

APPEAL FORM

# Application for Appeal of an Adverse Commission Decision

**General Instructions:** Only decisions by the Commission to initiate adverse action or not to approve a substantive change can be appealed by an institution.

Two actions available to be taken by the Commission are considered “adverse actions” and are therefore subject to appeal by the institution: (1) the Commission’s denial of an institution’s application for accreditation or reaccreditation, and (2) the Commission’s withdrawal of the existing accreditation of an institution for cause.

The appeal is limited to a claim of material error in the decision attributable to (a) a failure of the Record to support the decision or (b) a material misapplication of DEAC’s accreditation standards or published procedures or policies which materially affected the outcome of the Commission’s decision-making process. The fact that the Record considered by the Commission could have also supported a different decision is not sufficient grounds for the appeals panel to remand the matter if the Commission’s actual decision is also supported by the Record. The institution is entitled to be represented by counsel in connection with any or all portions of its appeal.

An institution must first appeal an appealable Commission decision using this form and the procedure outlined below before challenging that decision in any other forum.

**Institution Name:** Insert Institution Name

**Institution Address:** Institution Address

**Main Telephone Number:** Main Telephone Number

**Date:** Insert Date

Distance Education Accrediting Commission

1101 17th Street NW, Suite 808

Washington, D.C. 20036

**Tel:** 202.234.5100

**Fax:** 202.332.1386

**Submit to:** Leah.Matthews@deac.org, Executive Director

# SECTION 1: APPEAL PROCESS

1. **Application for Appeal:** The institution appealing an appealable decision by the Commission must submit this form together with the applicable appeals fee (see Fees information on DEAC website) to the executive director of DEAC within 10 days of the receipt of DEAC’s letter advising the institution of the decision that is being appealed. The application for appeal shall state generally the basis on which the appeal is being made. The institution’s failure to submit the application for appeal and associated fee within the 10-day period will waive its right of appeal, and the Commission’s decision will automatically become final and take full force and effect.
2. **Statement of Appeal:** The institution which has timely filed this application for appeal form must then submit a written statement setting forth all of the reasons the institution believes that the Commission’s decision was in clear error and the part or parts of the Record that support its positions. The institution may provide alternative bases for a determination of error, but evidence in support of each basis is limited to the materials and information included in the Record; no evidence or information not included in the Record will be considered by the appeals panel. The institution’s statement must be delivered to the DEAC executive director within thirty (30) days of the institution’s receiving notification of the decision being appealed.
3. **Burden of Proof:** The institution has the burden to show that the Commission’s decision resulted from errors or omissions in the execution of DEAC’s policies and procedures or that the decision was not based on substantial evidence in the Record. One or more specific procedural errors or unsupported findings by the Commission will not result in a remand if the balance of the Record independently supports the decision taken by the Commission. No new materials may be presented for the appeals panel’s consideration on appeal.
4. **DEAC Response:** DEAC may, in its discretion, submit a written response to the appellant’s statement within 30 days following its receipt of the appellant institution’s statement.
5. **Request for Oral Argument:** In its written statement, the appellant institution must state whether or not it wants the appeals panel to hear oral argument. The names and affiliations of those appearing to make the oral presentation should be included with the request when available; if not available at the time of the request, and in the absence of extenuating circumstances justifying a later disclosure, the institution shall provide the same no later than seven days prior to the scheduled hearing date. If the appellant institution does not request oral argument, then the appeals panel will make its decision based on the Record, the Commission’s written findings and reasons related to the decision being appealed, the appellant’s statement, and DEAC’s response to that statement (if any) (the “Record for Appeal”).
6. **Materials Provided to Appeals Panel:** DEAC is responsible for providing to the appeals panel, within 45 days following the appellant institution’s submission of its statement, a copy of the Record for Appeal. A copy of DEAC’s response will be provided to the institution on the same date.

