



## Inter American Accreditation Cooperation

### Procedure for Handling of Appeals and Complaints

#### CLASSIFICATION

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### Procedure for Handling of Appeals and Complaints

#### 1. Purpose

This document sets out the procedure to be followed for appeals, alternative dispute resolution process (ADR), and complaints.

Appeals may be submitted by an IAAC member against decisions by the IAAC General Assembly or the IAAC MLA Group. Appeals may also be submitted by an applicant body against a decision by the IAAC General Assembly to deny membership.

Complaints may be submitted against IAAC members, IAAC MLA signatories, IAAC evaluators, IAAC itself, and between IAAC members.

#### 2. Definitions

- 2.1. **Suspension of the MLA signatory status** - process of temporarily making multilateral recognition invalid, in full or for part of the scope of recognition
- 2.2. **Withdrawal of the MLA signatory status** - process of terminating multilateral recognition in full

#### 3. Appeals

- 3.1. An IAAC member body may appeal IAAC General Assembly decisions, including a decision to take action against it for a breach of IAAC rules.
- 3.2. An applicant body may appeal an IAAC General Assembly decision to deny membership in IAAC.
- 3.3. An applicant body may appeal an IAAC MLA Group decision to deny recognition; a signatory to the IAAC MLA may appeal a decision to withdraw or suspend recognition.
- 3.4. The appeal shall be sent to the IAAC Secretary, in writing, within 30 days of notification of the decision of the IAAC General Assembly or MLA Group, whichever body is applicable. Organizations submitting appeals shall include payment of \$1,000 USD to cover the administrative costs of this review.
- 3.5. The appeal shall include:
  - (a) the issues;
  - (b) the basis for the accreditation body's position;
  - (c) the remedy sought;
  - (d) the name and title of the executive or official who will represent the accreditation body and any other person(s) who will accompany the executive or official.

#### 4. Alternate Dispute Resolution Process

The IAAC General Assembly or MLA Group, whichever body is applicable, and the accreditation body shall use the alternative dispute resolution process to resolve the appeal. This is a formal three-step process of negotiation, mediation and binding arbitration.



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Prior to and during implementation of the appeal (Alternative Dispute Resolution or ADR) process, a decision to withdraw signatory status in the IAAC MLA may result in immediate suspension of recognition of the equivalence of laboratory, certification body and inspection body reports by the other signatories.

### 4.1 Negotiation

- 4.1.1. The IAAC General Assembly or MLA Group, whichever body is applicable, and the accreditation body (the Parties) shall attempt in good faith to resolve the appeal by negotiation between officials who have authority to settle the dispute. All reasonable requests for information made by one Party to the other will be honored.
- 4.1.2 Within forty-five (45) days after delivery of the accreditation body's appeal, the representatives of the Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute.
- 4.1.3 If the matter has not been resolved within ninety (90) days of the presentation of the accreditation body's appeal, or if the Parties fail to meet within forty-five (45) days, either Party may initiate mediation of the dispute or claim provided hereafter.
- 4.1.4 All information pursuant to this negotiation is confidential.

### 4.2 Mediation

- 4.2.1. In the event that the appeal has not been resolved by negotiation, the Parties shall participate in mediation, using a mutually agreed upon mediator. The mediator will not render a decision, but will assist the Parties in reaching a mutually satisfactory agreement. The Parties shall agree to equally split the costs of the mediation.
- 4.2.2 The first mediation session shall commence within forty-five (45) days from the agreement to mediate.
- 4.2.3 All mediations are confidential and shall be treated as such.

