

# Postgraduate Medical Education Policy

## Policy on Appeal of Assessment Decisions

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## Section A: Introduction

### A1: Definitions

A comprehensive list of definitions can be found in the [PGME Glossary of Definitions and Terms](#).

**Accommodation:** an individualized arrangement which adjusts, reduces, or removes organizational or physical barriers that may limit the ability of trainees with disabilities to fully participate in the program and meet the essential requirements of postgraduate medical education (PGME).

**Appeals Review Board (ARB):** board that adjudicates and investigates Level 2 appeals on behalf of the Associate Dean, PGME. Please refer to [Appendix 2](#) for the Terms of Reference for the ARB.

**Assessment:** systematic process of gathering and analyzing data from diverse sources on trainee performance with the purpose of determining achievement of competencies required for promotion and graduation to independent practice.

- **Formative Assessment:** process of assessment of trainee performance for the purpose of improvement ('assessment for learning').
- **Summative Assessment:** process of assessment summarizing a trainee's performance against established objectives and expectations, which is carried out at specified intervals within each program.
- **Trainee Status in CBD residency programs**, as recommended by a Competence Committee (CC), ratified by the Residency Program Committee (RPC).
  - **Progressing as Expected:** trainee is progressing as expected through their current stage of learning, attaining EPAs/competencies, and achieving learning goals articulated on their learning plan.
  - **Not Progressing as Expected:** trainee is delayed in attaining expected EPAs/competencies and/or is demonstrating a need for a modified learning plan for the attainment of competencies for that stage of learning.
  - **Failure to Progress:** trainee is failing to progress in learning path.
  - **Inactive:** trainee is not actively training in program and is expected to return (parental leave, medical leave, unpaid leave).

**Assessment Verification Period (AVP):** assessment period, twelve (12) weeks in duration, designed to evaluate PGY1 CaRMS entry International Medical Graduates (IMGs) to determine if they can function at their required level of training.

**Balance of Probabilities:** represents the test to be met by an appellant (i.e., trainee), to be successful, must show, by the weight of the evidence presented, that all facts necessary to uphold the appeal have a greater likelihood of being true than not.

**Clinical Supervisor:** most responsible faculty member to whom the trainee directly reports during a training experience.

**College of Physicians and Surgeons of Ontario (CPSO):** health regulatory body of Ontario responsible for ensuring that physicians (including trainees) provide health services in a safe, professional, and ethical manner. This includes, among other things, setting standards of practice for the profession, investigating

complaints about members of the profession and, when appropriate, disciplining them.

**Competence by Design (CBD):** Royal College hybrid CBME model designed to work within the Canadian context and combines a time-based and an outcomes-based approach to learning, using CanMEDS 2015 as an organizing framework of competencies.

**Competence Committee (CC):** a subcommittee of the Program Committee responsible for the formal review of a trainee's clinical and academic progression towards competence, using collated assessment data gathered over time and from multiple sources. The CC makes recommendations to the Residency Program Committee for trainee promotion to next levels and requirements for enhanced educational plans, remediation, probation and/or dismissal.

**Competency-Based Medical Education (CBME):** overarching term referring to a competency-based, outcomes-based model of medical training.

**Dismissal:** termination of the trainee's enrollment in a training program and registration at PGME (does not apply to transfers within and outside of the institution).

**Education Advisory Board (EAB):** a board, acting on behalf of PGME, that reviews the summary performance of any trainee, referred by program director, Program Committee, trainee or Associate Dean, PGME, and makes recommendations to the Program Committee/program director and the Associate Dean, PGME, regarding remediation strategies.

**In-Training Assessment Report (ITAR):** tool of summative assessment used at the end of a training experience.

- CanMEDS-based and linked to objectives of the training experience.
- ITARs are the primary summative assessment tool used in time-based programs.
- CBME programs may also choose to use ITARs as assessment tools to allow for longitudinal assessments as part of a systematic assessment system. ITARs can be modified to allow for assessment of competencies not adequately assessed by EPAs associated with the training experience.

**Pre-Entry Assessment Program:** assessment process that evaluates IMGs to determine whether they can function at the appointed level of training. It is normally between four to twelve weeks in duration (two weeks for elective appointments). It is applicable to all international medical graduates who enter residency training outside of a CaRMS process or fellowship training.

**Probation:** an interval outside of scheduled training experiences designed to allow specific additional opportunities for a trainee to correct areas of serious clinical, academic, or professional deficiency, as well as to determine the trainee's suitability for continuation in the residency program.

- **Probation Plan/Agreement:** formal document developed by the program director/Program Committee/CC outlining the performance difficulties the trainee is required to correct, clinical and academic resources, assessment and monitoring, and specific outcomes to be achieved.

**Program Committee:** Residency/Fellowship/AFC Program Committees support the program director in the administration and coordination of the residency/fellowship program. It is expected that **resident** assessment will be the mandate of the competence committee (or equivalent).

**Program Director:** faculty member responsible and accountable for the overall conduct and organization of the residency or fellowship program, accountable to the Associate Dean, PGME, and the Division/Department Chair.

**Remediation:** formal program of individualized training, support, assessment, and monitoring designed to assist a trainee in correcting identified areas of difficulty in academic performance. It is anticipated that the difficulties can be successfully addressed by remediation such that the trainee will be able to achieve the required competencies for progression in the program.

- **Remediation Plan/Agreement:** formal document outlining the details of the performance difficulties the trainee is required to correct, clinical and academic resources, monitoring and assessment, and specific required outcomes to be achieved.

**Resident Affairs:** provides support and advice to postgraduate trainees. The office is arm's length from PGME and postgraduate training programs.

**Suspension:** temporary removal of a trainee from clinical and academic activities.

**Trainee:** resident, clinical fellow, research fellow. In this policy, the term trainee refers to either resident or fellow. Specific terminology will be used if applicable only to either resident or fellow.

**Vice Dean, Education:** senior official who oversees the School of Medicine's health professional education programs, including postgraduate medical education (PGME). The Associate Dean, PGME, reports to the Vice Dean, Education. In this document, the Vice Dean, Education, will be referred to as the Vice Dean.

