

ACADEMIC COUNCIL REPORT

SESSION:

Public
Non-Public

ACTION REQUESTED:

Decision
Discussion/Direction
Information

TO: Academic Council

DATE: April 27, 2021

FROM: Governance & Nominations Committee (GNC)

SUBJECT: Review of Academic Appeals Committee Terms of Reference

COMMITTEE MANDATE:

- Section 1(a) of the GNC Terms of Reference lists one of the responsibilities of the committee as advising Academic Council on the establishment, terms of reference, composition, membership and retirement of its committees.
- As part of the implementation of By-law No. 2, the GNC has been asked to review the Terms of Reference for all of Academic Council's standing committees.
- We are seeking Academic Council's feedback on the proposed Academic Appeals Committee Terms of Reference (AAC ToR).

CONTEXT & RATIONALE:

- The AAC ToR are currently contained within a document that sets out the composition of the AAC, as well as appeal procedures.
- We are recommending removing the procedural aspects, as the university already has a separate Academic Appeal Policy and related Academic Appeals Procedures.
- The proposed amendments to the Academic Appeal Policy and related appeal procedures came to Academic Council for consultation at the meeting in March 2021.

Considerations of GNC:

- Is the number of people on the committee sufficient to establish quorum?
- Suggestion to add the role of the Chair to the Terms of Reference.

- Suggestion to make the committee a little larger due to potential conflicts of interest.
- Should a quorum provision be included to allow for meetings of the committee as a whole?
- Clarify that members are elected in the Terms of Reference.
- Make it clear in the Terms of Reference that it is an adjudicative body as opposed to a governance body.

NEXT STEPS:

1. Council's feedback will be communicated to GNC.
2. The Terms of Reference will be presented to Academic Council for recommendation and then to the Board for approval as the AAC ToR contain a delegation of authority.

SUPPORTING REFERENCE MATERIALS:

- Draft AAC ToR
- Original AAC ToR

ACADEMIC COUNCIL

Undergraduate Academic Appeals Committee

1. TERMS OF REFERENCE

The Undergraduate Academic Appeals Committee (“Committee”) is ~~the~~ an adjudicative body of Academic Council responsible for conducting and determining the outcome of undergraduate academic appeals in accordance with the university’s Undergraduate Academic Appeals Policy and Undergraduate Academic Appeals Procedures.

2. MEETINGS

The Committee will meet as needed throughout the year. In accordance with the university’s Act and By-laws, the Committee will conduct only Non-Public meetings as the Committee considers matters of a personal nature concerning individuals.

3. MEMBERSHIP

The Committee will be composed of the following elected members:

- Four (4) tenured, tenure-track, or teaching faculty members
- Three (3) elected student representatives

A chair will be appointed from among the tenured, tenure-track, or teaching faculty members of the Committee. The chair’s role and responsibilities are set out in the Undergraduate Academic Appeals Procedures.

Appeal panels will be convened from among the members of the Committee in accordance with the Undergraduate Academic Appeals Procedures.

ACADEMIC APPEALS COMMITTEE

MEETING DATES AND TIMES

Meetings shall be scheduled based on specific needs.

II. MEMBERSHIP

- Four (4) core faculty members
- Three (3) student representatives, elected from student body at large

III. TERMS OF REFERENCE

1. Appeals shall be heard by a panel of a minimum of 3 Committee members, as determined by the chair, provided that at least one student member and at least two teaching staff members are present.
2. The appeal hearing shall be conducted by the chair or the chair's designate, who shall be counted as one of the panel members.
3. Decisions with respect to the final disposition of an appeal will be carried by a simple majority of panel members hearing the appeal.
4. An appellant must have completed any prior levels of appeal open to him or her before filing a Notice of Appeal with the Committee.
5. An appeal to the Committee shall be commenced by filing a Notice of Appeal in the required form no later than 4:00 p.m. on the tenth working day after the date of the decision which is being appealed.
6. The chair may refuse to give a hearing to an appeal on the grounds that it is not within the jurisdiction of the Committee.
7. The panel of the Committee hearing an appeal may dismiss an appeal by unanimous decision after considering the written submissions notwithstanding a request for an oral hearing on the grounds that there is no real case for an appeal, i.e., the appeal is frivolous or vexatious and without merit on its face.
8. In the Notice of Appeal, the appellant shall elect whether an oral hearing is requested. If no election is made, the appeal shall be determined in writing.
9. Where an appeal is to be determined in writing: i. As soon as reasonably practicable the Committee shall provide a copy of the Notice of Appeal to the responding Faculty;

ii. The responding Faculty has 10 working days to deliver to the Committee a written response to the Notice of Appeal, attaching any documents relevant to the decision under appeal. A copy of the written response and attached documents shall be mailed to the appellant;

iii. The appellant shall have 10 working days from the mailing date of the responding Faculty's response to provide any final written response. A copy of this shall be mailed to the Faculty.

10. Where the appeal is to be determined by oral hearing:

a. Upon receipt of the Notice of Appeal, the Committee, in consultation with the appellant and the responding Faculty will schedule a date for the oral hearing;

b. No less than 10 working days prior to the hearing, the appellant shall deliver to the Committee (3 copies) and the responding Faculty (1 copy); i. Any written submissions to be relied upon at the hearing;

ii. Copies of all documents to be referred to at the hearing;

iii. A list of persons attending as witnesses and a brief summary of each witness's intended evidence;

c. No less than 5 working days prior to the hearing, the responding Faculty shall deliver to the Committee (3 copies) and the appellant (1 copy) of its material listed at paragraph 10 (b), (i) to (iii), above;

11. Where the appeal is to be determined in writing, the members of the panel may convene in person or via teleconference.

12. On an oral hearing, the following procedures shall apply: i. At the commencement of the hearing, the chair shall identify the parties and the members of the Committee;

ii. The appellant or a representative shall briefly describe the case to be presented, and provide factual support for the case through documentary evidence and testimony of the appellant and any witnesses, if relevant;

iii. The responding Faculty or a representative shall briefly reply to the appellant's case and provide facts in opposition to the case through documentary evidence and the testimony of witnesses, if relevant;

iv. Committee members may ask questions at the conclusion of each person's statement or testimony, or at the conclusion of the appellant's or responding Faculty's case;

v. Normally, neither the appellant nor the responding Faculty may ask questions of the other's witnesses. Where facts important to the decision of the appeal are in dispute, however, either party may ask permission and, if appropriate, the Committee may grant permission for the cross- examination of some or all witnesses;

vi. Following the presentation of the appellant's and the responding Faculty's cases, each of the appellant and the responding Faculty may make brief closing statements to summarize the main points of their respective positions;

vii. Following the foregoing steps, the parties will withdraw and the Committee will move in camera for its deliberations;

viii. The decision of the Committee will be in writing and shall include the names of the Committee and all who appeared, a brief summary of the issues on the appeal, the Committee's decision and reasons in support of the decision.

13. The time limits specified under these procedures may be extended by the chair at the request of the appellant or responding Faculty, if reasonable grounds are shown for the extension.