

POLICY – Review on the Record



COLLEGE OF
APPLIED BIOLOGY
Professional Accountability

Approved June 2006

The Council must, within the time provisions established in the *College of Applied Biology Act*, undertake a review on the record

- when requested to do so by a subject member or applicant, or
- when a determination, order or decision is referred to the Council from either the Discipline Committee or Credentials Committee.

A review on the record is not normally conducted as an oral proceeding and will generally be limited to a review of the information that was before the panel which made the determination, order or decision.

Where a review on the record is requested, the requesting party, will, at their cost present a transcript of the proceeding in question to the Council. In order to minimize the use of photocopies and cost of the review, should the Council find it necessary to review any evidence presented during the proceeding, the evidence package that was received and retained by the panel will be used.

The review will be to ascertain

- whether the procedure was, in the opinion of the Council, conducted fairly
- whether the evidence presented was accorded appropriate consideration by the panel, and
- whether the reasons presented in the decision are sufficient to support the decision, determination or order issued.

The determination, order or decision will then be reviewed to ascertain whether it makes sense.

In circumstances where a majority of the Council is of the opinion that there are special circumstances, the Council may hear evidence that did not form part of the record. Considerations applied may consist of

- Whether the evidence is considered by the Council to be material to the issue
- Whether there were good reasons in the opinion of the Council for the failure to produce the evidence during the proceeding

- Whether accepting the evidence is, in the opinion of the Council, in accordance with the principles of natural justice and procedural fairness, and
- Any other consideration the Council considers appropriate in the circumstance.

In determining whether the new evidence is material to the issue, weight will be given to whether the new evidence (oral or written) will shed some light on a disputed matter or tends to prove or disprove a fact in issue.

Where the Council chooses to hear new evidence the Council shall also consider providing the other party to the original proceeding an opportunity to address the new evidence.

Where the Council chooses to review evidence that was not before the original panel, the Council may also consider whether the evidence is significant enough to require the matter to be sent back to the panel with directions that the panel be reconvened for the purpose of considering the new evidence.

A subject member or applicant who is the subject of a determination, order or decision of the Council under section 33, may appeal the determination, order or decision to the Supreme Court on a question of law or jurisdiction pursuant to the *Judicial Review Procedure Act*.