Level 1 Appeals – Program

Within 15 working days after having become aware of the decision under appeal

1. A Learner may submit an appeal, in writing, to the Home Program Director in respect of any process or substantive decision (i.e. decisions involving academic judgment or specialty specific skills) arising out of the Assessment Process, including a decision to indicate a designation other than “Satisfactory” on the All appeals submitted at Level 1 must include a written statement from the Learner clearly stating the decision(s) under appeal, providing detailed reasons why the decision is thought to be incorrect or inaccurate, and the desired result. The Learner must submit the appeal within 15 working days after having become aware of the decision under appeal.

2. Level 1 Appeals should consider both the procedure of the evaluation as well as the substantive content.

3. For decisions in respect of rotations within the Learner’s specialty, the Learner’s home program appeals process will apply. Other rotations may be arranged within McMaster teaching hospitals or at another academic centre to provide second opinions regarding specialty specific ability. This would be mutually agreed upon by learner and program.

For appeals in respect of process and substantive decisions, if the appeal is denied, it may proceed to Level 2 Appeals – Appeals Review Board, in accordance with this Section VII.

4. For decisions in respect of rotations outside the Learner’s specialty, the Home Program Director should consider the appeal and will consult the Clinical Supervisor and/or the Program Director of that rotation, along with other appropriate individuals, e.g., the CTU Director. If the appeal is denied, the appeal may proceed to Level 2 Appeals – Appeals Review Board, in accordance with this Section VII.

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1 Learners should contact their home program for details of its appeals process.
5. For Learners completing a Pre-Entry Assessment Program (PEAP), an Assessment Verification Period (AVP), a Practice Ready Assessment (PRA), or clinical examinations (STACERs), the sole remedy that may be granted following a successful appeal is the ability to repeat relevant components of the assessment or the clinical event, as applicable, one more time only. In these instances, if the appeal is denied at Level 1 (Program), the Learner has the option to appeal to Levels 2 and 3 however, the sole remedy remains - to repeat relevant components, one more time only.

6. The Chair of the Residency Program Committee shall ensure that a record of the meeting be kept, including any written submissions and the findings and recommendation of the Residency Program Committee concerning the matters before it. The Chair of the Residency Program Committee shall provide the Learner with a written report of the findings and recommendations of the committee. A copy of the report will be sent to the Assistant Dean, Postgraduate Medical Education.

7. The Learner shall have the right to appeal the recommendation of the Residency Program Committee, to Level 2 Appeals, for both process and substantive issues. The Learner must submit the appeal within 15 working days after having become aware of the decision.

**Level 2 Appeals – Appeals Review Board (ARB)**

*Within 15 working days after having become aware of the decision under appeal.*

The ARB may be convened:

**Category 1**

*By the Learner* - to submit an appeal in respect of a process and/or substantive recommendation denied at Level 1. Grounds of appeal may include medical, compassionate or extenuating circumstances, bias, inaccuracy or unfairness.

All appeals at Level 2 must be directed to the Postgraduate Medical Education Office, with a copy sent to the Home Program Director, and include a written statement from the Learner clearly stating the recommendation(s) under appeal, providing detailed reasons why the recommendation at Level 1 is thought to have been incorrect, inaccurate or unfair, and the desired result. The Learner must submit the appeal within 15 working days after having become aware of the recommendation under appeal.

**Category 2**

*By the Assistant Dean, Postgraduate Medical Education* - to review an adverse recommendation made by the Residency Program Committee.

On receipt of a Level 2 appeal, the Postgraduate Medical Education Office will convene a meeting of the Appeals Review Board at its earliest convenience to hear the appeal.
**Meeting of the Appeals Review Board (ARB)**

1. The Appeals Review Board shall review the past performance of the Learner with reference to documentation presented by the Home Program Director and the Learner. All reports of the Education Advisory Board will be submitted. The Home Program Director and the Learner shall be entitled to make written submissions to the Appeals Review Board. Additional information may be presented to the ARB in writing or orally through a party’s own testimony or other individuals.

2. The Learner, with counsel if desired, and the Home Program Director will be invited to attend the meeting of the ARB, along with any other appropriate individuals, as determined by the Appeals Review Board, e.g. the Clinical Supervisor who completed the ITER.

3. The Learner and the Home Program Director shall be entitled to make written submissions to the ARB.

4. The Chair of the ARB shall ensure that a record of the meeting be kept, including any written submissions and the findings and recommendations of the ARB concerning the matters before it.

5. The Chair of the Appeals Review Board shall ensure that the Assistant Dean, Postgraduate Medical Education, the Home Program Director and the Learner are notified, in writing, of the ARB’s recommendation, reasons for the recommendation and remedy, if any.

**Recommendations of the ARB**

Category 1 - ARB convened at the request of the Learner  
Category 2 – ARB convened at the request of the Assistant Dean, PGME

For both Category 1 and 2 the Chair of the ARB may recommend one of the following:

1. the Learner be allowed to continue in his / her normal program;

2. where the Learner had been suspended in accordance with Learner Assessment Policy, that the suspension be lifted and the Learner be allowed to continue in a modified program to be designed by the Home Program Director and approved by the Education Advisory Board;

3. that the Learner be dismissed from the program; or

4. any other recommendation deemed by the Appeals Review Board to be just and reasonable in the circumstances.

