



# REGISTRATION DECISION - APPEAL PROCEDURES

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## 1. BACKGROUND

A person whose application for registration as a Social Worker or a student with the Manitoba College of Social Workers (MCSW) is not approved by the Registrar, or whose application is approved with limitations/conditions, may appeal the Registrar's decision to the Board.

## 2. LEGISLATIVE REQUIREMENTS AND STRUCTURE OF APPEAL PROCESS

The procedures of the Registration Appeals Panel are consistent with the requirements of *The Social Work Profession Act*, The Social Work Profession Regulation, The Manitoba College of Social Workers Bylaws and the provincial *Fair Registration Practices in Regulated Professions Act*.

The Manitoba College of Social Workers is committed to equity and accessibility in its policies, practices, programs, and work environment. Reasonable accommodation shall be available for individuals who request adjustments in the appeal hearing process.

### Appeal:

Registration appeals to the MCSW Board must be submitted to the MCSW office in writing using the MCSW Notice of Appeal Form within 30 days after the applicant receives notice of the Registrar's decision. The notice must specify the reasons for the appeal.

### Appeal Panel:

The Board shall designate a Registration Appeal Panel from among its members to hear and determine an appeal respecting a registration decision. The Registration Appeal Panel shall be comprised of a minimum of 3 members of the Board.

Prior to the hearing, the Board of Directors shall be queried as to their availability and to ensure that they do not have any conflicts of interest with the applicant and/or their representatives. Board members who have participated in the review of the application for registration or who declare a conflict of interest will be excluded from the panel hearing the appeal and will have no participation in the appeal process.

### Appeal Hearing:

The Panel shall meet at the call of the Appeal Panel Chair. The Appeal Panel must schedule an appeal hearing within 90 days after it receives the notice. The applicant must be provided with written notice of the date, time and place of the hearing.

Prior to the hearing, the Registrar must provide the Appeal Panel with a copy of the registration decision sent to the applicant and provide both the Panel and the applicant with copies of the relevant documents that he or she considered in reaching the decision being appealed.

The applicant is entitled to appear, with or without counsel, and make representations to the Panel at the hearing. The applicant, with or without counsel, may appear in-person or via teleconference.

/videoconference (as available). If the applicant chooses not to attend the hearing, the hearing will proceed and a decision will be rendered.

Information considered by the Panel regarding the appeal of a registration decision is limited to that known to the Registrar at the time the registration decision was rendered. Application information and documents that were not submitted for evaluation by the Registrar prior to the application decision date will not be considered by the Appeal Panel. The Panel may ask any questions regarding the appeal it deems necessary and, may adjourn the hearing to request the additional information regarding the appeal from the Registrar and/or the applicant, if required.

### 3. THE HEARING PROCESS

- Introductions shall be made by the Chair of the Registration Appeal Panel. The Chair shall confirm that the hearing is a meeting of the Registration Appeal Panel, announce the name of the appeal that is to be heard and the names of all of the persons present, including the Board members, the applicant, MCSW staff and legal counsel (if applicable).
- If applicable, those participating via telecommunication will be asked to confirm their identity and declare any other persons present during the hearing.
- The applicant is asked if they have objections to the participation of any of the Board members on the panel.
- The written materials which form the written record of the appeal are itemized.
- The applicant is advised that the hearing is being recorded (typically by a court reporter).
- A summary of the application is provided by MCSW staff.
- The applicant and/or their legal counsel are given an opportunity to present the reasons for their appeal.
- The Registrar/MCSW staff are given an opportunity to present the reasons for the decision to deny registration or the decision to place limitations/conditions on the applicant's registration.
- Members of the Panel may ask questions of the applicant, the Registrar, MCSW and/or their legal representatives at any time.
- The applicant and MCSW staff will leave the hearing following their presentations and question period.
- The Panel will deliberate in private and make their decision.

#### 4. DECISION OF THE APPEAL PANEL

A decision on an appeal must be made no later than 90 days after the date of the hearing. The Panel will attempt to reach a verbal decision on the date of the hearing if possible. The final written decision must be reviewed and approved by all members of the Appeal Panel and signed by the Panel Chair on behalf of the Board within 90 days of the hearing.

