

《學術及職業資歷評審 (上訴) 規則》
(第 592 章，附屬法例 A)

Accreditation of Academic and Vocational Qualifications (Appeal) Rules
(Cap. 592 sub. leg. A)

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第 592A 章

制定史

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Cap. 592A

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《學術及職業資歷評審(上訴)規則》

(第 592 章, 附屬法例 A)

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Accreditation of Academic and Vocational Qualifications
(Appeal) Rules

(Cap. 592 sub. leg. A)

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《學術及職業資歷評審 (上訴) 規則》

(第 592 章第 17(2) 條)

(略去制定語式條文——2021 年第 1 號編輯修訂紀錄)

[2008 年 5 月 5 日]

(格式變更——2021 年第 1 號編輯修訂紀錄)

1. (已失時效而略去——2021 年第 1 號編輯修訂紀錄)

2. 釋義

在本規則中，除文意另有所指外——

上訴 (appeal) 指根據本條例第 11 條所指的上訴；(2008 年第 59 號法律公告)

上訴人 (appellant) 指根據本條例第 11 條提交上訴通知書的營辦者、評估機構或頒授者；(2008 年第 59 號法律公告)

上訴委員會 (Appeal Board) 指根據本條例第 10(1) 條設立的上訴委員會；

上訴通知書 (notice of appeal) 指根據本條例第 11(2) 條提交的上訴通知書；

答辯人 (respondent) ——

(a) 就針對評審當局的評定或決定的上訴而言，指評審當局；

(b) 就針對資歷名冊當局的決定的上訴而言，指資歷名冊當局；

審裁官 (presiding officer) 指本條例第 12(1)(a) 條所指的審裁官。

Accreditation of Academic and Vocational Qualifications (Appeal) Rules

(Cap. 592, section 17(2))

(Enacting provision omitted—E.R. 1 of 2021)

[5 May 2008]

(Format changes—E.R. 1 of 2021)

1. (Omitted as spent—E.R. 1 of 2021)

2. Interpretation

In these Rules, unless the context otherwise requires—

appeal (上訴) means an appeal under section 11 of the Ordinance; (L.N. 59 of 2008)

Appeal Board (上訴委員會) means the appeal board established under section 10(1) of the Ordinance;

appellant (上訴人) means an operator, assessment agency or granting body lodging a notice of appeal under section 11 of the Ordinance; (L.N. 59 of 2008)

notice of appeal (上訴通知書) means a notice of appeal lodged under section 11(2) of the Ordinance;

presiding officer (審裁官) means the presiding officer within the meaning of section 12(1)(a) of the Ordinance;

respondent (答辯人) means—

(a) in relation to an appeal against a determination or decision of the Accreditation Authority, the Accreditation Authority;

3. 上訴通知書

- (1) 上訴須藉按照本條例第 11(2) 條提交上訴通知書而提出。
- (2) 凡於某日向上訴委員會提交上訴通知書，則該通知書的副本須於同日送達答辯人。
- (3) 上訴通知書須附同——
 - (a) 指明上訴理由的陳述書；及
 - (b) 上訴人所依據的事實的陳述書，而該等事實須足以令上訴委員會及答辯人能夠全面而中肯地掌握該宗上訴的理由。(2008 年第 59 號法律公告)
- (4) 上訴委員會如信納上訴人沒有遵守第 (2) 或 (3) 款，可駁回該上訴。

4. 上訴人送達文件

- (1) 上訴人須在提交上訴通知書後的 7 日內，或在審裁官應申請而容許的較長期間內，於同一日向上訴委員會及答辯人送達——(2008 年第 59 號法律公告)
 - (a) 上訴人擬依據的所有文件的副本；及
 - (b) 上訴人擬於上訴聆訊中傳召的所有證人的名單。
- (2) 上訴委員會如信納上訴人沒有遵守第 (1) 款，可駁回該上訴。

- (b) in relation to an appeal against a decision of the QR Authority, the QR Authority.

3. Notice of appeal

- (1) An appeal shall be made by lodging a notice of appeal in accordance with section 11(2) of the Ordinance.
- (2) A copy of a notice of appeal lodged with the Appeal Board shall be served on the respondent on the day on which the notice is lodged with the Appeal Board.
- (3) A notice of appeal shall be accompanied by—
 - (a) a statement specifying the grounds of the appeal; and
 - (b) a statement of the facts relied on as may suffice to enable the Appeal Board and the respondent to be fully and fairly informed of the grounds of appeal.
- (4) Where the Appeal Board is satisfied that the appellant has failed to comply with subsection (2) or (3), the Appeal Board may dismiss the appeal.

4. Appellant to serve documents

- (1) The appellant shall, within 7 days after the lodging of the notice of appeal or such further period as the presiding officer may on application allow, serve on the Appeal Board and the respondent on the same day—(L.N. 59 of 2008)
 - (a) a copy of all documents the appellant intends to rely on; and
 - (b) a list of the names of all witnesses the appellant intends to call at the hearing of the appeal.
- (2) Where the Appeal Board is satisfied that the appellant has failed to comply with subsection (1), the Appeal Board may dismiss the appeal.