## **A2: Purpose**

The purpose of this policy is to outline processes and standards for appeals of assessment decisions for postgraduate trainees registered in PGME, McMaster University. It is the responsibility of each trainee and program director to be aware of this policy and be familiar with its content. It is the responsibility of the PGME office to ensure access to and appropriate application of this policy at all levels of appeal. The PGME office is available to respond to questions or concerns about the application and procedures of the policy.

*Note: All timeframes in this report are approximate and subject to extension after a reasonable effort is made to accommodate the timelines. The trainee must be informed of any extension beyond the timeframe suggested in the policy. Extension of timeframes for submission of the appeal request by the trainee must have prior approval by the program director or Associate Dean, PGME, depending on the level of appeal.*

## **A3: Scope**

Academic appeals are conducted based on procedural errors, alleged bias/unfairness, substantive claims of inaccurate assessment, failure of appropriate accommodation (previously recognized), or new information not available and/or reviewed at the time of the assessment decision, including, but not limited to, the need for accommodation. This policy does not apply to appeals for matters that other PGME/University policies may address (e.g., accommodation) or procedures or policies governed by other organizations (e.g., hospitals, CPSO).

**(i) Trainees:**

This policy applies to all postgraduate trainees registered with the PGME office. All matters surrounding appeals on assessment fall within the jurisdiction of the PGME office and the Faculty of Health Sciences (FHS) at McMaster University. Postgraduate trainees do not have access to the University Senate appeal process.

This policy does not apply to trainees registered in postgraduate training programs at other institutions who are accepted for electives in a postgraduate program at McMaster University.

**(ii) Appealable Assessment Decisions:**

- Unsatisfactory ITAR
- Failure to Progress summative assessment by the Competence Committee (CC) in CBD programs
- Unsatisfactory assessment at the end of the Pre-Entry Assessment Program (PEAP) or the Assessment Verification Period (AVP) leading to dismissal from the program
- Remediation, Probation, Suspension or Dismissal
- Denial of eligibility for certification examination
- Denial of completion of training certification

**(iii) Levels of Appeal:**

- Level 1: Program/Department
- Level 2: PGME Appeals Review Board (ARB)
- Level 3: Faculty of Health Sciences (FHS)

## Section B: General Principles

1. Trainees must have access to fair, equitable and timely procedures for requesting and hearing of appeals related to assessment decisions.
2. Trainees are strongly encouraged to communicate their concerns informally with their clinical supervisor and/or program director before seeking review under formal procedures described in this policy.
3. In any appeal, trainees have the responsibility to demonstrate how an injustice or error has occurred at the level of the decision being appealed.
4. The function of the Appeals Committees at all levels is to determine, based on the evidence presented to it, whether the initial decision maker acted or decided the matter in an unfair, uninformed, unreasonable, or unjust way.
5. Trainees and the committee responsible for the level of appeal (e.g., Program/Department Committee, Appeals Review Board) must comply with timelines outlined in this policy. If the responsible individual and/or committee is unable to provide a response (assuming reasonable effort) within the specified period, the trainee must be informed and provided with an anticipated date. It is expected that timelines may be extended if there is involvement of legal counsel and/or the College of Physicians and Surgeons of Ontario (CPSO).

6. Each program must develop its own appeal mechanism describing procedures for handling appeals at Level 1 (described below) and comply with the *PGME Policy on Appeal of Assessment Decisions*. The program-specific process must be known to the members of the program committee and the trainees. Departments may have a Level 1 process for all trainees in programs within the specific department.
7. Trainees and program directors must be aware of the guidelines for referral to the Education Advisory Board (EAB) as defined by the [Policy on Assessment of Trainees in Postgraduate Programs](#). Remediation and probation plans reviewed at the EAB include discussion of any disputes regarding the terms of the remediation/probation plans.
  - 7.1. If the trainee has concerns about the specifics of the remediation or probation plans but not the decision for remediation or probation, this will be addressed through the EAB case conference and is not grounds for an appeal.
8. An appeal in process does not alter the mandated reporting requirements of the PGME office (refer to section: Reporting to Professional Authorities in the [Policy on Assessment of Trainees in Postgraduate Programs](#)). The PGME office will notify the CPSO of the outcome of the appeal.
9. The assessment decision remains in effect unless and until it is overturned on appeal, or where a decision conflicts with an accommodation need of the resident, or there are extenuating circumstances. The submission of an appeal will not prevent the decision being appealed from being carried out during the period prior to the appeal hearing and decision.
10. Trainees will proceed with the conditions of the remediation and/or probation plan regardless of a request for an appeal, unless the plan conflicts with an accommodation need of the resident, or there are extenuating circumstances. If the trainee is unwilling to proceed with the conditions as outlined by the program, it is at the discretion of the program to allow them to continue with regularly scheduled learning experiences, organize alternate experiences, or place them on an unpaid leave of absence.
11. It is expected that many trainees may require an Enhanced Education Plan (EEP) during their training to tailor their program to meet their specific learning needs. The trainee may not appeal the requirement for an EEP.
12. Trainees should be encouraged to contact the [Resident Affairs office](#) and/or the [Professional Association for Residents in Ontario \(PARO\)](#) for support if required.

## Section C: Appeals

### C1: Level 1 Appeals – Program/Departmental

13. The program must have a written Level 1 appeals process that complies with principles of natural justice and procedural fairness. The program must define the committee which will be adjudicating Level 1 appeals. The appeals committee must be separate from the committee that determines the assessment decision (refer to [Appendix 1 for Template of Level 1 Appeals Committee Terms of Reference](#)).

