

DESCRIPTION OF THE PROCESS

IV. D. APPEALS PROCESS

OPPORTUNITY TO APPEAL

A. Opportunity to Appeal Adverse Accreditation Decisions

The procedure specified in these rules of practice and procedure is the exclusive remedy for an institution that seeks to appeal an adverse accreditation decision by the Accreditation Council for Occupational Therapy Education (ACOTE®).

1. Only the following adverse accreditation decisions made by ACOTE are subject to appeal:
 - a. Denial of Candidacy Status;
 - b. Denial of a request for reactivation;
 - c. Decision to withdraw accreditation;
 - d. Decision to deny accreditation;
2. Decisions to place an institution on Probationary Accreditation are final and not subject to appeal.
3. ACOTE will not entertain petitions for reinstatement or petitions for reconsideration.
4. An appeal properly and timely filed pursuant to these rules automatically stays the decision to deny Candidacy Status, deny a request for reactivation, deny accreditation, or withdraw accreditation until the final disposition of the appeal.

GROUNDINGS FOR APPEAL

B. Grounds for Appeal, Standard of Review, and Record on Appeal

1. An institution subject to an adverse accreditation decision taken by ACOTE may appeal that decision if it has reason to believe that the decision was arbitrary, capricious, in substantial disregard of the criteria or procedures of ACOTE, or that the decision was not supported by substantial evidence in the record upon which ACOTE relied in making the decision.
2. The institution has the burden of proof on appeal.
3. During an appeal, and with the exception of certain financial information (see section C.4), the Appeal Panel will only consider the record (evidence, documents, and other information) that was before ACOTE when it took the adverse accreditation action.
4. The record on appeal shall include, as applicable, the institution's appeal document and supporting materials, reports of on-site evaluation teams, decision letters and other correspondence between ACOTE and the institution, and the institution's responses to ACOTE inquiries and actions. Accordingly, the appealing institution may not present to the Appeal Panel any data, information, documents, or other evidence that was not part of the record when ACOTE made the decision from which an appeal was taken. The Appeal Panel shall disregard any such material and not utilize it in deciding the appeal.

5. The Director of AOTA's Accreditation Department shall transmit a complete copy of the record on appeal to the Chairman of the Appeal Hearing Panel as soon as the possible after the panel is selected.

APPEAL PROCEDURES

C. Appeal Procedures

1. Notice of Intent to Appeal. An institution shall commence an appeal by submitting to ACOTE a Notice of Intent to Appeal within 10 days after receiving written notice from ACOTE of the adverse accreditation decision.
2. Grounds for Appeal. Within 30 days after receipt of notice of ACOTE's adverse accreditation decision, the institution must submit a written statement to ACOTE electronically (preferred), which specifies the institution's arguments in support of its contention that the decision was arbitrary, capricious, in disregard of ACOTE's accreditation criteria or procedures, or is not supported by substantial evidence in the record on which ACOTE predicated its decision. If submitted by mail, six copies of a written statement of the Grounds for Appeal must be provided.
3. Materials Submitted with Grounds for Appeal. An institution may not submit any documents, data, evidence, or other materials with its Grounds for Appeal unless such materials were in the record before ACOTE at the time it rendered its adverse accreditation decision.
4. Exception for Financial Information. In the event that the adverse accreditation decision included a finding(s) that the institution failed to comply with ACOTE standards concerning financial soundness, an institution may submit new financial information with its Grounds for Appeal under the following conditions: (a) the financial information is relevant and significant; (b) the information was unavailable to the institution and/or ACOTE prior to the adverse decision; (c) the financial data would materially impact the findings of ACOTE with respect to the financial viability of the institution; (d) the institution may provide new financial information only once; and (e) any subsequent final decision by ACOTE taking into account the new financial information does not present the institution with the basis for another appeal.
5. Personal Appearance and Representation by Legal Counsel. The institution has the right to a hearing before the Appeal Panel and may select a qualified individual(s) to represent the institution at the hearing. The institution also has the right to be represented by legal counsel at the hearing if it so chooses. Within 10 days of the scheduled hearing date, the institution shall provide ACOTE with the names, titles, and contact information for all representatives who will be participating in the appeal hearing on the institution's behalf. The institution shall also furnish the names and contact information for any legal counsel who will be representing the institution during the appeal proceedings and hearing.
6. Transcript of Hearing. The institution has the right to a written transcript of the appeal hearing and may exercise this right by notice to ACOTE at the time of filing of the Grounds for Appeal. ACOTE will provide the transcription services, but the institution will be responsible for the cost services. An institution may not videotape the appeal hearing.
7. Timing of Appeal Hearing. The appeal hearing will be conducted within 60 days of receipt of the institution's Notice of Intent to Appeal. ACOTE may extend this time for good cause. After consultation with the chief executive officer of the appealing institution, the date, time, and place for the appeal hearing shall be set by Chairperson of ACOTE. ACOTE shall give written notification to the institution of the date, time, and location of the appeal hearing no later than 10 business days prior to the hearing date.
8. Hearing Format. The following process shall be observed during the appeal hearing:
 - a. The Chairperson of the Appeal Panel shall make an opening statement identifying the participants in the hearing, briefly describing the issues on appeal, the standard of review to be

