

## **MODULE 5**

### **APPEALS PROCESS**

#### **5.1 RIGHT TO APPEAL**

A AETB has the right to appeal the decision of the Technical Assessment Board (TAB) to deny or revoke accreditation to the STAC Board of Directors (BOD). If the AETB chooses to appeal, it shall be responsible for some of the costs associated with the appeals process. If the denial or revocation of accreditation is overturned, all costs for the appeal are split equally between STAC and the AETB. If the revocation of the AETB's accreditation is upheld, STAC shall pay fifty (50) percent of the stenographic costs and the AETB shall pay all remaining costs incurred. If accreditation is denied to a AETB seeking initial accreditation, then the AETB shall bear the total cost of the stenographic record. The expenses of any witnesses for either party shall be paid by the party producing such witnesses. All other expenses shall be borne by the party incurring those expenses. The appeals process is outlined in Figure 5-1.

#### **5.2 NOTICE OF APPEAL**

If the AETB wishes to appeal the TAB decision, it must notify the STAC in writing within ten (10) business days of the date of receipt of the letter from the STAC outlining the TAB decision to revoke or deny the AETB's accreditation. This notification shall include the reason for the appeal and a statement accepting responsibility for monetary expenses as described in Section 5.1. The revocation decision is final if the AETB fails to submit an appeals request within the specified time frame.

If the AETB notifies the STAC within ten (10) business days of its desire to appeal the TAB decision, then the STAC SEMQAP management shall contact the TAB Chairperson within five (5) business days. The TAB Chairperson will contact the STAC Executive Director within ten (10) business days of notification with recommendations on individuals to serve on the appeals committee.

#### **5.3 APPEALS COMMITTEE**

Within twenty (20) business days of notification, the STAC Executive Director shall have the responsibility to formally appoint an appeals committee and designate a chairperson to hear the appeal. The committee shall consist of at least three (3) uninvolved persons (persons not directly involved with the revocation decision or a direct competitor of the AETB), and two (2) persons who must have experience in AETB accreditation.

#### **5.4 APPEALS HEARING**

##### **5.4.1 Site of Hearing**

The chairperson of the appeals committee shall designate a time and place for the hearing that does not represent an undue burden for the AETB or required participants. The time shall be no later than forty (40) business days after the formation of the appeals committee. The hearing shall commence at that time unless the chairperson grants a continuance for good cause shown by the party requesting the continuance. The STAC shall give at least twenty (20) business days written notice to the AETB of the reasons for the denial or revocation action against it, the time and place of the hearing, the opportunity to examine evidence submitted against it, and present evidence on its behalf. In addition, notice shall be provided to the TAB Chairperson.

##### **5.4.2 Representation by Counsel**

Counsel at the hearing may represent each party, at its own cost.

##### **5.4.3 Stenographic Record**

A stenographic record of the hearing shall be made.

#### **5.4.4 Attendance at Hearing**

In the event the AETB fails to attend the hearing without good cause, the AETB shall be deemed to have waived its rights to appeal and the appeals committee shall recommend to the STAC Board of Directors that the adverse action be affirmed.

#### **5.4.5 Parties**

The parties of the hearing shall be the AETB and the TAB. The TAB may be assisted in the presentation of its case by STAC staff members. Either party may choose to have witnesses; however, the chairperson may require the exclusion of witnesses during presentation of evidence.

#### **5.4.6 Order of Proceedings**

The appeals hearing shall proceed in the following order:

**5.4.6.1** The hearing shall be opened by the chairperson of the appeals committee, who shall note the time, place and date, the presence and identity of the members of the appeals committee, the AETB, TAB representative, and witnesses to the hearing.

**5.4.6.2** At the commencement of the hearing, the chairperson shall offer each party an opportunity to make an opening statement to clarify the issues involved.

**5.4.6.3** The appellant AETB and the appeals committee shall each present its case. Any documentation or presentations by witnesses may be subject to review and questions by the other party to the appeal.

**5.4.6.4** The chairperson shall have the discretion to vary this procedure but shall provide full and equal opportunity to each party for the presentation of all materials or relevant facts.

**5.4.6.5** Information offered by any party may be received as evidence by the chairperson.

**5.4.6.6** The names and addresses of all witnesses and the identification of each exhibit in the order received shall be made a part of the record, which shall be maintained by the chairperson.

**5.4.6.7** On conclusion of the presentation of evidence, the chairperson shall permit each party an opportunity to make a brief closing statement.

#### **5.4.7 Evidence**

The parties to the hearing may offer any evidence that is material, relevant and bears on the issues before the appeals committee. The chairperson and the appeals committee will give weight to the evidence presented as they see appropriate. In addition to the evidence taken in the presence of the hearing tribunal, a party may, subject to the approval of the chairperson, submit evidence of witnesses by affidavit. The appeals committee shall give such weight to affidavits, as it deems appropriate, after considering any objections made to the admission of such affidavits. The proponent of an issue or proposition has the burden of proof on the matter.

#### **5.4.8 Adjournment**

The chairperson, for good cause, may adjourn the hearing upon request or upon his/her own initiative, subject to reconvening at a specific future date.

#### **5.4.9 Closing the Appeals Hearing**

The chairperson shall declare the hearing closed at the conclusion of closing statements or at a later date if he/she decides to permit the parties to file briefs or other documents subsequent to the hearing.

#### **5.4.10 Reopening the Appeals Hearing**

The chairperson may reopen the hearing, for good cause, upon application by any party thereto or upon his/her own initiative.

#### **5.4.11 Report of the Appeals Committee**

The appeals committee shall render a final written report, approved by a majority of the members of the appeals committee, no later than twenty (20) business days after the close of the hearing.

The chairperson shall submit a copy of the report to the STAC Executive Director, the TAB Chairperson, the STAC management, and to all participants of the appeals hearing. The report shall include the appeals committee findings, conclusions and recommendation concerning the action that had been the subject of the appeal. The appeals committee shall recommend that the adverse action be affirmed unless it determines such adverse action was arbitrary, capricious, an abuse of discretion, not in accordance with the required procedures, or not based upon substantial evidence.

## **5.5 FINAL DECISION**

The STAC BOD shall possess exclusive authority to render a final decision in any matter appealed in accordance with this appeal procedure. Within forty (40) business days of issuance of the report of the appeals committee, the BOD shall give written notice of its final decision to all parties to the appeal hearing.

If the STAC BOD renders a decision to uphold the revocation or denial of accreditation, the STAC SEMQAP staff shall:

**5.5.1** Inform the TAB of the BOD decision.

**5.5.2** Inform the AETB of the BOD decision and request, in writing, the return of the accreditation certificate, as appropriate.

**5.5.3** Delete the AETB name from all official STAC listings in accordance with the BOD decision.

If the STAC BOD renders a decision to deny revocation or grant accreditation, the STAC SEMQAP staff shall:

**5.5.4** Inform the TAB of the BOD decision.

**5.5.5** Inform the AETB of the BOD's decision and issue the accreditation certificate, if applicable.

**5.5.6** Reinstate accreditation status or add the AETB name to any of the lists of STAC accredited AETBs , in accordance with the BOD decision.