

Signatures: _____
SATCC Commission Board Chair

SATCC Commission Board Vice Chair

Board Category Administration – A10
and Policy Name: Appeals to the Appeal Committee

Approved: April 3, 2024

Supersedes: June 21, 2018

**Next Scheduled
Review:** November 2026

Policy The SATCC Appeal Committee will hear all appeals and adjudicate evidence in accordance with sections 30-32 of *The Apprenticeship and Trade Certification Act, 2019*. All appeals will be conducted in accordance with the principles of natural justice.

Members of the Appeal Committee for each hearing will be appointed on an ad hoc basis from the SATCC Board of Directors by the Chair of the SATCC Board of Directors. If a Committee member becomes aware of a conflict of interest prior to or during the appeal hearing, the nature of the conflict must be disclosed as soon as possible to Committee Chair and the member must excuse themselves from the appeal hearing.

Who may be present at the appeal hearing:

- Members of the Appeal Committee
- The appellant and the SATCC Chief Executive Officer or other designate on behalf of the SATCC
- Legal counsel (or agent if permitted by the Appeal Committee) for each party and for the Committee
- Any witnesses to be called to provide evidence at the appeal hearing
- Board secretary

Although appeals are open to the public, only the Appeal Committee members, legal counsel and Board Secretary shall be present during deliberations of the Committee once all evidence is heard.

An appellant may retain legal counsel to represent them before the Appeal Committee. From time to time an appellant may wish to have someone other than legal counsel present their case. The Appeal Committee has the sole discretion to determine whether an agent will be allowed to appear before it to present an appellant's case.

Once an appeal hearing is in progress, there shall be no use of cell phones or any other communication devices by anyone attending the appeal.

The decision of the Appeal Committee will be provided in writing following the hearing. The Board Secretary will provide the written decision to both the appellant and the SATCC.

The SATCC shall keep a record of all appeals, showing name of appellant, date filed, date heard, and Appeal Committee decisions.

Procedures

The *Appeal Hearing Procedures, Roles and Responsibilities* document is attached as Appendix A. It sets out the sets out the roles and responsibilities of those involved in an appeal hearing. It will be sent to all participants in an appeal hearing.

Related documents:

The Apprenticeship and Trade Certification Act, 2019 – Sections 30 to 32 govern the ability of the Appeal Committee to review decisions made by SATCC employees or by the Chief Operating Officer pursuant to section 42 and to make orders staying the decision, allowing or dismissing the person's request for relief and/or varying the decision or substituting its own decision.

Appeal Committee Terms of Reference – sets out the membership, roles and responsibilities of members, reporting and confidentiality requirements for the Committee members.



Appeal Hearing

Procedures, Roles and Responsibilities

The following document explains the procedures, roles and responsibilities for a Saskatchewan Apprenticeship and Trade Certification Commission (SATCC) appeal hearing.

Preamble

The Apprenticeship and Trade Certification Act, 2019 (the *Act*) provides SATCC with the authority to make decisions regarding an individual's apprenticeship.

The *Act* allows SATCC employees to make these decisions on behalf of SATCC.

SATCC employees are responsible for making fair decisions, to the best of their ability.

SATCC employees are required to provide written rationale supporting their decisions to those who are affected by those decisions (apprentices or tradespersons).

Right To Appeal

Section 30 of the *Act* sets out which type of decisions can be appealed to the SATCC Appeals Committee.

Section 31 of the *Act* gives a person the right to appeal such a decision within 6 months after the date of becoming aware of the decision. The appeal must:

- Be in writing.
- Explain why the person is appealing.
- What outcome the person is seeking.

Appeal to Court

Following a decision of the Appeal Committee, section 33 of the *Act* allows a person to appeal that decision to the court on a question of law or jurisdiction. An appeal to the court must be made within 30 days after the person received the written order of the Appeal Committee.

Purpose Of The Appeal Hearing



The Appeal Committee, when reviewing the employee's decision, can do one or more of the following:

- (a) Stay the employee decision pending determination of the review on any terms and conditions that it may determine;
- (b) Allow or dismiss the person's request for relief;
- (c) Vary the employee decision or substitute its own decision.

The Appeal Committee will listen to evidence from both sides. The hearing will be conducted in accordance with the principles of natural justice.

Composition of the Appeal Committee

The Committee members are appointed by the SATCC Board Chairperson on an ad hoc basis.

Role of the Appeal Committee

The Appeal Committee is an impartial decision-maker. Members of the Committee do not represent, nor advocate, for employees and management of SATCC nor for the person making the appeal.

Role of the Person Making the Appeal (Appellant)

To prepare written notice for review setting out why they disagree with the decision and what they are asking the Appeal Committee to do.

To contact their own witness(es) to invite them to the hearing and to let the Board Secretary know of any and all witnesses that will be attending the hearing on their behalf.

The appellant is to attend the hearing on the date scheduled. If they are unable to attend the hearing as scheduled, they may request an adjournment from the Appeal Committee. They must provide reasons justifying the adjournment request. It is within the discretion of the Appeal Committee as to whether or not it will grant an adjournment and it will provide written reasons setting out its decision.