used by the Appeal Panel in deciding the appeal, and summarizing the procedures to be followed during the hearing.

- b. Following the Chairperson's opening statement, a representative of the AOTA Accreditation Department will make a brief statement describing ACOTE's accreditation decision and the grounds for that decision.
- c. The appealing institution will be afforded 30-40 minutes to present arguments as to why its appeal of ACOTE's adverse accreditation decision should be granted. The presentation may be made by one or more representatives of the institution and/or by the institution's legal counsel. The institution's presentation shall be limited to issues relevant to the adverse decision of ACOTE.
- d. After the institution has concluded its presentation, members of the Appeal Panel may question the representatives of the institution about its appeal or any of the issues raised by the institution during the hearing.
- e. Following the question and answer period, the Chairperson of the Appeal Panel shall permit the institution to make a brief concluding statement.
- f. The appeal hearing shall be concluded and the record closed after the institution makes its concluding statement.

APPEAL PANEL

D. Appeal Panel

1. Appeals Board Roster. ACOTE shall select fifteen or more individuals to participate in an Appeals Board Roster from which individuals will be selected to serve on an Appeal Panel to hear appeals from institutions subject to an adverse accreditation decision. The Chairperson of ACOTE shall nominate individuals for the Appeals Board Roster and the members shall be confirmed by ACOTE. Individuals in the Appeals Board Roster must have experience with educational accreditation, have a working knowledge of the ACOTE Accreditation Standards, and be familiar with the administration and functional components of the specific type of institution sponsoring the educational program under appeal (e.g. community college, university). The Appeals Board Roster shall also include public members from industry, government, education, or individuals with accreditation experience from other accreditation agencies. No current member or staff member of ACOTE or the Board of Directors of the American Occupational Therapy Association (AOTA) may serve on the Appeals Board Roster. Members of the Appeals Board Roster shall be subject to applicable ACOTE policies, procedures, and ethics and conflicts requirements. ACOTE may remove an individual from the Appeals Board Roster for failure to comply with any of these requirements.
2. Appeal Hearing Panel. In the event of a timely and duly filed appeal from an institution, the Chairperson of ACOTE shall select three individuals from the Appeals Board Roster to serve on an Appeal Hearing Panel to consider the appeal. The Appeal Hearing Panel will consist of one public member, one OT or OTA educator, and one OT or OTA practitioner. The Chairperson of ACOTE shall designate one of the members of the Appeal Hearing Panel to serve as the chairperson.
3. No Prior Involvement with Institution or Decision. No individual from the Appeals Board Roster may be selected to serve on an Appeal Hearing Panel if he or she has had any prior involvement with the appealing institution or had any involvement with ACOTE's accreditation review which gave rise to the decision which the institution is appealing.
4. Notice to Institution of Appeal Hearing Panel Members. No later than 15 days prior to the scheduled appeal hearing date, ACOTE shall advise the appealing institution of the names and affiliations of the three individuals selected to serve on the Appeal Hearing Panel.

5. Objections to Appeal Hearing Panel Members. If the institution has good cause to believe that any member(s) of the Appeal Hearing Panel should not hear the institution's appeal, it must promptly notify the Chairperson of ACOTE in writing that it objects to the panelist(s) and state with specificity the grounds for the objection. The Chairperson of ACOTE will consider the objections and decide whether to replace the member(s) of the Appeal Hearing Panel with another individual(s) from the Appeals Board Roster. The decision of the ACOTE Chairperson with respect to the members of the Appeal Hearing Panel is not an appealable decision.

