeal hearing, which shall not be unreasonably denied.

**Procedural Order for the Hearing**

The appeal hearing shall proceed as follows:

(a) **Appellant’s Statement:** The Chair shall ask the Appellant to make an oral statement to the Committee summarizing, elaborating upon, or explaining his or her submitted appeal documentation;

(b) **Questions from Committee and Respondent:** The Chair shall invite members of the Committee to ask questions arising from the Appellant’s oral statement and submitted documentation. The Respondent shall then be allowed to ask questions of the Appellant, through the Chair, for clarification purposes. Cross-examination is not permitted.

(c) **Respondent’s Statement:** The Chair then shall ask the Respondent to make an oral statement to the Committee summarizing, elaborating upon, or explaining his or her written response;

(d) **Questions from Committee and Appellant:** The Chair shall invite members of the Committee to ask questions arising from the Respondent’s oral statement and submitted
documentation. The Appellant shall then be allowed to ask questions of the Respondent, through the Chair, for clarification purposes. Cross-examination is not permitted.

(e) **Further Committee Questions:** After both parties have presented their statements, the Committee members may ask further questions of either Party seeking clarification or additional information.

(f) **Closing Statements:** After the Committee members have indicated that they have no further questions, the Chair shall offer each Party the opportunity to make a closing statement, beginning with the Appellant. No new information may be submitted at this time.

(g) **Deliberations:** After the Parties have presented their closing statements, the Chair shall temporarily dismiss them, and the Committee shall commence its deliberations, in private (i.e., “in camera”). The evidence before the Committee shall be weighed on a balance of probabilities.

(h) **Poll:** Once the Committee enters its deliberations, the Chair shall poll the Members to determine if they have sufficient information to arrive at a decision or if additional information from the Parties is required.

(i) **Further Information:** If the Committee determines that more information is required, the Chair will ask the Parties to return to the hearing room. Normally, the Committee will receive the additional information through further questions posed to either Party. However, if more detailed information is required, the Committee may reconvene at a later date at which time both Parties have the right to be present;

(j) **Release:** If the Members advise the Chair that they have sufficient information to arrive at a decision, the Chair shall release the Parties and return to Committee deliberations.

(k) **Completion of Deliberations:** The Committee shall complete its deliberations and decision-making process in private (“in camera”).

**After the Hearing:**

3.19 **Hearing Decision:** The Chair shall, after a hearing decision has been made, report the results of the Committee’s decision in writing to the Parties and Dean. The letter shall include a brief summary of the following:

(a) **Facts:** The facts of the appeal;

(b) **Issue:** The issue(s) that the appeal was intended to determine; and

(c) **Decision and Supporting Reasons:** The Committee decision with brief reasons for the decision.

(d) **Right of Further Appeal:** If the Committee denies the Appellant’s appeal, the Committee decision must include a statement indicating the Appellant’s right of further appeal, within twenty (20) working days from the date of the Committee’s letter, to the Senate Committee on Appeals, pursuant to the University’s policy, “Senate Committee
on Appeals”. Reference should also be made to the fact that the University’s Office of Student Advocacy is a resource available for such matters.

3.20 **Destruction of Documents**: All Members must delete email communications relating to an appeal, and ensure that paper copies of appeal and hearing documentation are confidentially destroyed.

**Part IV
Accountability**

4.1 The Dean and Associate Dean, Academic Affairs, are responsible for the implementation, administration and review of this Policy.

4.2 College Learners, Faculty and Staff are responsible for complying with this Policy.

**Part V
Review**

5.1 The Review Date for this Policy is ten (10) years from its specified Effective Date (approved by College Executive Council).

5.2 In the interim, this Policy may be revised or repealed if:

(a) The Committee, the Dean or Associate Dean, Academic Affairs deems it necessary or desirable to do so;

(b) It is no longer legislatively or statutorily compliant; and/or

(c) It comes into conflict with another governing document of the College or University.

5.3 If this Policy is revised or repealed, any related College documents shall be reviewed as soon as possible to ensure that they comply with the revised Policy, or are in turn repealed.

**Part VI
Effect on Previous Statements**

6.1 This Policy supersedes all previous governing documents of the College of Medicine dealing with the subject matter contained herein.

**Part VII
Cross References**

6.2 This Policy should be cross referenced to the following relevant Governing Documents, legislation and/or forms:

(a) College of Medicine Academic Appeals Committee Appeal Form; and

(b) Senate Committee on Appeals Policy.