

## Appeals Regulations

Version 1

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## **Glossary**

ACCA	Association of Chartered Certified Accountants
AT	Appeals Tribunal
CAPA	The Confederation of Asian and Pacific Accountants
DC	Disciplinary Committee
EAAA	Emirates Association for Accountants and Auditors (the Association)
I&D	Investigation and Discipline
IC	Investigation Committee
IFAC	International Federation of Accountants
MoE	Ministry of Economy
PAO	Professional Accountancy Organization
SMO	Statement of Membership Obligations
UAECA	United Arab Emirates Chartered Accountant
UAE	United Arab Emirates

## 1. Introduction

A subject who has undergone an investigation process and a decision and sanctions by the Disciplinary Committee have been placed upon them, has a right to appeal the decision and sanctions. These Appeals Regulations set out the scope, right and obligations of all parties in the appeals process.

## 2. Scope of the Regulations

These Regulations are applicable to all students and members of the Association who seek a review of the decision of the Disciplinary Committee.

The subject of the Disciplinary Committee decision may apply for permission to appeal within a reasonable number of days of the receipt of the decision. The Association may apply for permission to appeal to a decision made by the Disciplinary Committee within a reasonable number of days of the receipt of the decision.

No appeal can be based on the financial sanctions imposed as a result of the decision unless the decision was unreasonable or the payment of such fees will result in severe financial hardship of the affected party.

## 3. Appeals Tribunal

- a) Upon a request for an appeal being filed, an Appeals Tribunal Chair will be appointed who will have legal expertise in order to perform their duty as a Chair;
- b) It is the Chair's responsibility to review and grant or refuse permission to appeal;
- c) If permission to appeal is granted by the Chair, an Appeals Tribunal (AT) is appointed;
- d) No member of the IC or DC involved with the case can be members of the AT;
- e) The AT operates in accordance with the provisions of the Appeals Tribunal Charter;
- f) Prior to appeals process commencement, all AT members must complete an independence declaration stating they are independent of the complainant and the subject of the appeal proceedings and any other stakeholders interested in the matter. If a conflict of interest is identified, the AT member will immediately withdraw from the process and be replaced by another suitable member.

## 4. Application for appeal

An application for permission to appeal will be made by the subject by means of filing a written request to the Appeals Tribunal Chair, who will inform the complainant within a reasonable timeframe from the date of the appeal receipt in order for the complainant to submit their grounds for opposition within a reasonable number of days thereafter.

The request for permission to appeal will include the following information:

- Appellants name and address;
- Whether the appellant has a representative to act on their behalf and if so, the representative's name and address;
- Whether the appellant plans to appear at the appeal hearing if permission for appeal is granted;
- The grounds of appeal as per Section 4 supporting the request for appeal and reasons for each ground of appeal (which cannot be amended once submitted);
- Documents to support the appeal which will be reviewed by the Appeals Tribunal (AT) if permission is granted.

## 5. Grounds for appeal

An appeal by the subject can be made only on the basis of one or more of the following grounds:

- g) The Disciplinary Committee has made an error in interpreting the facts or the law, which likely to have altered the final decision;
- h) The DC has made an error in interpreting Association rules and regulations, international standards, including standards on conduct and ethics, which likely to have altered the final decision;
- i) The DC did not take into account relevant evidence, which likely to have altered the final decision'
- j) There is new evidence available that was not available previously at the time of the investigation and disciplinary hearing, which likely to have altered the final decision;
- k) DC's decision is unreasonable, unjust and/or disproportionate to the offense committed by the subject;
- l) DC's decision is unjust due to procedural failures in conducting the investigation and disciplinary processes.

## 6. Decision to appeal

Permission to appeal may be granted only on the basis of the grounds stated in Section 4 and if there is a real prospect of success under such grounds.

When the appeal requested is made by the Association, it will be granted only if there is public interest in the case being reviewed and there is real prospect of success.

The request will be reviewed by the AT Chair who may grant or refuse permission to appeal:

- a) If permission is granted, the grounds on which this decision is based will be stated with reasons for each ground which will be communicated to the parties within a reasonable number of days;
- b) If permission is refused, the Chair states the reasons for the refusal and closes the case. The decision is communicated to the parties within a reasonable number of days of the decision;

The Chairs decision is final.

## 7. Appeals process

If permission to appeal is granted, the appeal will be heard by the Appeal Tribunal led by the Chair who will consider the grounds for appeal and the reasons for granting permission to appeal.