The Panel may make any decision that could have been made by the Registrar. The Panel may:

- Dismiss the appeal
- Direct the Registrar to register an applicant, with or without limitations/conditions

The Panel must provide the applicant with a written notice setting out its decision and reasons for decision within 30 days after deciding the appeal. A copy of the written decision will be sent by registered mail or personal service to the applicant.

#### 5. ROLE OF THE REGISTRATION APPEAL PANEL CHAIR

##### On Receipt of the Notice of Appeal

1. In consultation with the MCSW Staff, coordinate the date, time and location for the hearing, which must be within 90 days of receipt of the applicant's Notice of the Appeal.

##### At the Hearing

Chair the hearing in accordance with the outlined hearing process.

##### After the Hearing

1. Take primary lead in guiding the discussion of the Panel and ensuring input from Panel members.
2. Take primary lead in ensuring the decision and reasons for decision is written as soon as possible after the hearing, with input from Board members on the panel.
3. Ensure that the final written decision is completed within 90 days of the hearing date.
4. Following review and approval by all members of the Appeal Panel, the Chair will sign the final written decision on behalf of the Board.
5. Ensure that the decision of the Panel is communicated in writing to the applicant within 30 days of reaching the final written decision.

## 6. ROLE OF THE MCSW STAFF

### On receipt of appeal

The MCSW Staff shall:

1. Acknowledge receipt of the appeal,
2. Notify the applicant that the Chair of the Registration Appeal Panel will schedule a date for the appeal hearing or provide the date, time and place of the hearing, if known.
3. Advise the applicant of the names of Board members participating on the Appeal Panel and request that the applicant promptly advise of any objections to any of the individuals hearing the matter, and
4. Provide the applicant with information regarding the appeal hearing process.

The MCSW Staff shall:

1. Assemble the following materials for the Board:
  - a. The application for registration
  - b. All documents relied upon by the Registrar in reaching his or her decision
  - c. The letter to the applicant advising of the reasons for the Registrar's decision
  - d. The Notice of Appeal submission of the applicant.
2. Provide the applicant with a copy of the Appeal Hearing Agenda, the index of material submitted to the Appeal Panel and copies of that material.

The MCSW Staff shall ensure that both the applicant and the Board are in receipt of all required documentation, at least one week prior to the scheduled hearing date.

### At the Hearing

The Registrar/MCSW staff will attend the hearing, in a staff support role, to provide information to the Panel.

The Registrar/MCSW staff do not have a decision-making role in the appeal process and shall leave the hearing when the Appeal Panel is adjudicating the matter.

### After the Hearing

The MCSW Staff shall ensure that the written decision of the Appeal Panel is sent by registered mail to the applicant, with information regarding their right to appeal to the Court.

## 7. APPEAL OF THE BOARD PANEL DECISION TO THE COURT

A person whose application for registration as a social worker or a student is not approved by the Board, or whose application is approved by the Board subject to conditions, may appeal the decision to the court by filing a notice of appeal within 30 days after receiving notice of the Board's decision.

An appeal must be founded on the record of the proceedings before the Board.

At the request of the person appealing the Board's decision, the Registrar must give the person, at the person's expense, a certified copy of the record of proceedings and any documents that the Board considered in making its decision.

Upon hearing the appeal, the court may make any decision that in its opinion should have been made; or refer the matter back to the Board for further consideration in accordance with any direction of the court.

## 8. TIMELINES

|                                         |                                                             |
|-----------------------------------------|-------------------------------------------------------------|
| Applicant appeal period                 | Within 30 days of receipt of Registrar's decision           |
| Hearing                                 | Within 90 days of receipt of applicant's Notice of Appeal   |
| Final written decision                  | Within 90 days of hearing date                              |
| Decision of the Board to applicant      | Within 30 days of final written decision                    |
| Appeal of Board's decision to the court | Within 30 days of receipt of Board's final written decision |