

ARTICLE VI.
Appeals

Section 1: Right to Appeal. If an institution, after availing itself of any review or appeal procedures of its appropriate Accrediting Commission, still believes itself aggrieved by that Accrediting Commission's denial or termination of candidacy or accreditation, its governing board, through formal authorization to its chair, may appeal such action within thirty (30) calendar days of receipt of notice thereof of the final Accrediting Commission action by filing an appropriate notice of appeal to the President of the WASC Association through the appropriate affected Accrediting Commission's Chief Executive Director/Officer. During the period up to and including the appeal, the institution's status with the affected Accrediting Commission shall remain the same as it was prior to the decision being appealed. The form and content of the institution's notice of appeal are contained in the WASC Association's Hearing and Appeal Procedures Manual, described in Section 4 below.

Section 2: Administering the Appeal. The task of coordinating the appeal will ordinarily be the task of the Accrediting Commission which is providing the current staff support for WASC's corporate activities. This task shifts periodically among the various Accrediting Commissions since WASC maintains no staff support independently of the three Accrediting Commissions. In the event the institution is appealing a decision of the Accrediting Commission that is providing staff support at that time for WASC corporate activities, the task or coordinating the appeal will be shifted by the President of the Association to one of the other Accrediting Commissions. The tasks assigned to the President and to the Secretary/Treasurer in this process will similarly be re-assigned by the President to a President or Secretary pro-tempore in the event such individuals are associated with the Accrediting Commission that made the decision that is being appealed.

Section 3: Hearing Panel and Hearing Board. The WASC Association's Board of Directors shall elect annually a WASC Hearing Panel from which shall be selected a Hearing Board established for the purpose of deciding appeals by any institution against the decision of any of the WASC Accrediting Commissions denying or withdrawing accreditation or candidacy.

~~This~~ The Hearing Panel shall consist of twenty persons as follows: (1) five from elementary/secondary schools; (2) five from junior or community colleges; (3) five from senior colleges and universities; and (4) five lay members of governing boards. None of the twenty shall be a current member of an Accrediting Commission.

The Hearing Board shall consist of five persons, including at least one person from each of the above categories, selected on random basis from the Hearing Panel and appointed, after such selection, by the WASC Association's Secretary/Treasurer. None of those selected shall have been involved in the accreditation process which resulted in the appeal. The Hearing Board shall elect its Chair from its own membership. Each member, including the Chair, shall have one vote.

Hearing Board members to replace those who are absent or have a conflict of interest shall be selected on the same random basis and appointed by the WASC Secretary/Treasurer from the remaining members of the Hearing Panel.

Section 4: Appeal Procedures Manual. The WASC Association's Board of Directors shall establish an appeals manual, which may be revised from time-to-time, referred to as the "WASC Appeals Procedures Manual." The WASC Appeals Procedures Manual will set forth more fully the procedures for conducting the appeal. A copy of the WASC Appeals Procedures Manual will be provided to the institution when the institution receives notice of an appealable Commission decision.

Section 5: Costs. An institution bringing an appeal shall reimburse WASC the Association for all of the incremental costs in conducting the appellate hearing, including the costs of the Commission that coordinates the appeal, any legal fees of the Hearing Board, and other costs enumerated in the WASC Appeals Procedures Manual. For this reason, an institution making an appeal will be required to include an initial deposit to cover the costs of the appeal. The Association's Board of Directors will establish the amount of the deposit and modify it from time to time at its discretion. In the event the actual costs exceed the amount of the deposit, the institution shall be responsible for the balance and may be required, during the appeal, to supplement the deposit. In the event the deposit exceeds the necessary costs, the institution shall receive a refund of the difference.

Section 6: New Financial Evidence. On one occasion only and not later than thirty (30) days prior to the date the Hearing Board is scheduled to meet and only in the event the only remaining issues following completion of the Commission review process relate to deficiencies or failure to meet Commission Standards regarding the

institution's finances, the appealing institution may file in writing with the Executive Director of the Accrediting Commission whose action is being appealed (the "affected Accrediting Commission"), information which, in the opinion of the institution's chief executive officer, constitutes New Financial Evidence. Such application shall be co-signed by the chair of the institution's governing board. New Financial Evidence is evidence that (1) was unavailable to the institution until after the date upon which the Commission's policies permitted the institution to submit evidence that was considered in connection with the action being appealed (and is therefore timely), and (2) bears materially and significantly on the financial deficiencies identified by the affected Accrediting Commission. Evidence shall be deemed to bear materially and significantly on the financial deficiencies only if such evidence is of sufficient gravity that, if proven, would be likely to cause the Commission to reverse the decision being appealed.