Where an appellant fails to attend the scheduled hearing, the Committee will try to contact the appellant to find out whether or not they intend to appear.



- If the Committee reaches the appellant and the appellant says they do not intend to appear, they will be told the hearing will proceed in their absence and a decision will be rendered.
- If the Committee reaches the appellant and the appellant requests an adjournment, the Committee will decide whether or not to grant the adjournment and whether it will proceed in the absence of the appellant. The Committee's decision as to the adjournment request will be relayed in short order, though it will provide written reasons subsequently.
- If the Committee cannot reach the appellant, the Committee will hold the hearing and make a decision.

Appellant Representation

An appellant may retain legal counsel to represent them before the Appeal Committee.

From time to time an appellant may wish to have someone other than legal counsel present their case. The Appeal Committee has the sole discretion to determine whether an agent will be allowed to appear before it to present an appellant's case.

Witness' Function

Appellants may ask the Board Secretary to schedule their witness(es).

Witness(es) should have first-hand knowledge of the decision being appealed.

Role of the SATCC Representative

To provide the Board Secretary with written information about the appeal.

At least seven (7) days before the appeal hearing, the SATCC representative shall provide the Board Secretary with an electronic copy of their appeal brief.

Observers



Appeals are not open to the public. Only the Appeal Committee members and Board Secretary shall be present during deliberations of the Committee once all evidence is heard.

Role of Appeal Committee Chairperson

The Chairperson:

- Shall ensure the hearing is run in a business-like manner. The Chairperson has the authority to move the hearing along in the event that information is repetitious, or not relevant to the decision under appeal. The Chairperson must focus the presentation on information relevant to the decision under appeal and may limit the length of question and answer period on the decision. The Chairperson is able to stop the hearing for a break.
- Shall ensure that the question period does not become a debate. When questions are asked and when they are answered, the speaker is to be allowed to do so without interruption.
- Has the authority to, and will, excuse any person whose behaviour is considered inappropriate.

Role of Board Secretary

As soon as the appeal is received, the Board Secretary:

- Shall notify the SATCC Board of Directors Chairperson and the SATCC Chief Executive Officer.
- Shall gather information including the decision that is being appealed and any rationale the appellant provided.
- Request information related to the appeal from the SATCC representative.
- Ensure both parties are provided with submission documents.
- Review an appeal request with the board chairperson/committee to determine the process to hear the appeal..

The Board Secretary, in writing, will acknowledge that the request for an appeal has been received. Once it has been determined that an appeal can be made, the SATCC Board Chair, appellant and the SATCC representative are informed.



The Board Secretary will arrange a date for the hearing whereby all participants are able to attend in person.

Once the appeal has been scheduled with the Appeal Committee, the Board Secretary will notify the appellant, legal counsel and the SATCC representative of the date, time and place of the hearing.

The Board Secretary shall attempt to schedule in such a way so as to allow 30 days' notice.

The Board Secretary will notify both the appellant and the SATCC representative that they must submit written rationale seven (7) days prior to the hearing.

Five (5) days in advance of the hearing, the Board Secretary shall provide all parties with electronic copies of the appellant's appeal rationale and any other written material submitted by the appellant, and the SATCC representative's rationale and appeal brief.

Only the Committee, legal counsel and Board Secretary shall be present during deliberations of the Committee.

Procedures During The Appeal Hearing

1. Preliminary

- The Chairperson will call the appellant, SATCC representative and any witnesses into the hearing room.
- The Chairperson shall make sure everyone is introduced, including witnesses.

2. Procedures

- There shall be no discussion by Appeal Committee members with either party prior to the appeal hearing.
- Once an appeal hearing is in progress, there shall be no use of cell phones or any other communication devices by anyone attending the appeal.
- An appellant, in absentia, may be represented by a nominee designated in advance by the appellant.



- The appellant shall present their case first. At this time the appellant may question their witnesses, if applicable, and the SATCC will have an opportunity to cross-examine the witnesses. The Appeal Committee may also ask questions during this time.
- The SATCC will then have an opportunity to present its case. As with the appellant, the SATCC will question its witnesses, if applicable, and the appellant will have an opportunity to cross-examine the witnesses. The Appeal Committee may also ask questions during this time.
- This will be followed by a summation from the SATCC representative and then by the appellant. The Appeal Committee may ask questions during this time to clarify its understanding of each party's position.
- Before excusing participants and witnesses, Committee members shall refrain from making statements, comments, or stating personal opinions as to evidence.

3. Deliberations

- The Chairperson will excuse the SATCC, appellant, legal counsel and witnesses after presentation of all appeal information.
- If the Committee requires further information during its deliberations, both the appellant and the SATCC representative can be called back to the hearing room for clarification.
- The Committee will provide written reasons for any decision it makes, such reasons to be provided to the parties by the Board Secretary.

Release of Decisions

The Board Secretary will provide the written decision of the Appeal Committee to both the appellant, legal counsel and the SATCC.

Decisions of the Committee may be appealed to the court as specified in the *Act*.

Records

The SATCC shall keep a record of all appeals, showing name of appellant, date filed, date heard, and Committee decision.