SCOPE OF AUTHORITY

E. Scope of Authority of the Appeal Hearing Panel

Authority of the Appeal Hearing Panel. The Appeal Hearing Panel may affirm, remand, or amend the adverse accreditation decision made by ACOTE. A decision to affirm or amend the adverse action is implemented by the appeals panel or by the original decision-making body, at the agency's option. The action must be approved by a majority of the members of the Appeal Hearing Panel.

1. Affirm. If the decision of the Appeal Hearing Panel is to affirm (uphold) ACOTE's accreditation decision, ACOTE's decision becomes final as of the date of the Appeal Hearing Panel's decision without further action by ACOTE.
2. Remand. If the decision of the Appeal Hearing Panel is to remand ACOTE's accreditation decision back to ACOTE for further consideration, the Appeal Hearing Panel must identify the specific issues which the Panel has determined that ACOTE must address. ACOTE's subsequent accreditation decision must be consistent with the Appeal Hearing Panel's findings and decision. If upon remand, ACOTE renders an adverse accreditation decision which is predicated on grounds that were not considered by the Appeal Hearing Panel, the institution may appeal that action based only on the new grounds identified by ACOTE in its decision,
3. Amend. If the Appeal Hearing Panel amends ACOTE's accreditation decision, ACOTE shall implement the decision in a manner that is consistent with the Appeal Hearing Panel's ruling.

No Further Appeal. Except as otherwise specified, the decision of the Appeal Hearing Panel to affirm, remand, or amend ACOTE's accreditation decision is not appealable.

APPEAL HEARING PANEL DECISION

F. Appeal Hearing Panel Decision

1. Standard of Review. In considering what action to take on the institution's appeal, the Appeal Hearing Panel shall utilize the standard of review set out in section B.1 of these rules. The Appeal Hearing Panel will determine whether each area of noncompliance or area of concern cited in ACOTE's accreditation decision and challenged by the appealing institution is supported by substantial evidence in the record. If raised on appeal by the institution, the Appeal Hearing Panel shall also consider whether ACOTE's accreditation decision contravened any applicable procedures, policies, practices, or standards.
2. Written Decision. After the hearing, the Appeal Hearing Panel shall prepare a written decision which details its decision in detail, specifies the reasons for its decision, and describes with particularity the action which it is taking—viz. to affirm, remand, or amend, ACOTE's accreditation decision.
3. Transmittal of Decision. Within 30 days of the conclusion of the appeal hearing, the Chairperson of the Appeal Hearing Panel shall transmit the written decision of the panel to the Chairperson of ACOTE.
4. ACOTE Action. As promptly as possible after receipt of the Appeal Hearing Panel's written decision, ACOTE shall take action consistent with the appeal decision. Pursuant to section E.2 of these rules, if the decision is to affirm the accreditation decision, no further action by ACOTE is required to make the decision effective.

5. Notice of Decision. Upon the decision of the Appeal Hearing Panel to affirm ACOTE's accreditation decision, or upon further action by ACOTE to carry out the Appeal Hearing panel's decision to remand or amend the accreditation decision, the Director of the AOTA Accreditation Department shall notify the appealing institution in writing of the final ACOTE decision. At the same time that the appealing institution is notified, the U.S. Department of Education, applicable state regulatory authorities, and the appropriate institutional accrediting agency will be notified of final ACOTE decisions to deny Candidacy Status, deny a request for reactivation, deny accreditation, or withdraw accreditation. The public will be notified of final ACOTE decisions through AOTA's website within 24 hours of confirmation that the institution has received notification of ACOTE's final decision.

APPEAL EXPENSES

G. Appeal Expenses

1. Expenses of Appealing Institution. An appealing institution is fully responsible for all of its expenses in prosecuting its appeal.
2. Expenses of the Appeal Hearing Panel. The appealing institution shall also be exclusively responsible for all of the reasonable costs associated with the appeal hearing including the hearing room, transcription services, travel, meals, and lodging for members of the panel.

NOTICES, CALCULATION OF DAYS, EXTENSIONS OF TIME

H. Notices, Calculation of Days, Extensions of Time

1. Notices. All notices and other correspondence referred to in these rules shall be send by certified mail, return receipt requested.
2. Days. All days referred to in these rules mean business days unless the period of time is 30 days or more in which case days refers to calendar days.
3. Extensions of Time. For good cause shown, the Chairperson of ACOTE may extend any time period provided for in these rules.