

# Member Appeal Policy

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## PURPOSE

The purpose of this policy is to set out the procedure for appealing decisions made under the authority of *The Teachers' Pensions Act* (TPA) that directly impact a member's benefits.

The term "member" under this policy shall be interpreted broadly to include any person eligible, or potentially eligible, to receive benefits under the TPA including, without limitation, the spouse, common-law partner, executor and/or beneficiaries of a member.

## EFFECTIVE DATE

This policy is effective January 1, 2008.

## GENERAL DECISION-MAKING PROCESS

The Teachers' Retirement Allowances Fund (TRAF) is governed by the TPA. The TPA is the legislation that sets out the provisions for administering the pension plan for Manitoba public school teachers. TRAF is also subject to *The Pension Benefits Act* and the *Income Tax Act*, and the Board has established various internal policies and guidelines that set out further guidelines in respect of administering the applicable legislative provisions.

Matters delegated to staff are reviewed in accordance with the TPA, regulations and Board policies and guidelines. Consideration is given to whether the matter requires a legal or actuarial opinion by a professional outside of TRAF.

The Board is obligated to ensure that decisions are made in accordance with principles of procedural fairness. This means that staff and the Board must, among other things, make decisions without bias or conflict of interest and with the member having a reasonable opportunity to make their views known and to have them considered. The particular method by which a member may be heard, unless specifically set out in this guideline, is left to the discretion of those making the decision, on a case-by-case basis.

## APPEAL PROCEDURES

1. A member requesting a review of a final decision by staff must submit, or have a personal representative submit, a written appeal addressed to the President & CEO of TRAF within 60 days of receiving the staff's final decision. General guidelines are as follows:
  - a. The appeal must state the decision TRAF is being asked to review and what action TRAF is being asked to take.
  - b. Supporting documents may be included with the submission or may be provided to TRAF no later than 30 days following the submission of an appeal. Members should state in the appeal if additional supporting documents will be submitted.
2. Within 60 days of receiving the appeal and all supporting documents, the President & CEO will, after consideration of the material and all relevant information, either confirm, reverse or amend the final staff decision. If the decision is confirmed, the President & CEO will, at their discretion, determine if the appeal should be referred to the Board for further consideration. The member will be advised in writing of the President & CEO's determination and will be provided with a general explanation of the reasons for the decision.
3. If requested, the Board will review the appeal at the next regularly scheduled meeting of the Board that is at least 21 days after the date on which the decision to refer the appeal to the Board for review was made.

4. In certain circumstances, the President & CEO may delay the review date. This may occur if the matter involves complex facts that need to be investigated further or requires a legal or actuarial opinion by a professional outside of TRAF. Such delays shall be minimized to the extent possible. The member will be advised of any such delays and will be kept informed of the status.
5. In advance of the Board review, staff shall prepare an information package for the Board, with a copy to the member, including:
  - a. The member's letter of appeal and supporting documents, if applicable.
  - b. Background material necessary for the review, including relevant legislation, legal or actuarial opinions and correspondence.
  - c. A summary outlining the issue, the final decision of staff and the results of the subsequent review by the President & CEO.

All materials provided to the Board will have the member's name and other possible identifiers removed such that the decision is not influenced by the identity of the member.

6. At the Board meeting, staff shall present the information package and answer any related questions.
7. After consideration of the material, the Board will confirm, reverse or amend the staff decision, and record the decision in the minutes of the meeting. Alternatively, the Board may request additional information and/or documents from staff, or decide that the matter requires additional time for deliberation, in which case a determination of the matter will be deferred until a subsequent Board meeting.
8. The member will be advised in writing of the Board's determination and will be provided with a general explanation of the reasons for the decision.
9. The member does not have a further right of appeal within TRAF.

## **WHEN PRESIDENT & CEO IS IN A CONFLICT OF INTEREST OR UNAVAILABLE**

In the event that the President & CEO is in a conflict of interest situation or otherwise unavailable to act, the Chair may designate another senior executive to exercise the President & CEO's role in the appeal process.

## **LEGAL EFFECT**

This policy is for the general guidance of the Board, TRAF officers and for members seeking reviews of decisions. It does not have the force of law or create legal rights that would not otherwise exist.

## **LANGUAGE**

A member may submit an appeal, including any supporting documents, in French. To the extent practicable, reasonable efforts will then be made to process any such appeal in French.

Un membre peut faire appel à une décision en français en fournissant les documents d'appui nécessaires. Nous souhaitons, dans la mesure du possible, traiter cette demande en français.



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