- 13.1. Programs may choose to have the Program Committee as the Level 1 Appeals Committee, provided the Program Committee did not determine or approve the assessment decision.
  - 13.2. Level 1 Appeals Committee can be at the departmental level, which may be of benefit for small programs to allow for faculty representatives outside the program.
  - 13.3. Programs may consider ad-hoc Level 1 Appeals Committee provided the terms of reference, and process are defined.
  - 13.4. The program director may be the Chair of the Level 1 Appeals Committee, provided they were not directly involved in the assessment decision (non-voting member of the CC is permitted).
14. The types of assessment decisions that can be made include, but are not limited to, the following:
- 14.1. Decisions within the trainee's program: the trainee's home program appeals process will apply.
  - 14.2. Decisions outside the trainee's program: the trainee's home program appeals process will apply; however, the program director/delegate will consult the clinical supervisor and/or the program director of that training experience, along with other appropriate individuals (e.g., CTU Director).
  - 14.3. Decisions made by the program committee: if the program committee is the Level 1 appeals adjudicating body (please see above), the program may choose to strike an ad hoc Level 1 Appeals Committee; however, if this is not possible or other extenuating circumstances, the program/trainee may make a request to the Associate Dean, PGME, to proceed directly to Level 2 appeal. The Associate Dean, PGME, has the discretion to approve or deny a request to proceed directly to a Level 2 appeal.
  - 14.4. The Associate Dean, PGME, may decide, depending on extenuating circumstances and the assessment decision, to proceed directly to the Level 2 appeals.
15. The trainee must submit an appeal, in writing, within ten (10) business days of written notification of the assessment decision to the Chair, Level 1 Committee (the "Chair") stating the decision(s) under appeal and providing reasons why the decision is being appealed. The written request for appeal must provide:
- An explanation as to why the trainee disagrees with the assessment decision.
  - The grounds for appeal, as listed under *scope* in this policy.
- Optional:* Supporting documents that the trainee believes are relevant to the appeal.
16. The Chair will review the appeal request to determine appeal eligibility. The Chair will notify the trainee of the decision within ten (10) business days.
- 16.1. It is highly recommended that the program director or delegate meet with the trainee, if not already done, to attempt to resolve the situation informally.
17. If the appeal has been approved to move forward, the Chair will arrange a meeting of the committee that reviews appeals in their program. The meeting should be convened within ten (10) business days of receipt of the request for appeal. If, after reasonable effort, a meeting is not possible within that timeframe, the trainee must be notified with an estimate of the earliest date the meeting can be scheduled.
- 17.1. The Chair will gather documentation relevant to the appeal from both the trainee and the program. All documentation will be provided to the trainee and the members of the Appeals Committee before the meeting.

- 17.2. The trainee must be invited to attend the meeting, along with any other appropriate individuals, as determined by the program director. The trainee may request up to two support people/representatives to attend the meeting. The trainee is within their rights not to attend the meeting if they wish.
  - 17.3. If the trainee retains legal counsel, the Associate Dean, PGME, must be notified, and the University will provide legal representation to the program.
18. Any existing and/or potential conflict of interest must be declared, and changes to the committee structure made accordingly (e.g., clinical supervisor who has made the decision should recuse themselves; the program director cannot chair the committee if they have directly participated in the assessment process, i.e., excluding non-voting membership on the CC).
- 18.1. The trainee will be provided with a list of members on the Appeals committee and the opportunity to disclose any perceived conflict of interest.
19. The Chair will call the meeting to order, outline the confidentiality of the process, and briefly review the request for appeal.
- 19.1. If new documents or information is introduced by either the trainee or the program director/delegate at the meeting, the Chair, trainee, or program director/delegate may request postponement of the meeting.
  - 19.2. Following presentations from the trainee and program director/delegate and question and answer period, all parties except for the Appeal Committee members will be asked to leave the meeting before deliberation.
  - 19.3. It is recommended that a closed ballot for votes be used if the committee members cannot reach a consensus.
    - 19.3.1. Decisions will be made with a majority vote if consensus cannot be reached.
20. The Chair shall ensure that a record of the meeting is kept in the trainee's file, including any written submissions and the findings and decision(s) concerning the matters before it. The Chair shall provide the trainee with a written report of the findings and the decision. A copy of the report will be sent to the Associate Dean, PGME.
21. The trainee will be notified of the decision within ten (10) business days of the meeting with a written summary of the meeting. If, after reasonable effort, the decision and/or written report is not possible within that timeframe, the trainee must be notified with an estimate of the earliest date for receipt of the decision and written report. Decisions are one of the following:
- The assessment decision is upheld. If the trainee does not feel that due process was applied, they may proceed to PGME Level 2 Appeals Review Board.
  - The assessment decision is overturned. The Appeals Committee may have recommendations.
22. The decision of the Level 1 Appeal Committee is **final** with regards to an *Unsatisfactory ITAR*.
- 22.1. If the unsatisfactory ITAR was the triggering event for the decision of remediation, the trainee cannot subsequently appeal the decision of remediation if the assessment decision is upheld at the Level 1 Appeals Committee.



## **C2: Level 2 Appeals – Appeals Review Board (ARB)**

23. The trainee must submit a written request for appeal within ten (10) business days after being notified of the Level 1 Appeals decision and receipt of the written report. Refer to the [Terms of Reference for the ARB in this policy](#).
24. The trainee must submit the request for appeal, in writing, to the PGME office, stating the decision(s) under appeal and providing reasons why the decision is being appealed, including, but not limited to, identifying the specific grounds for the appeal (refer to 'scope' in this policy).
  - 24.1. The Chair of the ARB will review the request for appeal and relevant documentation to determine whether the decision is appealable. The Chair of the ARB will notify the trainee in writing within ten (10) business days.
  - 24.2. If the appeal has been approved, the PGME office in collaboration with the Chair of the ARB will convene a meeting of the ARB.
  - 24.3. The PGME ARB shall conduct itself in accordance with the principles of natural justice and procedural fairness. The PGME ARB will follow the procedures outlined in [Appendix 2](#).
25. The PGME office will schedule the meeting of the ARB within fifteen (15) business days of the written approval of the appeal. If, after reasonable effort, a meeting is not possible within this timeframe, the trainee will be notified with an estimate of the earliest date that a meeting can be scheduled.
  - 25.1. The trainee will be provided with a list of members of the ARB and the opportunity to disclose any perceived conflict of interest.
26. The trainee, with a maximum of two support people/representatives and the program director must be invited to attend the meeting of the ARB, along with any other appropriate individuals as determined by the ARB, e.g., clinical supervisor, CC chair.
  - 26.1. If the trainee retains legal counsel, the University will provide legal representation for the ARB.
27. The PGME office will gather documentation relevant to the appeal from both the trainee and the program and should be shared with the Appeals committee no later than five (5) days in advance of the ARB meeting. If the appeal has gone through Level 1, the same documentation will be reviewed at Level 2.
  - 27.1. All documentation will be provided to both parties – the trainee and the program director/delegate prior to the meeting.
28. The ARB will follow the process outlined in the Terms of Reference ([Appendix 2](#)).
29. Possible decisions from the ARB:
  - The assessment decision is upheld.
  - The assessment decision is overturned.
30. A written report of the meeting and the decision of the ARB will be sent to the trainee and the Associate Dean, PGME, within ten (10) business days. If, after reasonable effort, the decision and written report are not possible within that timeframe, the trainee and the Associate Dean, PGME, will be notified with an estimate of the earliest date for the decision and/or report.

