

APPEALS PROCEDURES

For Members of the American Dietetic Association,
Credentialed Dietetics Practitioners of
the Commission on Dietetic Registration,
and Applicants for ADA Membership
or CDR Registration

May 3, 2009

**AMERICAN DIETETIC ASSOCIATION
COMMISSION ON DIETETIC REGISTRATION**

CONTENTS

**Appeals Procedures for Members
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I.	Introduction.....	1
II.	The Final Review Committees	1
	A. ADA Appeals Committee	1
	B. Final CDR Review Committee	2
III.	Appeals Process.....	3
	A. Subject of Appeal	3
	B. Deadlines	3
	C. Appeals of ADA Decisions	3
	D. Appeals of CDR Decisions	3
	E. Filing a Final Appeal	4
	F. Action by ADA Appeals Committee or Final CDR Review Committee.....	5
III.	Cost of the Appeal	6

I. Introduction

This document sets forth the procedure by which members of the American Dietetic Association (ADA), dietetic practitioners credentialed by the Commission on Dietetic Registration (CDR), and applicants for ADA membership or CDR registration who are the subject of an action or decision by ADA or CDR that affects their membership or registration (“appellants”) may appeal the adverse action or decision. This process shall not apply to matters for which separate procedures have been adopted, such as ethics violations and removal of officers; to actions affecting broad classes of members, registrants or applicants that are taken or approved by the governing bodies of ADA or CDR; or to matters of membership eligibility within the exclusive responsibility of the Member Value Committee.

II. The Final Review Committees

There shall be two separate and distinct final review committees, which shall be named and constituted as follows:

A. ADA Appeals Committee

1. As noted in Section II.A.4. below, the ADA Appeals Committee shall consider final appeals of actions or decisions by ADA after the initial appeals procedures described in Section III.C. have been exhausted.
2. The President will appoint the ADA Appeals Committee, consisting of a Chair and two additional members, no later than the first occasion each fiscal year when an appeal is brought to the Appeals Committee. The Committee, once appointed, shall consider to conclusion all appeals brought before it during the fiscal year.
3. The following individuals are ineligible to serve on the ADA Appeals Committee: current members of the Commission on Dietetic Registration; current members of the Commission on Accreditation of Dietetic Education; current members of the Board of Directors of ADA or the ADA Foundation; employees of ADA; and anyone who may be unable to render a fair and reasonable opinion or otherwise have an actual or perceived conflict of interest as determined by the President.
4. The ADA Appeals Committee shall:
 - a. Serve as the final decision-making body for appeals of decisions by ADA that affect appellant members or applicants for membership, and shall thus have its jurisdiction limited to ADA decisions regarding membership and related subject matter that affect the appellant;
 - b. Determine whether appeals fall under the jurisdiction of the ADA Appeals Committee;
 - c. Arrange for and conduct hearings when it determines that they are necessary; and
 - d. Notify the appellant of the decision of the ADA Appeals Committee.

B. Final CDR Review Committee

1. As noted in Section II.B.4. below, the Final CDR Review Committee shall consider final appeals of actions or decisions by CDR after the initial appeals procedures described in Section III.D. have been exhausted.
2. The Final CDR Review Committee shall consist of three (3) individuals and shall be constituted as follows: one former member of CDR who did not participate in the decision being appealed, who shall be appointed by the Chair of CDR; one CDR-credentialed ADA member who did not participate in the discussion of or decision being appealed, who shall be appointed by the President of ADA; and one past public member of CDR or the ADA Board of Directors, who shall be jointly selected by the ADA president and CDR chair. In the event that, after diligent effort, no such past public member can be found who is willing or able to serve, the position may be filled by the appointment of an allied health professional who is not directly involved in the practice of dietetics, has no relationship with a CDR-credentialed individual that would influence his or her judgment, and has not within the past five years worked for or provided contract services to a certification organization. Such appointments shall be made no later than the first occasion each fiscal year when an appeal is brought to the Final CDR Review Committee. The Committee, once appointed, shall consider to conclusion all appeals brought before it during the fiscal year.
3. The following individuals are ineligible to serve on the Final CDR Review Committee: current members of the Commission on Dietetic Registration; current members of the Commission on Accreditation of Dietetic Education; current members of the Board of Directors of ADA or the ADA Foundation who are also members of ADA; employees of ADA; and anyone who may be unable to render a fair and reasonable opinion or otherwise have an actual or perceived conflict of interest as determined either by the Chair of CDR or the President of ADA.
4. The Final CDR Review Committee shall:
 - a. Serve as the final decision-making body for appeals of decisions by CDR that affect appellant members, registrants, or applicants for registration, and shall thus have its jurisdiction limited to CDR decisions regarding registration, certification, continuing education credits, and similar decisions that affect the appellant;
 - b. Determine whether appeals fall under the jurisdiction of the Final CDR Review Committee;
 - c. Arrange for and conduct hearings when it determines that they are necessary; and
 - d. Notify the appellant of the decision of the Final CDR Review Committee.