The Chair of the ARB will ensure that the Assistant Dean, Postgraduate Medical Education, the Home Program Director and the Learner are notified, in writing, of the ARB’s findings and recommendations.
**Decision of the Assistant Dean, Postgraduate Medical Education**

1. As soon as possible following receipt of the findings and recommendations of the ARB, the Assistant Dean, Postgraduate Medical Education, shall, at his/her sole discretion, decide to accept the recommendation of the ARB or to substitute any other course of action.

2. The decision of the Assistant Dean, Postgraduate Medical Education will be final in substantive matters.

3. The Learner shall have the right to appeal the decision of the Assistant Dean, Postgraduate Medical Education, to Level 3 Appeals, for process issues only. The Learner must submit the appeal within 15 working days after having become aware of the decision under appeal.

**Level 3 Appeals – Dean, Faculty of Health Sciences**

*Within 15 working days after having become aware of the decision under appeal*

1. A Learner may submit a Level 3 appeal to the Dean, Faculty of Health Sciences in respect to any appeal of a process decision denied at Level 2. Grounds of appeal may include medical, compassionate or extenuating circumstances, bias, inaccuracy or unfairness. The Learner must submit the appeal within 15 working days after having become aware of the decision under appeal.

2. The Learner’s submission must include a written statement outlining the decision(s) under appeal, providing detailed reasons why the decision at Level 2 is thought to have been incorrect, inaccurate or unfair, and the desired result.

3. The Dean shall arrange for a hearing to be held in accordance with Faculty-approved procedures before the Faculty Postgraduate Tribunal, defined by the Faculty, as the final adjudicator of this appeal.

4. The three members of the Faculty Postgraduate Tribunal will be chosen from a pre-selected group of faculty and postgraduate Learners (refer to Terms of Reference for the Postgraduate Tribunal).

5. The Designate appointed by the Dean, Faculty of Health Sciences, will request the Postgraduate Medical Education Office to prepare a file consisting of the Learner’s written evaluation reports, ITERs, other relevant reports and correspondence, and a summary statement of actions relevant to the appeal. The Deputy should ensure that the parties to the appeal (the Learner and the Assistant Dean, Postgraduate Medical Education) have a copy of this file in reasonable time to prepare for the meeting to hear the appeal.

6. At any time throughout the process, the Tribunal may request documents from the Assistant Dean if the Tribunal finds that such documents are relevant to the proceeding.

7. The Postgraduate Tribunal has sole jurisdiction to hear and make a final adjudication on the appeal.
8. The Postgraduate Tribunal shall conduct itself in accordance with the principles of natural justice as maintained in the Statutory Powers Procedure Act. It is recommended that the Tribunal follow the procedures outlined in Appendix B, which are consistent with the Statutory Powers Procedure Act (Copies of the Statutory Powers Procedure Act are available in the University Secretariat, Room 210, Gilmour Hall).

9. The Postgraduate Tribunal shall give written notice of the decision, with reasons, to the Learner and to the other parties involved. This decision will be delivered as soon as reasonably possible following the conclusion of the hearing. The Postgraduate Tribunal shall make one of the following decisions:

   a. to uphold the appeal and grant the remedy sought by the Learner;

   b. to uphold the appeal and re-instate the Learner at the appropriate stage of his/her Postgraduate program, with no remedy; or

   c. to uphold the appeal and fashion any remedy deemed just and reasonable in the circumstances,

   d. to deny the appeal and to require the Learner to complete a Remediation Plan developed by the Postgraduate program with a designation of “Satisfactory” prior to being permitted to continue in the Postgraduate program; or

   e. to deny the appeal and to require the Learner to withdraw from the Postgraduate program.

6. The decision of the Postgraduate Tribunal is final. Postgraduate Learners do not have access to any other University appeal process.
Chart 1: APPEALS LEVEL 1 (PROGRAM)
(within 15 working days after having become aware of situation)

**APPEAL**
- Learner submits appeal in writing
  - Academic Issues
  - Process

**RESIDENCY PROGRAM COMMITTEE**
Reviews and submits report

**LEARNER**
- AGREES
- DISAGREES Learner can appeal in writing Refer to Level 2 (ARB)

**Assistant Dean PGME**
Informed and may refer to ARB
Chart 2: APPEALS LEVEL 2
(within 15 working days after having become aware of situation)

CATEGORY 1 – APPEAL
By Learner
- Resident submits appeal in writing
  - Academic Issues
  - Process

CATEGORY 2 – ADVERSE RECOMMENDATIONS FROM RPC
PG Dean submits to ARB for adjudication

APPEALS REVIEW BOARD Recommendation

Assistant Dean PGME

RECOMMENDATION

CAT 1: (APPEAL)
- Learner continues in program
- Learner continues modified program
- Learner dismissed from program
- Or any other recommendations

RECOMMENDATION

CAT 2: (APPEAL) DECISION
- Learner continues in program
- Learner continues modified program
- Learner dismissed from program
- Or any other recommendations

ASSISTANT DEAN
Reviews ARB’s findings and recommendation and makes decision
Assistant Dean then notifies Program and Learner

LEARNER AGREES

LEARNER DISAGREES
Can appeal in writing
Refer to Level 3 Process only
Chart 3: APPEALS LEVEL 3 (DEAN’S TRIBUNAL)
(within 15 working days after having become aware of situation)

APPEAL
Resident submits appeal in writing
PROCESS ISSUES ONLY

Dean FHSc

PG TRIBUNAL

Decisions to uphold appeal
OR
Deny the appeal

Decision of Tribunal
FINAL