~~—The President of the Western Association of Schools and Colleges shall then arrange the appellate hearing at the earliest practicable date. Those testifying shall not be placed under oath. The Commission whose decision is being appealed will ordinarily have legal counsel present, and the institution may, but is not required, to have legal counsel present. The institution will be expected to notify WASC of its selection of its legal counsel as soon as possible, ordinarily, at the time the institution files its notice of appeal.~~

~~—At least sixty (60) calendar days before the time set for the appellate hearing of such an appeal, the President (or Secretary-Treasurer) of the WASC shall cause notice of the time and place of the appellate hearing to be delivered, by a means that will assure a written receipt, to the Chair or to the President of the governing board of the institution with a copy to the chief executive.~~

~~Section 7. The grounds for the appeal shall be limited to the following: (1) there were errors or omissions in carrying out prescribed procedures on the part of the evaluation team and/or the Commission which materially affected the Commission's decision; (2) there was demonstrable bias or prejudice on the part of one or more members of the evaluation team or Commission which materially affected the Commission's decision; (3) the evidence before the Commission prior to and on the date when it made the decision which is being appealed was materially in error; or (4) the decision of the Commission was not supported by substantial evidence. The "decision" referred to in this Section refers to the Commission's action which served as the basis for the appeal and any modification to that action that might have occurred as the result of the review or appeal process afforded by the Commission. The appellate hearing is designed as a review of the record of the previous actions of the institution and the Commission. Accordingly, except as may be permitted under the WASC Appeals Procedures Manual, an institution may not raise any ground or site any reason in support of that ground unless the institution raised the same ground and the same issue before the Commission as part of the Commission's review or appeal process prior to noticing its appeal to WASC.~~

~~Section 8. The Hearing Board shall make its decision by a vote of the majority on the basis of the admissible evidence and arguments presented to it at the hearing.~~

- ~~—If the Hearing Board finds for the institution on one or more of grounds (1) through (4) of Section 7 above, the Board shall remand the case to the appropriate Commission for reconsideration.~~
- ~~—If the Hearing Board finds against the institution on any of the four grounds in Section 7 above, it shall deny that portion of the appeal which is based on that ground.~~
- ~~—If the Hearing Board orders reconsideration, the appropriate Commission shall reconsider the matter according to procedures it may adopt for this purpose. The Commission's decision following such reconsideration shall be final.~~

~~At the conclusion of its deliberations, the Hearing Board shall issue its decision and the reasons therefore within thirty (30) calendar days and inform, by a means that will assure a written receipt, the President of WASC, the chair or president of the governing board of the institution, and the President/Executive Director of the Commission concerned. Such decision~~

Upon receipt of the New Financial Evidence, the affected Accrediting Commission's Chair shall form a committee of no fewer than three (3) Commissioners from the affected Commission (the New Financial Evidence Committee) to review the New Financial Evidence. The membership of the New Financial Evidence Committee may include Commissioners who have acted as readers or for other reasons are familiar with the issues affecting the institution, but may not consist of any Commissioners who have a conflict of interest with respect to the institution as defined by the Commission's conflict of interest policy. The New Financial Evidence Committee shall conclude prior to the

date the appeal hearing is scheduled to commence. The decision of the New Financial Evidence Committee shall be communicated in writing to the appealing institution, to the Chief Executive Officer of the affected Accrediting Commission, and to the President of the Association. The decision of the New Financial Evidence Committee shall not be subject to any further review or appeal, except as herein provided. If, in the sole judgment and discretion of the New Financial Evidence Committee, acting by majority vote, the New Financial Evidence is found not to have been raised in a timely manner or is found not to bear materially and significantly on the financial deficiencies of the appealing institution, the appeal hearing shall continue without interruption, and the New Financial Evidence shall not become part of the record on appeal.

If, in the sole judgment and discretion of the New Financial Evidence Committee, the New Financial Evidence is found to have been raised in a timely manner and to bear materially and significantly on the financial deficiencies which served as the basis of the affected Accrediting Commission's action, the President of the Association shall immediately postpone the hearing until after the date of the next affected Accrediting Commission meeting at which time the affected Accrediting Commission will reconsider the decision being appealed. The affected Accrediting Commission shall independently review the New Financial Evidence and make its own determination regarding whether such evidence was timely and was significant and material. If, in the sole discretion of the affected Accrediting Commission, the New Financial Evidence is found to have been raised in a timely manner and to bear materially and significantly on the financial deficiencies which served as the basis of the decision that is being appealed, the affected Accrediting Commission shall render a new decision which shall act to remove the previous sanction of termination or denial of candidacy or accreditation, as the case may be. It may, in its sole discretion, impose any other lesser sanction and conditions which it deems appropriate, and the affected institution shall not be able to seek further appeal or review from such lesser sanction, if any is imposed. In such instance, the affected Accrediting Commission shall instruct the President of the Association to dismiss the appeal.