### 4.3 Binding Arbitration

- 4.3.1 Should the procedures identified above fail to resolve the appeal to the satisfaction of the Parties, the Parties shall elect to have the appeal resolved through binding arbitration. Both Parties must agree to submit the appeal to arbitration. The arbitration proceeding shall take place in a manner consistent with the Rules of Arbitration of the International Chamber of Commerce. The appeal shall be resolved by one (1) arbitrator who is an expert in the particular area of the appeal. The arbitrator shall be selected using procedures consistent with the Rules of Arbitration of the International Chamber of Commerce.
- 4.3.2 The decision rendered by the arbitrator shall be final.
- 4.3.3 The demand for arbitration shall be made no later than six (6) months after the date of the appeal by the accreditation body. The parties shall split the costs of arbitration as follows:

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- a. the arbitration administrative fees shall be borne equally by the Parties;
- b. the expense of a stenographer shall be borne by the Party requesting a stenographic record;
- c. witness expenses for either side shall be paid by the Party producing the witness;
- d. each Party shall bear the cost of its own travel expenses;
- e. all other expenses shall be borne equally by the Parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

### 5 Complaints

This procedure covers the handling of both formal complaints against IAAC members, MLA signatories and IAAC evaluators as well as against IAAC. It also covers conflicts between IAAC members.

#### 5.1 Receipt and processing of complaints

- 5.1.1 A complaint shall be sent in writing to the IAAC Secretariat.
- 5.1.2 Any complaint, whether originating within IAAC or externally, shall be registered by the Secretariat. Anonymous complaints will not be accepted.
- 5.1.3 When an organization or person submits a complaint about an accreditation body member of IAAC, the IAAC Secretariat shall confirm that the complaint has first been submitted to the relevant accreditation body. If it has not, it will not be accepted. The Secretariat will advise the complainant to pursue that course of action first.
- 5.1.4 The Secretariat shall, within 30 days, acknowledge receipt of the complaint and advise the complainant as to whom the complaint has been referred to.
- 5.1.5 The Secretariat shall refer the complaint to the Executive Committee that is responsible for classifying it as either
  - formal (see 5.2)
  - conflicts between IAAC members (see 5.3)
- 5.1.6 If it is expected it will take some time to resolve the complaint, the complainant shall be advised of this and shall be given status update reports throughout the process.

#### 5.2 Formal Complaints

- 5.2.1. **Related to IAAC.** The IAAC Executive Committee shall discuss the complaint and decide how to proceed with formal complaints concerning breaches of the IAAC Declaration of Confidentiality and Impartiality or other IAAC rules, procedures and activities. This may entail any of the following:
  - Executive Committee enquiry involving the parties concerned;
  - When applicable, refer to the appropriate IAAC Committee for a ruling on any point of specific principle, to enable a proper response to be made by the Executive Committee, IAAC General Assembly or IAAC MLA Group; or
  - Other action as deemed appropriate by the IAAC Executive Committee.



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- 5.2.2. **Related to the MLA.** Formal complaints concerning IAAC MLA signatories, IAAC MLA activities and/or IAAC MLA peer evaluators shall be sent to the Chair of the IAAC MLA Committee, who shall consult as appropriate with the MLA Group on how to proceed. When the complaint involves the body represented by the MLA Committee Chair, the complaint shall be referred to the IAAC Chair and the IAAC Executive Committee.
- 5.2.3. The parties to the complaint shall be advised of any opportunity to participate in the hearing of a complaint in order to clarify issues and establish the relevant facts. Any member with a special interest in the subject of the complaint shall declare it and, where appropriate, stand down.
- 5.2.4. If resolution of the complaint leads to a change in policy or a clarification of a policy, the final decision on the new or revised policy shall be concluded in accordance with the IAAC Memorandum of Understanding, Bylaws, and/or Procedures for Establishing and Maintaining Mutual Recognition Arrangements between Accreditation Bodies.

### 5.3. Conflicts Between IAAC Members

- 5.3.1. In dealing with conflicts between IAAC members, the IAAC Executive Committee shall invite the parties involved to settle the conflict between themselves.
- 5.3.2. If the parties fail to come to an agreement or if confirmation is needed whether the agreement is in line with IAAC procedures, the issue shall be referred to the IAAC Secretariat for further processing by the IAAC Executive Committee.
- 5.3.3. If the resolution of the conflict leads to a change in procedures or clarification of a procedure, the final decision on the new or revised policy shall be concluded in accordance with the IAAC Memorandum of Understanding, Bylaws, and/or Procedures for Establishing and Maintaining Mutual Recognition Arrangements between Accreditation Bodies.