31. The decision of the ARB will be **final** in all appeals for:
- Failure to progress summative assessments by CC
  - Remediation
  - Denial of certification of exam eligibility
  - Denial of certification of completion of program (provided the decision is for extension of training and NOT dismissal)

### **C3: Level 3 Appeals – Faculty of Health Sciences (FHS)**

Refer to the Terms of Reference of the FHS Appeals Panel ([Appendix 3](#)).

32. Decisions of probation, suspension, or dismissal can be appealed at Level 3 FHS.
33. The trainee must submit the appeal, in writing, within ten (10) business days of receiving the written decision of the Level 2 Appeals from the Chair, ARB, to the Vice Dean, Education, stating the decision(s) under appeal and providing reasons why the decision is being appealed including, but not limited to, identifying the specific grounds for the appeal.
34. The Vice Dean (or delegate) will review the request for appeal to determine whether the issue is appealable or not within ten (10) business days. If, after reasonable effort, the review is not possible within this timeframe, the trainee will be notified with an estimate of the earliest date the review and decision will be made by the Vice Dean. The Vice Dean will notify the trainee in writing of the decision. The decision of the Vice Dean is final.
35. If the appeal has been approved, the Vice Dean will arrange for a hearing to be held in accordance with Faculty-approved procedures before the FHS Postgraduate Appeals Panel, defined by the Faculty, as the final adjudicator of this appeal.
36. The members of the FHS Postgraduate Appeals Panel will be assembled as above, and the hearing will take place within twenty (20) business days of the Vice Dean's decision to proceed with the Level 3 appeal. If, after reasonable effort, a meeting is not possible within this timeframe, the trainee will be notified with an estimate of the earliest date that a meeting can be scheduled.
37. The trainee, with a maximum of two support people/representation if desired, must be invited to attend the meeting of the FHS Postgraduate Appeals Panel, along with the Associate Dean, PGME.
- 37.1. If the trainee retains legal counsel, the University will provide legal representation for the FHS Postgraduate Appeals Panel.
38. The FHS Postgraduate Panel shall conduct itself in accordance with the principles of natural justice and procedural fairness as maintained in the Statutory Powers Procedure Act. The FHS Postgraduate Appeals Panel follows the procedures outlined in [Appendix 3](#).
39. The Chair of the Panel (Vice Dean, Education or delegate) will request that the PGME office prepare a file consisting of the trainee's written assessment reports, e.g., In-training Assessment Reports, work-based assessments and other relevant reports and correspondence, and a summary statement of actions relevant to the appeal. The Chair should ensure that the parties to the appeal (the trainee and the Associate Dean, PGME) have a copy of this file in a reasonable time to prepare for the

meeting to hear the appeal.

40. At any time throughout the process, the FHS Postgraduate Appeals Panel may request documents from the Associate Dean, PGME, and/or the trainee if the Panel finds that such documents are relevant to the proceeding.
41. The FHS Postgraduate Appeals Panel has sole jurisdiction to hear and make a final adjudication on the appeal.
42. The Postgraduate Appeals Panel shall give written notice of the decision, with reasons, to the trainee, the Associate Dean, PGME, and other parties involved. This decision will be delivered as soon as reasonably possible but no later than fifteen (15) business days following the conclusion of the hearing.
43. Possible Outcomes for the FHS Postgraduate Appeals Panel:
  - The assessment decision is upheld. Recommendations may be made by the Panel.
  - The assessment decision is overturned. Recommendations may be made by the Panel.

*Note: The decision of the FHS Postgraduate Appeals Panel is final. Postgraduate trainees do not have access to any other University appeal process.*