5. 答辯人送達文件

答辯人須在根據第 3(2) 條收到上訴通知書的副本後的 28 日內，或在審裁官應申請而容許的較長期間內，於同一日向上訴委員會及上訴人送達——

- (a) 關於有關個案的事實及作出該宗上訴所針對的評定或決定的理由的書面撮要；
- (b) 答辯人擬依據的所有文件的副本；及
- (c) 答辯人擬於上訴聆訊中傳召的所有證人的名單。

6. 聆訊日期、時間及地點

- (1) 在第 4(1) 及 5 條所提述的文件送達後，審裁官須擇定聆訊該宗上訴的日期、時間及地點。
- (2) 審裁官最遲須於聆訊的日期前的 14 日或之前，向上訴人及答辯人送達關於聆訊日期、時間及地點的書面通知。

7. 上訴理由

上訴理由須以上訴通知書所列明者為限，但如上訴委員會給予許可修訂該等上訴理由，則屬例外。

8. 語文

上訴的聆訊可以中文或英文進行，或以中文及英文兩者並用進行，視乎上訴委員會認為何者合適而定。

9. 放棄上訴**5. Respondent to serve documents**

The respondent shall, within 28 days after receiving a copy of the notice of appeal under section 3(2) or such further period as the presiding officer may on application allow, serve on the Appeal Board and the appellant on the same day—

- (a) a written summary of the facts of the case and the reasons for the determination or decision appealed against;
- (b) a copy of all documents the respondent intends to rely on; and
- (c) a list of the names of all witnesses the respondent intends to call at the hearing of the appeal.

6. Date, time and place of hearing

- (1) Upon service of the documents referred to in sections 4(1) and 5, the presiding officer shall fix the date, time and place of the hearing of the appeal.
- (2) The presiding officer shall, not less than 14 days before the date of the hearing, serve on the appellant and the respondent a notice in writing of the date, time and place of the hearing.

7. Grounds of appeal

The grounds of appeal shall be limited to those set out in the notice of appeal unless the Appeal Board grants leave for the grounds of appeal to be amended.

8. Languages

The hearing of an appeal may be conducted in the Chinese or English language or both as the Appeal Board thinks fit.

9. Abandonment of appeal

- (1) 上訴人可隨時藉向上訴委員會送達書面通知，完全或局部放棄有關上訴。
- (2) 上訴人根據第 (1) 款送達通知時，須同時向答辯人送達該通知的副本。

10. 上訴人沒有出席聆訊

- (1) 如在擇定的上訴聆訊時間，上訴人沒有親自出席或由授權代表代為出席聆訊，上訴委員會——
 - (a) 如信納上訴人是因患病或任何其他合理因由而沒有出席，可將聆訊延期或押後一段該會認為合適的期間；
 - (b) 可進行聆訊上訴；或
 - (c) 可藉命令駁回上訴。
- (2) 凡上訴根據第 (1)(c) 款被駁回，上訴人可於駁回上訴的命令作出後的 14 日內，藉向上訴委員會送達書面通知，向上訴委員會申請覆核該命令。
- (3) 上訴人根據第 (2) 款送達通知時，須同時向答辯人送達該通知的副本。
- (4) 上訴委員會如信納上訴人是因患病或任何其他合理因由而沒有出席聆訊，可推翻有關的駁回上訴的命令。
- (5) 凡上訴委員會根據第 (4) 款推翻命令，審裁官——
 - (a) 須為有關的上訴擇定重新聆訊的日期、時間及地點；及
 - (b) 最遲須於如此擇定的日期前的 14 日或之前，向上訴人及答辯人送達關於聆訊日期、時間及地點的書面通知。

- (1) An appellant may, at any time, abandon the appeal or any part of the appeal by notice in writing served on the Appeal Board.
- (2) An appellant who serves a notice under subsection (1) shall at the same time serve a copy of such notice on the respondent.

10. Failure of appellant to attend hearing

- (1) If at the time fixed for the hearing of an appeal, the appellant fails to attend the hearing either in person or through an authorized representative, the Appeal Board may—
 - (a) if it is satisfied that the appellant's failure to attend was due to sickness or any other reasonable cause, postpone or adjourn the hearing for such period as it thinks fit;
 - (b) proceed to hear the appeal; or
 - (c) by order dismiss the appeal.
- (2) Where an appeal is dismissed under subsection (1)(c), the appellant may, within 14 days after the making of the order for dismissal, apply to the Appeal Board for a review of the order by serving a notice in writing on the Appeal Board.
- (3) An appellant who serves a notice under subsection (2) shall at the same time serve a copy of such notice on the respondent.
- (4) The Appeal Board may, if it is satisfied that the appellant's failure to attend the hearing was due to sickness or any other reasonable cause, set aside the order for dismissal.
- (5) Where the Appeal Board sets aside an order under subsection (4), the presiding officer shall—
 - (a) fix the date, time and place for a fresh hearing of the appeal; and
 - (b) not less than 14 days before the date so fixed, serve on the appellant and the respondent a notice in writing of the date, time and place of the hearing.

11. 送達

任何須為上訴的目的而送達或提交的文件、陳述、陳述書、通知、通知書或物品，可藉面交或郵遞方式送達或提交。

(2008 年第 59 號法律公告)

11. Service

Any document, statement, notice or article required to be served or lodged for the purposes of an appeal may be served or lodged in person or by post.

(L.N. 59 of 2008)