If, in the sole discretion of the affected Accrediting Commission, the New Financial Evidence is not found to have been raised in a timely manner or if it is found not to bear materially and significantly on the financial deficiencies which served as the basis of the decision that is being appealed, such Commission shall instruct the President of the Association to take the necessary steps to resume the appeal hearing. In all events, the decision of the affected Accrediting Commission shall include findings on the timeliness, materiality and significance of the New Financial Evidence. Such decision shall not be subject to consideration by the Hearing Board. Such decision in all instances shall be communicated in writing to the appealing institution, to the President of the Association, and to the Hearing Board's Chair.

Section ~~6~~-7: The Appellate Hearing.

The President of the Association shall arrange the appellate hearing at the earliest practicable date. Those testifying shall not be placed under oath. The Accrediting Commission whose decision is being appealed will ordinarily have legal counsel present, and the institution may, but is not required, to have legal counsel present. The institution will be expected to notify the Association of its selection of its legal counsel as soon as possible, ordinarily, at the time the institution files its notice of appeal.

At least sixty (60) calendar days before the time set for the appellate hearing of such an appeal, the President (or Secretary-Treasurer) of the Association shall cause notice of the time and place of the appellate hearing to be delivered, by a means that will assure a written receipt, to the Chair or to the President of the governing board of the institution with a copy to its chief executive.

Section ~~7~~-8: Grounds for Appeal. The grounds for appeal shall be limited to the following: (1) there were errors or omissions in carrying out prescribed procedures on the part of the evaluation team and/or the Accrediting Commission which materially affected the Accrediting Commission's decision; (2) there was demonstrable bias or prejudice on the part of one or more members of the evaluation team or Accrediting Commission which materially affected the Accrediting Commission's decision; (3) the evidence before the Accrediting Commission prior to and on the date when it made the decision which is being appealed was materially in error; or (4) the decision of the Accrediting Commission was not supported by substantial evidence. The "decision" referred to in this Section refers to the Accrediting Commission's action which served as the basis for the appeal and any modification to that action that might have occurred as the result of the review or appeal process afforded by the Accrediting Commission. The appellate hearing is designed as a review of the record of the previous actions of the institution and the Accrediting Commission. Accordingly, except as may be permitted under the WASC Appeals Procedures Manual, an institution may not raise any ground or cite any reason in support of that ground unless the institution raised the same ground

and the same issue before the Accrediting Commission as part of the Accrediting Commission's review or appeal process prior to noticing its appeal to WASC. When the term "materially" is used in this section it means that the issue to which it relates, either signally or with other issues, is of sufficient gravity that it could reasonably be said to cause a reversal of the decision being appealed.

Section 9: Decision of the Hearing Board. The Hearing Board shall make its decision by a vote of the majority on the basis of the admissible evidence and arguments presented to it at the hearing. The Hearing Board's decision may act to affirm, modify, or reverse the decision being appealed and the reasons that were cited in its support. The Hearing Board shall issue its decision and the reasons therefore within thirty (30) calendar days and will inform the President of the Association, the chair or president of the governing board of the institution, and the Chief Executive Officer of the affected Accrediting Commission of such decision. Such decision shall not be subject to any further appeal.

(1) If the Hearing Board finds for the institution on one or more of grounds (1) through (4) of Section 8 above, the Board shall remand Hearing Board's decision will have the ease to effect of reversing the appropriate denial or termination of the candidacy or accreditation of the institution. Its decision may recommend, but shall not dictate, any terms or conditions to be imposed on the accreditation or candidacy of the institution by the affected Accrediting Commission for reconsideration. when it implements the Hearing Board's decision. The affected Accrediting Commission shall thereafter implement the Hearing Board's decision and, in doing so, shall retain the discretion to impose conditions, including a sanction which is less than the denial or termination of candidacy or accreditation, on the candidacy or accreditation of the institution. The affected Accrediting Commission's implementation action shall be consistent with the Hearing Board's decision. Such implementation action by the affected Accrediting Commission will be communicated to the institution and shall not be subject to further review or appeal.

(2) If the Hearing Board finds against the institution ~~of~~ on any of the four grounds in Section 8 above, it shall deny that portion of the appeal which is based on that ground. If the Hearing Board finds against the institution on all grounds appealed, its decision shall act to affirm the decision of the affected Accrediting Commission which was appealed.

~~(3) If the Hearing Board orders reconsideration, the appropriate Accrediting Commission shall reconsider the matter according to procedures it may adopt for this purpose. The Accrediting Commission's decision following such reconsideration shall be final.~~

~~At the conclusion of its deliberations, the Hearing Board shall issue its decision and the reasons therefore within thirty (30) calendar days and inform, by a means that will assure a written receipt, the President of the Association, the chair or president of the governing board of the institution, and the Chief Executive Officer of the Commission concerned. Such decision shall not be subject to any further appeal.~~