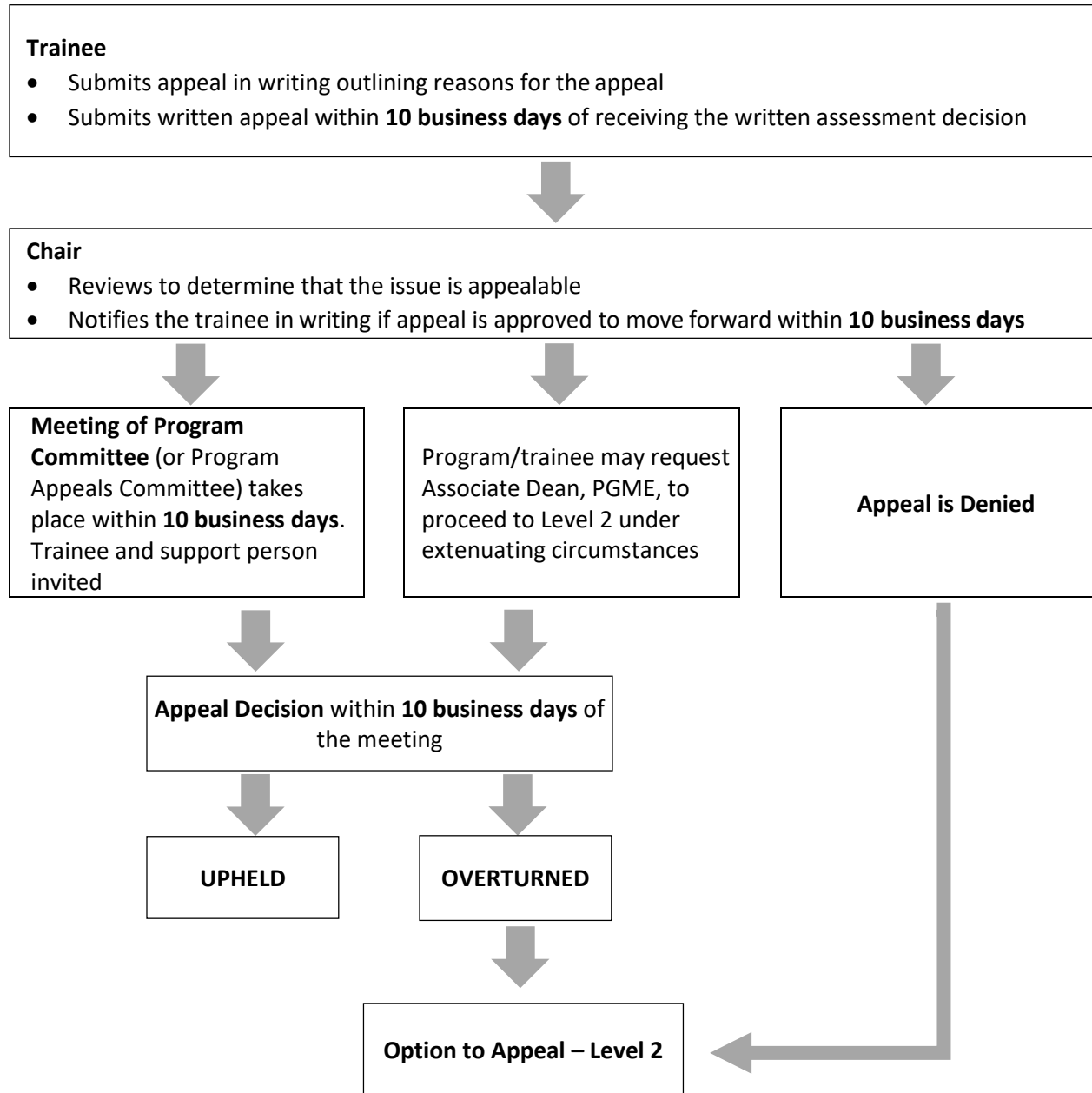
## Section D: Appeals – Process Flow Charts

Please note the decisions that are final at each level of appeal, as outlined in this table:

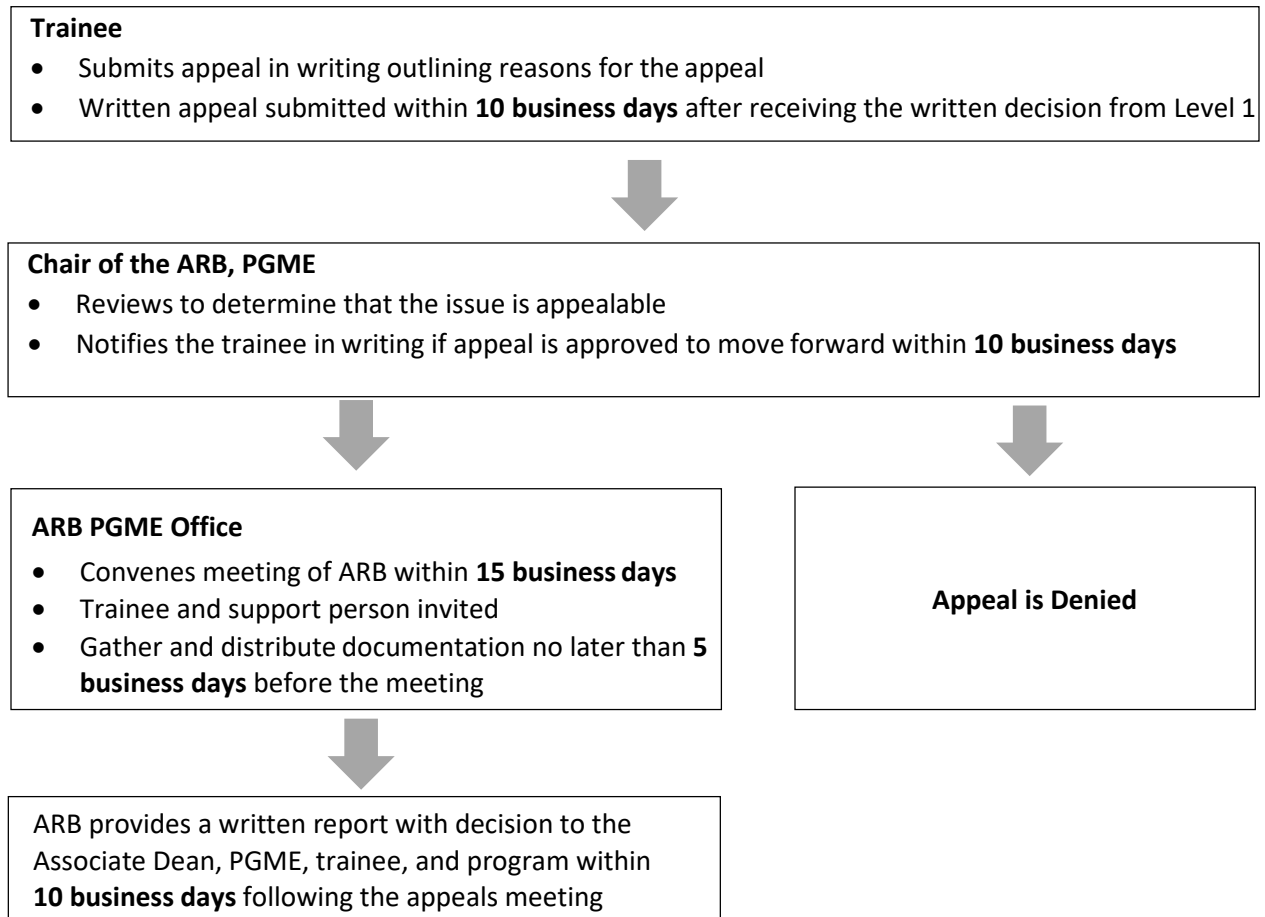
<b>Level 1: Program</b>	<b>Level 2: PGME Appeals Review Board</b>	<b>Level 3: FHS Appeals Panel</b>
Unsatisfactory ITAR	Remediation Failure to progress Eligibility for certification exam Eligibility for certificate of completion (if extension required)	Probation Suspension Dismissal