III. Appeals Process

The process set forth below shall be followed for the appeal of any ADA or CDR decision that is eligible to be appealed:

A. Subject of Appeal

An appellant may appeal any decision of ADA or CDR that falls within the terms set forth in Section II.D.1., above, and elsewhere in this Procedure.

B. Deadlines

Where these procedures require the appellant in the course of the appeal to file appeals or related materials within a specific time period, the body hearing the appeal shall have the authority to extend the deadlines or to accept submissions beyond the deadline in the interests of fairness and justice.

C. Appeals of ADA Decisions

(a) Within thirty (30) calendar days after receiving a final adverse decision in writing from ADA, an appellant wishing to appeal the decision must file an initial written appeal by sending to the appropriate ADA staff a statement setting forth the basis for the appeal and any supporting documentation. If the appeal does not contain all the information required for consideration of the appeal, it will be returned to the appellant, who will be given twenty-one (21) days to resubmit it. Failure to furnish the required information within twenty-one (21) days will result in the dismissal of the final appeal. Once all the necessary information is submitted, the ADA staff will forward the appeal to the ADA Vice President with responsibility for the subject matter involved in the appeal. The Vice President, in consultation with the staff and ADA General Counsel, shall have the authority to grant or deny the redress sought by the appellant.

(b) After reviewing the initial appeal, the ADA Vice President to whom the appeal is directed will issue a decision in writing to the appellant as soon as practicable.

(c) If this decision fails to grant the redress sought by the appellant, the appellant may file a final appeal with the ADA Appeals Committee.

D. Appeals of CDR Decisions

1. First Level Appeal.

(a) Within thirty (30) calendar days after receiving an adverse decision in writing from CDR regarding an appellant's registration, continuing education credits, or other appealable subject matter, the appellant wishing to appeal the decision must file an initial written appeal by sending to the Senior Director of CDR (the "Director"), within thirty (30) calendar days after notification of the decision, a statement setting forth the basis for the appeal, any supporting documentation, and an Appeal Review Fee in the amount of \$20.00. If the appeal does not contain all information required for consideration of the appeal, or the requisite fee, it will be returned to the appellant, who will be given twenty-one (21) days to resubmit it. Failure to furnish the required information within twenty-one (21) days will result in the dismissal of the final appeal. Once the appeal has been properly submitted, the Director will refer the matter to the Chair of the CDR Appeals Panel, who will consider the appeal at its next regularly scheduled meeting.

(b) The Chair of the CDR Appeals Panel shall be appointed by the Chair of CDR to serve a one-year term. The Appeals Panel Chair shall in turn appoint no fewer than five (5) persons, who shall be registered dietitians or dietetic technicians registered, to serve a one-year term. The Panel will meet monthly to consider appeals petitions.

(c) The Director will notify the appellant of the decision of the CDR Appeals Panel within fifteen (15) days after the decision. Notification of the decision will be sent by certified mail, return receipt requested or by a courier delivery service that will reliably document receipt of the materials.

2. Second Level Appeal.

(a) An appellant whose appeal to the CDR Appeals Panel has been denied in whole or part may appeal the decision to the entire Commission on Dietetic Registration (the "Commission"). To do so, the appellant may send a further written appeal and the basis for such an appeal, along with an additional \$20.00 Appeal Review Fee, to the Director within thirty (30) days after receiving notification of the decision. If the appeal does not contain all information required for consideration of the appeal, or the requisite fee, it will be returned to the appellant, who will be given twenty-one (21) days to resubmit it. Failure to furnish the required information within twenty-one (21) days will result in the dismissal of the final appeal. Once the appeal has been properly submitted, the Director will refer the matter to the Chair of the Commission for a hearing at the next regularly scheduled meeting of the Commission.

