

## **GEMSAS APPEALS POLICY AND PROCEDURE**

Effective from 1<sup>st</sup> January 2021

### **1. PURPOSE AND SCOPE**

This policy applies to appeals being heard by the GEMSAS Appeals Committee (GAC), and documents the principles that guide the process and decisions of GAC.

**Note:** This policy does not apply to applicants wishing to appeal decisions taken by the Australian Centre for Educational Research (ACER) or by individual universities. Appeals regarding the administration or delivery of the Graduate Australian Medical School Admissions Test (GAMSAT) by ACER, or university selection policies or decisions, can only be taken up directly with the institutions concerned.

### **2. GUIDING PRINCIPLES**

The GAC Appeals Policy is based on the duty to accord procedural fairness (also known as ‘natural justice’), which requires that a person whose interest will be affected by a decision be given an opportunity to present their case and receive a fair and unbiased hearing before the decision is made. The three basic principles of this are outlined below.

#### **2.1 The hearing rule**

The hearing rule requires that the person appealing a decision be given an opportunity to present their case. They should be provided sufficient time to compile and provide the necessary information, and be provided with clear guidance on what information and supporting documentation will be required. For the purpose of the GAC Appeals Policy this will be done via electronic communications, with no requirement for an ‘in-person’ hearing or any oral submissions.

#### **2.2 The rule against bias**

This rule requires the decision-maker to not have an interest in the matter being decided, and to approach the matter with an open mind that is free from pre-judgement and prejudice.

This requires the decision-maker to not be biased (actual bias), and affects instances where a fair-minded informed observer might reasonably consider the decision-maker has not brought an impartial mind to the matter (apprehended bias).

As such, those involved in reviewing appeals should not have been involved in earlier decisions relating to the appellant, or previous decisions that could, in the eyes of a fair-minded lay observer, mean they have a predisposition to upholding the original decision being appealed.

#### **2.3 The ‘no evidence’ rule**

The ‘no evidence’ rule requires there to be sufficient evidence for the decision-maker to make their decision, and that the decision is supported by the evidence that is available. It requires that the decision must not be one that no decision-maker could reasonably have come to, based on the evidence before them.

### 3. PROCEDURE

#### 3.1 Decisions that can be appealed

- (a) Before seeking to appeal a decision under this Policy a GEMSAS applicant must first raise any concerns about the decision with GEMSAS to the email address [info@gemsas.edu.au](mailto:info@gemsas.edu.au) and allow appropriate time for a response.
- (b) If an applicant is still dissatisfied after receiving a response from GEMSAS to the email sent as required by clause 3.1(a), an applicant may appeal a decision of a GEMSAS administrative staff member, GEMSAS project officer or the Victorian Tertiary Admissions Centre (VTAC) (**Decision Maker**) only if it directly relates to the following:
  - (i) The assessment of an applicant's rurality status;
  - (ii) The matching of an applicant with interview offers;
  - (iii) The matching of an applicant with a place offer; and
  - (iv) Calculation of an applicant Grade Point Average (GPA).

Note: An applicant cannot appeal a decision by a Decision Maker relating to the assumptions or parameters that form the computer matching systems used to allocate interview offers and medical school place offers. In this respect, an applicant may only appeal a decision by a Decision Maker that relates to the use, or refusal to use, data supplied by the applicant.

#### 3.2 Grounds for an Appeal

A GEMSAS applicant may only appeal a Decision where the Decision Maker:

- (a) made a procedural error; or
- (b) failed to afford the applicant due process; and that error or failure materially affected, or is likely to materially affect, the applicant's prospects of admission into the GAMSAT Consortium schools.

#### 3.3 Timeframe to submit an Appeal

- (a) All appeals must be made within 10 days of the date that the applicant is notified of the Decision relating to the appeal. No appeal requests will be considered after the finalisation of the admissions process in November each year.
- (b) If extenuating circumstances prevent the applicant submitting their appeal within the timeframes set by clause 3.3(a) above, the applicant must include in their appeal a written explanation of the extenuating circumstances that caused the delay.
- (c) Assessment of an applicant's extenuating circumstances will be by reference to the GEMSAS Appeals Extenuating Circumstances Policy (available at [Extenuating Circumstances Policy](#)). In accordance with the Extenuating Circumstances Policy, the applicant must provide documents supporting their claim of extenuating circumstances.

### 3.4 Submitting an Appeal

- (a) Applicants must submit their appeal application to the GEMSAS appeals email address [gemsasappeals@medicaldeans.org.au](mailto:gemsasappeals@medicaldeans.org.au) with a subject heading of “Appeal Application – [Applicant's Surname], [Applicant's First Name]”.

Note: Before seeking to appeal a decision under this Policy, a GEMSAS applicant must first comply with clause 3.1(a).

- (b) Applicants must submit their appeal in writing and must clearly set out the following:
- (i) the Decision being appealed;
  - (ii) the grounds for the appeal; and
  - (iii) an explanation of how those grounds apply to the applicant's case
- (c) Applicants must attach copies of Supporting Evidence to substantiate their claims. Each item of evidence must be listed in their written appeal application and be attached with a matching file name.
- (d) Where an applicant also seeks an extension to the appeal cut-off timeframes, on the basis of extenuating circumstances in accordance with clause 3.3(b) above, the applicant must attach copies of Supporting Evidence to substantiate their claim of extenuating circumstances.