- m) The Chair will inform the complainant and the appellant of the hearing date and time at least 45 days prior to the hearing but the period may be shortened at the sole discretion of the AT if urgency or public interest in doing so is determined;
- n) The Investigation Committee may be requested to make further enquiries in order to prepare the case for the AT hearing;
- o) The appellant will cooperate with the investigation where non-cooperation will be deemed as a breach of the Appeals Regulations and subject the appellant to disciplinary action;
- p) The appellant and the complainant will submit additional documentary evidence which they would like to reviewed by the AT not less than 30 days of the appeal hearing. Submissions less than 30 days may not be admitted by the AT;

- q) No less than 15 days before the hearing, the appellant must:
  - i. confirm whether they will be attending the hearing;
  - ii. submit the names of the appellant's witnesses who the appellant wishes to call, explaining the new evidence the witnesses will be providing;
  - iii. submit the names of the witness on behalf of the Association that the appellant wishes to attend for cross-examination, explaining the extent to which their evidence is disputed subject to new evidence;
- r) If the appellant confirms they will not be attending the hearing or fails to confirm either their attendance or non-attendance within the set deadline, EAAA is not obliged to ensure attendance of any witnesses at the hearing;
- s) The hearing may be held in the absence of any party as long as the AT is satisfied that the party has no less than 45 days prior notice of the date and time of the hearing or that the hearing is urgent;
- t) The appellant may withdraw their appeal in writing to the AT and the complainant which will result in the case being closed;
- u) The appellant has the right to be represented at the hearing by a person they nominate;
- v) The AT Chair must have legal expertise and the AT may engage a legal advisor to support the AT with the proceedings including ensuring that all decisions are recorded, all parties are heard and procedural matters are complied with;
- w) A party may make a request at the start of the hearing for the hearing to be adjourned which will be reviewed and such decision is solely at the discretion of the AT but written reasons will be given for the decision to grant or refuse the adjournment. The AT may itself make the decision to adjourn the hearing at any stage of the proceedings;

## **8. Appeals hearing**

The hearing proceedings will be as follows:

- a) The appellant will present their case first, followed by the complainant. The appellant can then reply to the complainant;
- b) If witness have been declared pursuant to regulation 6(e), witnesses may be called and can be cross-examined by the other party;
- c) The AT may ask questions of either party and their witnesses at any time.
- d) On the conclusion of the hearing of the appeal, the AT shall consider its decision on the appeal and may:
  - i. Affirm, vary or rescind the decision of the DC;
  - ii. Substitute any decision that the DC could have made
  - iii. On decision which has been rescinded, order that the DC hears the case anew.
- e) Where the AT makes an affirmation of the DC decision against the subject, the AT decision will be published on the Association website or using other communication channels deemed appropriate as soon as practicable.
- f) The decision of the AT may be communicated to the MoE with recommendations for any actions if the subject is a licensed auditor under the Federal Law No. 12 of 2014.
- g) The decision of the AT relating to an appellant who is a member of the UAECA programme shall be communicated to ACCA.

## **9. Costs**

The AT may ask the appellant to compensate the Association and/or the respondent for the costs incurred in conducting the case proceedings in the amount AT deems appropriate.

The AT may ask the Association to compensate the appellant for the costs incurred in connection with the case if the allegations against the appellant and the decision of the DC was wholly rescinded by the AT, in the amount at the AT's discretion.

When it is the Association who is the appellant and the appeal has not been successful, the AT may direct the Association to compensate the respondent in the amount AT deems appropriate.

## **10. Communication**

All communications shall take place either in written form and be delivered by Emirates Post or a courier with confirmation of receipt to the addresses specified by the subject and the Association, or via electronic means such as email.

## **11. Timeframe**

It is expected that the maximum sufficient period of time for the appeals proceedings to take place should not exceed 12 months.

## **12. Confidentiality**

All information exchanged during the proceedings will be confidential. Considerations of relevant laws and public interest will be made when releasing any information relating to investigation, hearings and decisions made by the DC. All participants of the investigation and disciplinary process will confirm their compliance with confidentiality requirements where this is applicable.

## **13. Documentation**

All proceedings will be thoroughly documented. Case documentation will be stored in a secure manner in order to protect the data and interests of all parties.

- a) Hard copy information will be stored in designated areas with physical access limited only to those involved with the I&D process.
- b) Soft copy information will be stored in password protected folders on the Association's server with access limited only to those involved in the I&D process and specific cases.
- c) Retention period of the case documentation will amount to a reasonable number of years and shall be in accordance with the legislation of the United Arab Emirates.