### Level 1: Appeals Program Process Flow

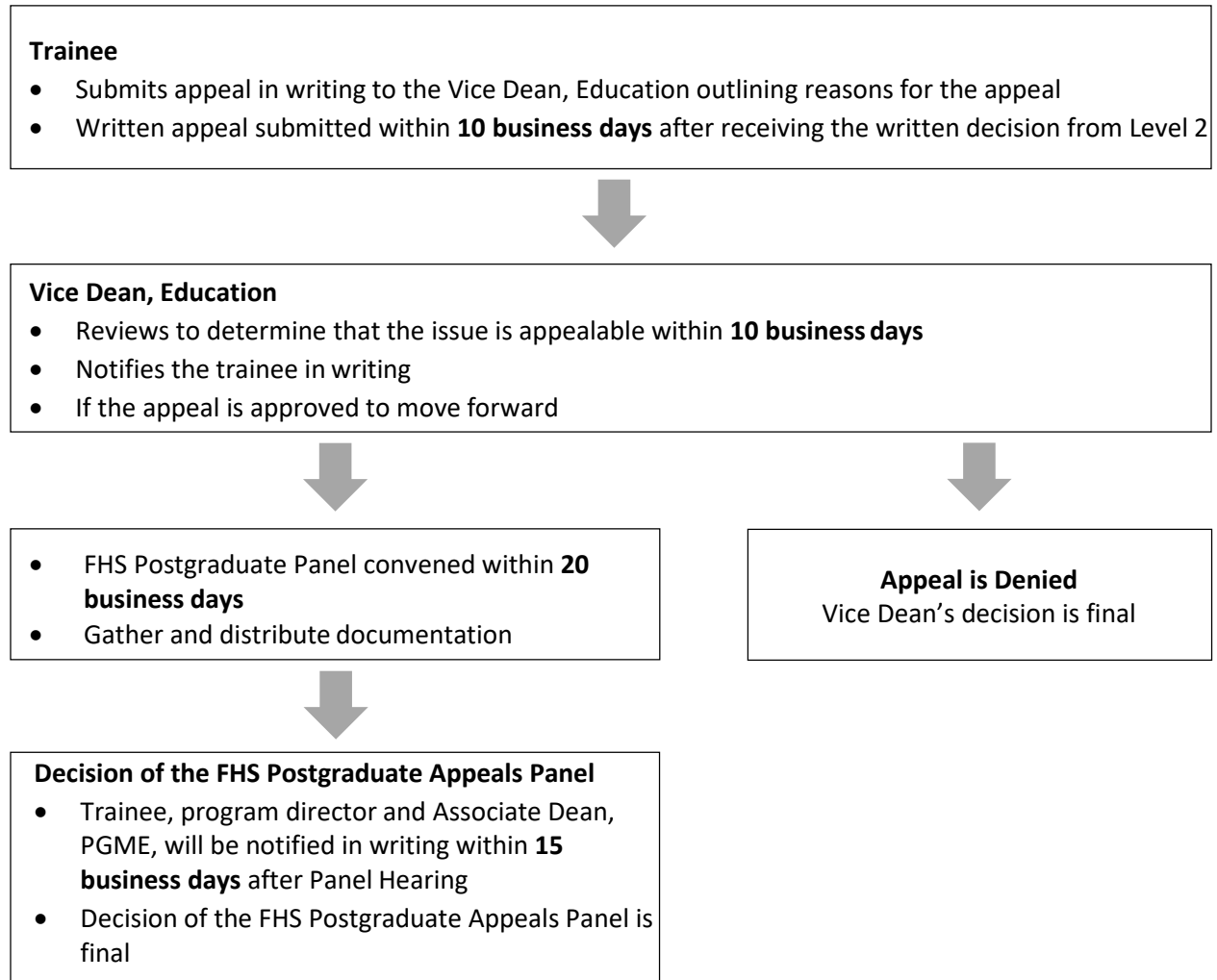
Each program will have a level 1 appeals process in place that complies with the principles below.



## Level 2: Appeals Review Board (ARB) Process Flow



### Level 3: Faculty of Health Sciences (FHS) Postgraduate Appeals Panel Process Flow



### Appendix 1: Level 1 – Template of Program Appeals Committee Terms of Reference

#### Template for Level 1 Program Appeals McMaster *Program Name* Level 1 Appeals Committee

##### **Mandate:**

The Program/Department Appeals Committee will hear Level 1 trainee assessment appeals in accordance with the Postgraduate Medical Education (PGME) Policy on Appeal of Assessment Decisions. Decisions made at the Program/Department Appeals Committee are final at the program level. Trainees have access to both Level 2 (PGME) and Level 3 (FHS) appeals processes.

Academic appeals are conducted based on procedural errors, alleged bias/unfairness, substantive claims of inaccurate assessment, failure of appropriate accommodation (previously recognized), or new information not available and/or reviewed at the time of the assessment decision, including, but not limited to, the need for accommodation.

According to the PGME policy, trainees may appeal the following summative assessment decisions at Level 1:

- Unsatisfactory ITAR
- Failure to Progress summative assessment by the Competence Committee (CC) in CBD programs
- Unsatisfactory assessment at the end of the Pre-Entry Assessment Program (PEAP) or the Assessment Verification Period (AVP) leading to dismissal from the program
- Remediation, Probation, Suspension or Dismissal
- Denial of eligibility for certification examination
- Denial of completion of training certification

*Note: Decision for Remediation, Probation, Suspension or Dismissal must be communicated with the Associate Dean, PGME, as defined in the [Policy on Assessment of PGME Trainees](#).*

##### **Membership:**

Members of the Program Appeals Committee will be appointed by the Program Committee and consist of the following members:

- Chair
- Faculty members (number)
- Trainee representatives (number)
- Site representatives

##### *Note:*

- *The program director may chair the Level 1 Committee or be a committee member only if there is no conflict of interest (i.e., no role in the assessment decision, aside from membership on the CC).*
- *The program may wish to identify term appointments for faculty members.*



Specific meetings will also be attended by:

- The trainee appellant
- The associated faculty member/site director
- Up to two additional support persons/representatives, at the trainee's request

*Note: The trainee must indicate if they will be bringing legal support as the University will also appoint legal representation.*

**Meeting Frequency:**

At the call of the Chair, when a trainee appeal request comes forward. Meetings should be scheduled within ten (10) days of receiving the request for appeal.