# SECTION 2: HEARING PROCEDURE

If a request for oral argument is stated in the institution’s written statement, a hearing is conducted according to the following process:

1. A hearing before the appeals panel shall be scheduled within 60 days following the delivery of the Record for Appeal to appeals panel members. The hearing will be held virtually unless the appeals panel determines, in its sole discretion, that the physical presence of the panel and the parties is reasonably required. The appellant institution shall have 30 minutes in which to argue its case in front of the appeals panel. The 30 minutes does not include the time attributable to questions from the appeals panel and the institution’s response to the same. The time period may also be extended by the appeals panel in its discretion. Oral argument by the institution may not include arguments not previously made in its statement. DEAC shall have at least one representative present at the hearing. The DEAC representative shall participate in the proceeding solely for the purpose of correcting errors or misleading statements made in the process. The institution shall have the opportunity to respond to any such correction by indicating the part(s) of the Record supporting the perceived error or misleading statement. Depending on the nature of the hearing (e.g., whether virtual or not), DEAC will indicate to the appeals panel its interest in speaking and the appeals panel will afford it an opportunity to do so in its discretion. Any DEAC correction and institutional response shall not be included within the 30-minute time limitation.
2. If applicable, please list below those who will be attending the hearing on behalf of the institution:

|  |  |  |
| --- | --- | --- |
| **Name:** Insert Response**Title:** Insert Response**Affiliation:** Insert Response | **Name:** Insert Response**Title:** Insert Response**Affiliation:** Insert Response | **Name:** Insert Response**Title:** Insert Response**Affiliation:** Insert Response |

1. The appeal hearing will be recorded by stenographic or electronic means, and a copy of the same will be provided to the institution upon request. A fee will be required for this service.
2. The appeals panel will render its decision within 30 days following the hearing date, if a hearing is held, or within 30 days following the submission of the Record for Appeal if no hearing is requested. The decision shall provide a summary of the appeals panel rationale for its decision. The decision will be delivered to the DEAC executive director, who shall provide it to the Commission and the institution within one business day.

# SECTION 3: INSTITUTIONAL AFFIRMATIONS

Accreditation is a voluntary, peer review process. The institution assumes the burden of proof in demonstrating that its curricula are within DEAC’s recognized scope of authority and that all policies and procedures meet DEAC accreditation standards.

The president/CEO submits this Application for Appeal for the institution and affirms the following:

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| --- |
|[ ]  The institution understands that, if the Commission’s decision to take an adverse action or to deny a request for substantive change is upheld by the appeals panel in its original or in an amended form:* the Commission’s decision takes effect pursuant to the terms of Section XII.D. of the DEAC Accreditation Handbook;
* DEAC will so notify the institution and provide the institution with a period of 60 days in which to file a written comment to the decision as provided under Section XV.G.; and
* the institution is not eligible to reapply for accreditation or for the applicable substantive change for a period of one year from the date of the appeals panel decision.
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|[ ]  The institution understands that, if the appeals panel remands the matter to the Commission for further evaluation and decision making pursuant to the appeals panel’s instructions, the Commission will undertake such re-evaluation and decision making at its next regularly scheduled meeting or at an earlier scheduled meeting, in its discretion. If, on remand, the Commission again votes against the accreditation or reaccreditation of an institution or in favor of the withdrawal of accreditation from an institution, or if it again votes to deny approval for a substantive change, the institution is entitled to a right of appeal with respect to that decision. |
|[ ]  The institution understands that, an institution’s failure to submit an application for appeal and associated fee within the 10 day period will waive its right of appeal and the Commission’s decision automatically becomes final and takes full force and effect. |
|[ ]  The institution understands that, DEAC requires the institution to disclose the initiation of an adverse action to all current and prospective students within seven business days of receipt of the written notice of the Commission’s decision. |

# SECTION 3: APPLICATION CHECKLIST

**Please ensure that the institution’s application includes the following:**

* Fee attached ($25,000). Provide evidence of payment (scanned copy of check or similar). Insert Date Fee was Mailed
* Deposit on optional fee for transcript ($1,000)
* Written grounds for appeal will be submitted within 30 days of receipt of the adverse decision letter.
* Names of those attending appeal hearing are provided above.

# SECTION 4: CERTIFICATION

I certify that all of the information contained on this application and in the submitted documentation is true and correct, and I understand that, by electronically typing my name in this document, it is considered to have the same legally binding effect as signing my signature using pen and paper.

**Institution’s President/CEO:** Name of President/CEO

**Institution’s President/CEO Signature:** Print Name or Insert Digital Signature

**Date:** Insert Date