(b) The Director will notify the appellant of the decision of the Commission as soon as practicable after the decision by the Commission. The notification will be sent by certified mail, return receipt requested, or by a courier delivery service that will reliably document receipt of the materials

3. The appellant may appeal the decision by the Commission by initiating a final appeal with the Final CDR Review Committee in accordance with the terms of Section III.E., below.

E. Filing a Final Appeal

1. To file a final appeal with the ADA Appeals Committee or the Final CDR Review Committee, an appellant shall submit a final appeal to the Chief Executive Officer of ADA in Chicago (120 S. Riverside Plaza, Suite 2000, Chicago, IL 60606), by certified mail, return receipt requested, or by a courier delivery service that will reliably document receipt of the materials. This appeal must be received within thirty (30) calendar days after receipt of the written notification of the decision by the ADA or by the Commission.

2. A final appeal shall be in writing and shall contain, at a minimum, the following information:

- (a) the decision being appealed;
- (b) the date of the decision;
- (c) why the appellant feels the decision is improper; and
- (d) the redress sought by the appellant.

If the appeal does not contain the information listed above, it will be returned to the appellant, who will be given twenty-one (21) days to resubmit it. Failure to furnish the required information within twenty-one (21) days will result in the dismissal of the final appeal.

F. Action by ADA Appeals Committee or Final CDR Review Committee

1. Upon receipt of the final appeal with the required information, the staff shall promptly notify the Chairman of the ADA Appeals Committee or the Chairman of the Final CDR Review Committee, whichever is applicable (hereinafter, “final review committee”, or “applicable final review committee”), that the appellant is appealing a decision made by the ADA or the Commission.
2. The Chairman of the applicable final review committee shall acknowledge the final appeal and ask the staff of the appropriate unit for all relevant written information relating to the case on appeal.
3. The Chairman of the applicable final review committee, with the assistance of the ADA General Counsel where appropriate, shall determine whether the final appeal is within the scope of the appeals process. If so, the Chairman shall refer the final appeal to the final review committee for consideration.
4. The Chairman of the applicable final review committee, having provided the members of the applicable final review committee with copies of the final appeal and all relevant materials, shall convene a meeting of the Committee, either in person or via teleconference or conference call, as soon as practicable. ADA’s General Counsel will serve as an ex-officio member of both final review committees and shall provide such assistance as may be required.
5. The applicable final review committee at its meeting may decide to (a) dismiss the appeal, (b) remand the appeal to the body whose decision is the subject of the appeal with instructions to reverse its decision, or (c) determine that a hearing is necessary in order to fully consider the facts of the appeal. Any hearing shall be held in Chicago as soon as practicable and ADA staff shall make all arrangements for the hearing after discussion with the final review committee Chairman.
6. Should a hearing be convened, the final review committee shall adopt procedures for the hearing which shall provide the appellant with the opportunity to testify; to present witnesses and evidence; to cross-examine adverse witnesses, if any; and to have legal counsel present. Legal counsel may advise his/her clients, but may only participate in the hearings with the permission of the Chairman. Any participant in the hearing, including the appellant, shall be given the option of appearing via teleconference or conference call in order to defray expenses. The hearing shall be the final opportunity for the participants to present their positions.
7. When the final review committee has reached a decision, whether with or without the necessity of a hearing, the Chairman of the Committee shall notify the appellant in writing of the decision as soon as practicable and send copies to the appropriate persons within ADA and/or CDR.
8. There shall be no change in the appellant’s status during the time the final review committee is considering the case.
9. By participating in the appeals process, appellants agree that they will bring no action against the American Dietetic Association, the Commission on Dietetic Registration, any

ADA or CDR body, member, officer, director, volunteer, agent, or employee based on their participation in the appeal or their decision.

IV. Costs of the Appeal

Expenses involved in the appeal shall be borne as follows:

- A. All fees required at each stage of this process --- Appellant.**
- B. Expenses of the ADA Appeals Committee or Final CDR Review Committee members in the event of an in-person meeting or a hearing (includes travel, lodging, and per diem)—the American Dietetic Association.**
- C. Expenses of appellant and appellant’s representatives—Appellant.**
- D. Expenses of the verbatim transcript of any hearing—the American Dietetic Association (copies available to appellant at cost).**
- E. Expenses of any ADA representative other than the ADA Appeals Committee members—the American Dietetic Association.**
- F. Expenses of meeting rooms---the American Dietetic Association.**