**Process for Appeals:**

Trainee decides to appeal for the summative assessment decisions outlined above:

1. The trainee will submit a written formal request for appeal within ten (10) days of receiving the assessment decision in writing, detailing their concerns to the program director.
2. The program director (or delegate) will review the request for appeal to determine if appealable and notify the resident of the decision within ten (10) business days.
3. If the appeal request is accepted, the program director will notify the Chair of the Appeals Committee, if applicable, to organize a meeting within ten (10) business days.
4. The program director or delegate will assist in investigating the issues brought forward and obtain input from the faculty member completing the evaluation and other relevant parties to ensure a full understanding of the issue at the appeal hearing.
5. All documentation will be available to the trainee and the members of the Appeals Committee.
6. At the appeal hearing:
  - The Committee Chair will oversee the process and be a resource regarding PGME Assessment Policy/Procedure.
  - The program director/delegate will introduce the trainee and brief the committee regarding the educational history and the background of the assessment decision. Additional information may be presented by the faculty supervisor if present at the meeting.
  - The trainee will present their appeal to the committee and remain to answer any questions from the committee members. The trainee will then leave the meeting during deliberations. The trainee is invited to bring up to two additional support persons/representatives to the meeting should they wish.
  - The committee will deliberate and may hear additional information from the program director and/or Unit Coordinator regarding faculty input.
  - The voting members of the committee will recommend a decision:
    - i. Appeal granted
    - ii. Appeal granted, with recommendations/follow-up/educational plan
    - iii. Appeal denied
    - iv. Require more information

7. The Committee Chair will provide the trainee with a written report of the findings and recommendations of the committee within ten (10) business days and will also advise the resident of further appeal options, as appropriate.
  - A copy of the report will be sent to the Associate Dean, PGME, and placed in the resident's file.
  - Confidential minutes will be kept as the official record of the hearing.

Revised: XXXXXXXXX

Approved at RPC: XXXXXXXXX

## **Appendix 2: Level 2 – Appeal Review Board (ARB) Terms of Reference and Process**

### **FACULTY OF HEALTH SCIENCES POSTGRADUATE MEDICAL EDUCATION: LEVEL 2 APPEAL**

#### **APPEAL REVIEW BOARD (ARB): TERMS OF REFERENCE and PROCESS**

The Postgraduate Medical Education (PGME) Appeals Review Board will hear Level 2 Postgraduate trainee assessment appeals in accordance with the *PGME Policy on Appeal of Assessment of Trainees in PGME Programs*. The Appeals Review Board functions independently from the Associate Dean, PGME, and the PGME Education Committee.

Academic appeals are conducted based on procedural errors, alleged bias/unfairness, substantive claims of inaccurate assessment, failure of appropriate accommodation (previously recognized), or new information not available and/or reviewed at the time of the assessment decision, including but not limited to the need for accommodation.

In accordance with the PGME Appeals policy, postgraduate trainees will be able to appeal the following summative assessment decisions at Level 2 Appeals Review Board.

1. Failure to Progress summative assessment by the Competence Committee
2. Unsatisfactory Pre-Entry Assessment Program (PEAP) and the Assessment Verification Period (AVP)
3. Decision for Remediation, Probation, Suspension or Dismissal

The Chair of the ARB will review and decide upon all requests for a Level 2 Appeal.

The ARB will decide upon the outcome following the ARB meeting.

Trainees also have access to the Level 3 (FHS) appeals process for decisions of suspension, probation and dismissal.

#### **Membership of the Appeals Review Board**

The PGME office, in collaboration with the Chair of the ARB and the Associate Dean, PGME will assemble the Appeals Review Board upon receipt and approval of a request for a Level 2 Appeal, as follows:

- Chair of the Appeals Review Committee: A faculty member with experience in PGME will be appointed by the Associate Dean, PGME, for a five-year term, renewable once. If the Chair has a conflict of interest (e.g., faculty member within the discipline of the trainee who submits the appeal), the Associate Dean, PGME, will appoint another faculty member to Chair the appeal hearing.
- A postgraduate trainee from outside the discipline of the trainee who submits the appeal.
- One faculty member from outside the discipline of the trainee who submits the appeal.
- One faculty member who is an expert in the discipline may be appointed to the ARB, depending on the nature of the appeal. If an appropriate individual is unavailable within the FHS, McMaster University, the Associate Dean, PGME, may request assistance from another university.
- Postgraduate Manager (non-voting).

The trainee must be informed of the membership of the Appeals Review Board and may object to one or more members if they can show reasonable grounds for conflict of interest. The Associate Dean, PGME, may overrule the objection or arrange a replacement.

### **Process**

1. The trainee must submit a written appeal within **ten (10) business days** after being notified of the Level 1 Appeals decision. The program director or trainee can proceed directly to Level 2 Appeals with a written request to the Associate Dean, PGME, outlining the reasons for the request. The Associate Dean, PGME, will decide on appropriateness after discussion with the program director and notify the trainee of the decision in writing.
2. The trainee must submit the appeal, in writing, to the PGME office, stating the decision(s) under appeal and providing reasons why the decision is being appealed, including, but not limited to, identifying the specific grounds for the appeal (refer to section on 'scope'). The PGME office will forward the request to the Chair of the ARB.
3. The Chair, ARB will review the appeal within **ten (10) business days** to determine whether the decision is appealable. If, after reasonable effort, the review and decision are not possible within ten (10) days, the trainee will be notified with an estimate of the earliest date that the meeting can be scheduled.
4. If the appeal has been approved, the PGME office will arrange a meeting of the Appeals Review Board, in collaboration with the Chair of the ARB. The PGME office will schedule the meeting within **fifteen (15) business days** of the initial receipt of the request for a Level 2 appeal. If, after reasonable effort, a meeting is not possible within fifteen (15) business days, the trainee will be notified with an estimate of the earliest date that the meeting can be scheduled.
5. The trainee, with up to two support persons/representatives, and the program director must 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, CC Chair.
  - 5.1. If the trainee retains legal counsel, the University will provide legal representation for the ARB.
6. The PGME office will gather documentation relevant to the appeal from the trainee and the program. If the appeal has gone through Level 1, the same documentation will be reviewed at Level 2. All documentation will be provided to both parties, the trainee, and the program director, before the meeting.

