



THE AUSTRALASIAN
COLLEGE OF
PHLEBOLOGY

Procedural Fairness Policy

Policy Domain:	ACP Management
Policy Area:	All staff, Fellows, instructors, trainees, students
Policy Author:	ACP
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Related Policies/Regulations	Appeals, Reconsideration and Review Policy & Procedure

1. PURPOSE OF POLICY

The purpose of this policy is to provide some guidance for decision-makers about the sorts of things to be considered when making decisions which may impact negatively on a member's rights or interests, whether in relation to decisions about student or trainee assessment or performance issues, to disciplinary proceedings pertaining to Fellows, instructors, students, trainees or College staff, complaints made against any member of the College by another member or a non-member, or otherwise.

2. POLICY SCOPE & PRINCIPLES

This policy applies to all members, students, trainees and staff of the College.

Nothing in this policy purports to impose any limitation on the authority of the Board to carry out its constitutional responsibilities.

3. DEFINITIONS / KEY WORDS / ABBREVIATIONS

Member - Fellows (all categories), Certified Sclerotherapists, Instructors, Students, Trainees, Affiliates and other designations as per the constitution serving as a Director (Board); on any College committee of taskforce; or a person occupying a position as an officer of College or Faculty involved in decision making or holding authority.

Students and Trainees - Registrars in training; sub-specialist candidates/Fellows in training; Postgraduate students; and other person enrolled in education courses of the College.

Staff - College staff members and teachers.

Decision-maker - the Board, Board Committees, other College entity or representative who has responsibility for making any decision with regard to the education and training programs.

Decision-making process - investigation or review, and associated processes leading up to and including the making of the decision itself.

4. POLICY STATEMENT

Procedural fairness is concerned with the procedures used by a decision-maker, rather than the actual outcome reached.

It imposes a flexible obligation on the decision-maker to adopt fair procedures, appropriate and adapted to the circumstances of the particular case, in the making of decisions which affect the rights, obligation or legitimate expectations of members.

The decision-maker must:

- inform the member of the matter to be dealt with
- give the member an opportunity to be heard
- not be biased or seen to be biased
- act only on relevant information or evidence.

Decision makers shall carry out all reasonable enquires or investigations before making a decision, and there must be facts or information to support all negative findings. Only relevant factors are to be taken into account. Proper examination of all credible, relevant and disputed issues is a requirement.

Decision makers shall see to it that a full record of the investigation and the outcome has been made.

5. DETAILS OF PROCEDURAL FAIRNESS PRACTICE

5.1. Inform the member/trainee of the matter to be dealt with

A member must be provided with enough details of the matter affecting him/her to enable a response to be prepared, including:

- reasons for the matter relating to him/her
- information or evidence on which the decision will be based
- reasons why a decision is required and the nature of the impending decision and relevant criteria for making the impending decision
- possible outcomes which might ensue.

Information which might be relevant to a member's response should also be provided if it arises after the initial information has been provided. It is generally sufficient to provide details of the substance or essence of the matter by letter. It is not necessary to provide copies of all or any original documents.

5.2. Give the member/trainee/student an opportunity to be heard

A member/trainee/student must be given a reasonable opportunity to be heard and to respond to any complaint or matter or impending decision before a decision is made. An opportunity to be heard may involve:

- an opportunity to make submissions (orally or in writing)
- an opportunity to give evidence and call witnesses
- an opportunity to test persons in relation to any adverse information or material.

A response may be made either in writing or orally, provided that the type of hearing is proportional to the nature of the decision.

He/she must be provided with adequate notice of any impending decision or hearing. Where applicable, timeframes set out in the College regulations or policies must be followed. Otherwise, such notice as is reasonable in the circumstances must be given.

Decision-makers should also consider whether there are any obstacles or factors which might hinder a person's ability to respond to an allegation or complaint, or to make a submission on any matter, and otherwise to make appropriate allowances so that a member's submission or response will be taken into consideration.

Generally, in any face-to-face meeting, it is reasonable for the member to bring a support person as an observer.

5.3. Timeliness

To enable the member to respond to the complaint, he/she must be given reasonable and adequate notice (what is 'reasonable and adequate' will depend on the particular circumstances).

In the interests of ensuring timely resolution of the complaint, a date for receipt of the response should be nominated. However, the principles of procedural fairness do not require that a respondent takes the best advantage of an opportunity to be heard.

Accordingly, the respondent should be advised that, in the absence of extenuating circumstances and without the approval of the investigators for an extension of time, the matter may proceed to determination if he/she fails to provide a response by the date specified.

5.4. Not be biased or seem to be biased

The decision-maker must be impartial—that is:

- they must not have a direct or indirect interest in the outcome of the process
- they must act fairly and without bias (or the appearance of bias).

This includes ensuring that, from an onlooker's perspective, there is reasonable perception of bias. For example, personal, financial or family relationships, evidence of a closed mind or participation in another role in the decision-making process can all give rise to a reasonable perception of bias. If this is the case, the person concerned should remove himself/herself from the process and ensure that an independent person assumes the role of decision-maker.

5.5. Act only on relevant information or evidence

Decision-makers must give genuine and proper consideration to the particular merits of a member's case before reaching a decision and must not take into account facts or considerations unrelated to the matter at hand when making a decision.

There must be facts or information to support all negative findings.