



STATE TRAINING BOARD

POLICY AND PROCEDURES FOR APPEALS AGAINST DECISIONS OF THE TRAINING ACCREDITATION COUNCIL

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1. POLICY STATEMENT

This policy provides the framework for individuals to appeal to the State Training Board (the Board) against a decision made by the Training Accreditation Council (the Council) under sections 58B, 58C or 58E of the *Vocational Education and Training Act 1996* (the Act).

The policy aims to ensure all appeals are considered in a consistent, transparent and just manner in accordance with Part 7A of the Act and the *Vocational Education and Training (General) Regulations 2009* (the Regulations).

2. SCOPE

This policy applies to all appeals to the Board made in relation to decisions by the Council under Part 7A of the Act.

3. PRINCIPLES

The appeal process is transparent and demonstrates procedural fairness.

4. BACKGROUND

The Board is the peak industry training advisory body to the Minister for Training in Western Australia. It is a statutory body established by Part 3 of the Act. Under Part 7A of the Act, the Board is responsible for determining appeals made against decisions of the Council.

The Board is supported in its work by the Office of the State Training Board (OSTB), which sits within the Department of Training and Workforce Development.

The Council is a statutory body established by Part 4 of the Act. Under Part 7A of the Act it is responsible for making decisions regarding the registration of training organisations and accreditation of courses. This includes:

- variations to a training provider's scope of registration;
- applying sanctions, suspending or cancelling a training provider's registration; and
- approving, suspending or cancelling course accreditation.

A person may lodge an appeal to the Board if they are dissatisfied with a Council decision relating to these matters and believes the Council has erred in its application of, or failed to apply a guideline or criterion it was required to apply under section 13 or section 58(c) of the Act.

5. DEFINITIONS AND ACRONYMS

Appellant – person lodging an appeal against a decision of the Training Accreditation Council.

Office of the State Training Board – a team within the Department of Training and Workforce Development that provides executive support to the State Training Board

Registered Training Organisation – for the purpose of this policy, a training provider registered by the Training Accreditation Council.

The Board – the State Training Board as established by Part 3 of the *Vocational Education and Training Act 1996*.

The Council – the Training Accreditation Council of Western Australia as established by Part 4 of the *Vocational Education and Training Act 1996*.

The Act – *Vocational Education and Training Act 1996*.

The Regulations – *Vocational Education and Training (General) Regulations 2009*.

6. PROCEDURES

Under section 58G of the Act, a person who is dissatisfied with a decision of the Council made under sections 58B, 58C or 58E of the Act may appeal to the Board against that decision. This section outlines the process for lodging an appeal and the information that an appellant should provide to the Board. Please refer to the final page of this document for a flowchart summarising the steps of the appeals process.

6.1. Scope of appeals

The Board considers appeals against decisions of the Council that relate to its functions under the Act to:

- register, vary, suspend or cancel registration of training providers (section 58B);
- accredit, vary, suspend or cancel the accreditation of VET courses (section 58C); and
- cancel approved or prescribed vocational education and training qualifications conferred by a registered training provider (section 58E).

The Board may only investigate the process that the Council followed to arrive at its decision and may only consider appeals that allege the Council:

- failed to apply guidelines or criteria it was required to apply; or
- incorrectly applied guidelines or criteria it was required to apply.

6.2. Lodging an appeal

An appeal must be commenced within 21 calendar days after the date on which the appellant was notified of the Council's decision. If the appellant is provided with a copy of the Council's decision via email, they are deemed to have been notified on the date the email was sent.

- If an appeal is **not** lodged within 21 days, the Board cannot accept the appeal and the Council's decision will take effect.
- If an appeal is lodged within 21 days, the Council's decision will take effect when the appeal is determined or is withdrawn.

All appeals must be submitted in writing to ostb@dtwd.wa.gov.au. The OSTB will acknowledge receipt of the appeal. The appeal should include the following information:

- Clearly state that it is an appeal against a Council decision.
- Identify which guidelines or criteria the Council erred in its application of or failed to apply.
- Explain why the Council was bound to apply the guidelines or criteria.
- Describe the alleged error or failure, and explain how the Council should have applied the guidelines or criteria.

The OSTB will advise the Council that an appeal has been received.

The relevant legislation and Council guidelines are specified in section 7 of this policy.

6.3. Consideration of an appeal

The Board will advise the appellant whether the grounds for appeal are in scope of section 58G of the Act. If they are not in scope, the Board is unable to hear the appeal.

If the grounds for appeal are in scope of section 58G of the Act, the OSTB will convene an independent Review Panel to review the appeal. Panel members will be experts with a mix of legal, training and industry skills and experience. The Review Panel will prepare a report to the Board that recommends whether the appeal be allowed or not allowed, and states the reasons for this recommendation.

If the Review Panel recommends that an appeal should **not** be allowed, the Board must disallow the appeal under section 58J(1) of the Act. The Board will write to the appellant and the Council advising of the decision and the reasons for it, and provide a copy of the Review Panel's recommendation.

If the Review Panel recommends that an appeal should be allowed, the Board will refer the matter back to the Council and request the Council to reconsider the decision appealed against. The Board must provide the Council with a copy of the Review Panel's recommendation.

6.4. Results of the appeal

If the Board recommends that the original decision should be altered, the Council may accept this recommendation or query it:

- If the Council **accepts** the Board's recommendation, the Council will set aside its original decision and substitute a decision that accords with the Review Panel's recommendation.
- If the Council does **not accept** the Board's recommendation, the Board will consult with the Council and may:
 - accept the Council's original decision; or
 - accept the Review Panel's recommendation. In this case it will set aside the Council's original decision and substitute a decision that accords with the Review Panel's recommendation.

The Board must write to the appellant and the Council advising of the decision and the reasons for it, and provide a copy of the Review Panel's recommendation. A decision on an appeal under this section of the Act is final.

7. RELATED POLICIES, LEGISLATION AND OTHER DOCUMENTS

- [Vocational Education and Training Act 1996](#)
- [Vocational Education and Training \(General\) Regulations 2009](#)

8. POLICY REVIEW DATE

This policy will be reviewed annually from its effective date.

9. CONTACT INFORMATION

Director, Office of the State Training Board
 T: (08) 6551 5593
 E: ostb@dtwd.wa.gov.au

If you (the appellant) are dissatisfied with a decision of the Training Accreditation Council (TAC), you may submit an appeal to the State Training Board (STB).

Appeals should be **in writing and lodged within 21 days** of the date you were notified of TAC's decision (send to: ostb@dtwd.wa.gov.au). TAC will be notified that an appeal has been lodged. The appeal should:

- clearly state that it is an appeal against a Council decision;
- clearly identify which guidelines or criteria the Council erred in its application of or failed to apply;
- explain why the Council was bound to apply the guidelines or criteria;
- describe the alleged error and explain how the Council should have applied the guidelines or criteria.