### **Possible Decisions from the ARB:**

1. The assessment decision is upheld.
2. The assessment decision is overturned.
3. A written report of the ARB meeting and the decision of the ARB will be sent to the trainee and the Associate Dean, PGME within **ten (10) business days**.

4. The decision by the ARB, will be final in all appeals related to remediation and/or unsatisfactory summative assessments.
5. Decisions of Probation, Suspension or Dismissal can be appealed at Level 3 FHS. The trainee may submit an appeal in writing to the Vice Dean, Education, within **ten (10) business days** of receiving the written decision from the Associate Dean, PGME.

## Appendix 3: Level 3 – FHS Postgraduate Appeals Panel Terms of Reference and Process

### FACULTY OF HEALTH SCIENCES POSTGRADUATE MEDICAL EDUCATION: LEVEL 3 APPEAL

#### TERMS of REFERENCE and PROCESS FHS Postgraduate Appeals Panel

The Faculty of Health Sciences (FHS) Postgraduate Appeals Panel will hear Level 3 postgraduate Trainee assessment appeals in accordance with the Postgraduate Medical Education (PGME) *Policy on Appeal of Assessment of Trainees in PGME Programs*. The FHS Postgraduate Appeals Panel functions independently from the Associate Dean, PGME, and the PGME Education Committee.

Academic appeals are conducted based on procedural errors, alleged bias/unfairness, substantive claims of inaccurate assessment, failure of appropriate accommodation (previously recognized), or new information not available and/or reviewed at the time of the assessment decision, including, but not limited to, the need for accommodation.

According to the PGME Appeals policy, postgraduate trainees will be able to appeal the following summative assessment decisions at Level 3 Appeals Review Board: Probation, Suspension or Dismissal.

The decisions made at the Postgraduate Appeals Panel are final. Postgraduate trainees do not have access to McMaster University Senate appeals process.

#### Membership of the FHS Postgraduate Panel:

Chair: Vice Dean, Education or delegate

Faculty: Two faculty members who are experienced in the training of postgraduate trainees, from outside the discipline of the trainee who submits the appeal. The faculty member may or may not be a program director. The Vice Dean, Education, after discussion with the Associate Dean, PGME, will appoint faculty members for the Panel on an ad-hoc basis once a request for a Level 3 appeal has been received and approved by the Vice Dean, Education.

Trainee: One postgraduate trainee outside the discipline of the trainee who submits the appeal, appointed by Associate Dean, PGME.

Secretary: Secretary for the Faculty of Health Sciences or delegate.

#### Process:

1. The trainee must submit the appeal, in writing, within **ten (10) business days** of receiving the written decision of the Level 2 Appeals from the Associate Dean, PGME, to the Vice Dean, Education stating the decision(s) under appeal and providing reasons why the decision is being appealed, including, but not limited to, identifying the specific grounds for the appeal.
2. The Vice Dean (or delegate) will review the appeal to determine whether the issue is appealable or

not within **ten (10) business days**. If after reasonable effort, the review is not possible within ten (10) business days, the trainee will be notified with an estimate of the earliest date the review and decision will be made by the Vice Dean. The Vice Dean will notify the trainee in writing of the decision. The decision of the Vice Dean is final.

3. If the appeal has been approved, the Vice Dean will arrange for a hearing to be held in accordance with Faculty-approved procedures before the Faculty of Health Sciences (FHS) Postgraduate Appeals Panel, defined by the Faculty, as the final adjudicator of this appeal.
4. The members of the FHS Postgraduate Appeals Panel will be assembled as above, and the hearing will take place within **twenty (20) business days** of the Vice Dean's decision to proceed with the Level 3 appeal. If, after reasonable effort, a meeting is not possible within twenty (20) business days, the trainee will be notified with an estimate of the earliest date that a meeting can be scheduled.
5. The trainee, with up to two support persons/representatives, must be invited to attend the meeting of the FHS Postgraduate Appeals Panel, along with the Associate Dean, PGME.
  - 5.1. If the trainee retains legal counsel, the University will provide legal representation for the FHS Postgraduate Panel.
6. The Chair of the Panel (Vice Dean, Education or delegate) will request that the Postgraduate Medical Education Office prepare a file consisting of the trainee's written assessment reports, e.g., In-training Assessment Reports, work-based assessments and other relevant reports and correspondence, and a summary statement of actions relevant to the appeal. The Chair should ensure that the parties to the appeal (the trainee and the Associate Dean, PGME) have a copy of this file in reasonable time to prepare for the meeting to hear the appeal.
7. At any time throughout the process, the FHS Postgraduate Appeals Panel may request documents from the Associate Dean, PGME, and/or the trainee if the Panel finds that such documents are relevant to the proceeding.
8. The FHS Postgraduate Appeals Panel has sole jurisdiction to hear and make a final adjudication on the appeal.
9. The FHS Postgraduate Appeals Panel shall conduct itself in accordance with the principles of natural justice as maintained in the Statutory Powers Procedure Act.
10. The Postgraduate Appeals Panel shall give written notice of the decision, with reasons, to the trainee, the Associate Dean, PGME, and the other parties involved. This decision will be delivered as soon as reasonably possible but no later than **ten (10) business days** following the conclusion of the hearing.

**Possible Outcomes:**

*Note: The decision of the FHS Postgraduate Panel is final. Postgraduate trainees do not have access to any other University appeal process.*

- The assessment decision is upheld. Recommendations may be made by Panel.
- The assessment decision is overturned. Recommendations may be made by Panel.