### 3.5 Assessing eligibility of an appeal

- (a) The GAC Chair will undertake an initial review of the applicant's appeal application and Supporting Evidence to determine whether the applicant's appeal should progress to review by the GAC.
- (b) The GAC Chair will only recommend the GAC review an applicant's appeal application if, in the opinion of the GAC Chair, the appeal application satisfies each of the following requirements:
- (i) Clause 3.1(a) above has been complied with;
  - (ii) It relates to a Decision referred to in clause 3.1 above;
  - (iii) It outlines at least one ground of appeal referred to in clause 3.2 above;
  - (iv) It was made within the timeframe to bring an appeal as specified in clause 3.3 above; and
  - (v) It is supported by relevant Supporting Evidence.
- (c) If in the opinion of the GAC Chair, the applicant has failed to satisfy the requirements of clause 3.5(b) above, the GAC Chair shall determine the applicant has not satisfied the eligibility criteria for an appeal.
- (d) The applicant shall be notified of the decision and reasons for the decision of the GAC Chair within five working days of receipt of the applicant's appeal application unless the applicant also claimed extenuating circumstances, in which case the GAC Chair shall make a decision within five working days of having been notified of the outcome of the applicant's extenuating circumstances request.
- (e) If the GAC Chair determines in an initial review that the Decision Maker made a clear procedural error or manifestly failed to afford the applicant due process the GAC Chair may

request the Decision Maker re-make the decision in accordance with the principles of natural justice and inform the applicant of the outcome.

- (f) The GAC Chair may, in their absolute discretion, request that the applicant provide further particulars or Supporting Evidence before making any determination as set out in this clause 3.5

### **3.6 Progressing an appeal**

- (a) If the GAC Chair determines to refer the matter to the GAC in accordance with clause 3.5 above, the GAC Chair:
  - (i) may request the Decision Maker to prepare a brief of evidence relating to the matter including a summary report identifying the issues of concern to be reviewed by the GAC; and
  - (ii) shall provide the summary report referred to in clause 3.6(a)(i) above to the applicant for comment before providing all material to the GAC for review.
- (b) The applicant shall be afforded at least five working days in which to comment on the summary report.
- (c) The applicant shall not be provided, and is not entitled to review, the Decision Maker's brief of evidence but may make comments in relation to the summary report about their inability to review the brief of evidence.

### **3.7 Deciding an Appeal**

- (a) Any appeal application referred to the GAC by the GAC Chair must be assessed by a minimum of four GAC members.
- (b) GAC members who have had previous involvement with the applicant or with any prior decision relating to the subject matter of the application must declare their interest.
- (c) The GAC members conducting an appeal review shall consider the applicant's application, summary report and, where relevant, Supporting Evidence and the Decision Maker's brief of evidence.
- (d) After reviewing the material referred to in clause 3.7(c) above, the GAC may request reasonable additional information or documentation from the applicant, relevant GEMSAS administrative staff, or the Decision Maker.
- (e) The GAC is to make a decision within 14 days of being referred the matter by the GAC Chair.
- (f) Where the GAC has sought further information in accordance with clause 3.7(d) above, it may extend its time to make a decision by that time which is reasonably necessary provided it notifies the applicant of the new deadline and the reasons for extending the deadline.
- (g) The GAC must make a decision to allow or dismiss the appeal based on a consideration of the applicant's appeal application, the summary report, the terms of this policy, and, where relevant, the applicant's Supporting Evidence, the Decision Maker's brief of evidence, any further material requested by the GAC.
- (h) When assessing evidence, the GAC must only have regard to evidence that is credible and relevant to the facts and circumstances of the matter under appeal.

- (i) If the GAC decides to uphold an appeal, the GAC must request:
  - (i) the Decision Maker re-make the decision in accordance with the principles of natural justice; or,
  - (ii) may re-make the Decision itself.

### 3.8 Appeal Outcome

- (a) The applicant and GEMSAS administrative staff will be notified of the outcome of the appeal within five working days of the GAC having made a decision in accordance with clause 3.7 above.
- (b) GAC decisions are final and not open to any further appeals. The applicant may not appeal any decision made under this Policy, including a decision by the GAC or GAC Chair.

## APPENDIX 1: TERMS AND DEFINITIONS

**Decision** means a decision that can be appealed pursuant to this Policy as set out in clause 3.1(b).

**Decision Maker** means a GEMSAS administrative staff member, GEMSAS project officer or the Victorian Tertiary Admissions Centre (VTAC) who made an appealable decision referred to in clause 3.1(a) above.

**GAC Chair** means the member of the GEMSAS Appeals Committee elected or appointed to preside as chair of the committee.

**Supporting Evidence** means the material, documents or information submitted by an applicant to support, demonstrate or prove the facts that form the grounds of their appeal under this policy or the grounds for them seeking an extension to the appeal timeframes in accordance with the GEMSAS Appeals Extenuating Circumstances Policy.