

ACADEMIC COUNCIL REPORT

SESSION:

Public
Non-Public

ACTION REQUESTED:

Decision
Discussion/Direction

TO: Academic Council

DATE: April 25, 2023

FROM: Lauren Turner, University Secretary

SUBJECT: Review of Undergraduate Academic Appeals Policy and Procedures and Committee Terms of Reference

GNC MANDATE:

- Section 1(a) of the GNC Terms of Reference provides that the Committee has, amongst others, the responsibility to:
 - Advise Academic Council on the establishment, terms of reference, composition, membership and retirement of its committees, including its own; and
 - Propose, oversee, and periodically review the governance policies of Academic Council and its committees and make recommendations to Academic Council for development and revision when appropriate

BACKGROUND:

It is a good governance practice to regularly review the key governance documents of the University. In addition, a review of the Terms of Reference (TOR) and Policy and Procedure for Undergraduate Academic Appeals (Policy and Procedure) was part of the By-Law 2 Implementation plan and will be incorporated into the forthcoming governance review document being prepared by the Secretariat.

CONSULTATION:

Revisions to the TOR and Policy and Procedure are presented to Academic Council (AC) for input. A short summary of the proposed revisions are as follows:

TOR

- made explicit that faculty and students are elected from their constituencies

- rationale – other TORs are generally explicit regarding election of members
- this aligns with the practice to-date
- changed the number of faculty to a minimum and maximum number to manage challenges with meeting quorum when conflicts of interest arise
- added process for selection of Chair and Vice-Chair of the Committee
- amended formatting to align with other AC Committee TORs
- removed duplicate content found in the Policy and Procedures
- proposed a student-facing staff member to sit on the Committee; the Governance and Nominations Committee (GNC) has requested further information/investigation regarding the role of the staff member (voting/non-voting, resource)

Policy

- removal of content duplicated in the TOR
- expanded and clarified grounds for appeal for consistency with generally accepted practices; noted areas where decisions may not be appealed
- editorial revisions for clarity and ease of reading, such as changing ‘appellant’ to ‘student’
- provided greater level of responsibility to the Chair
- added the ability for the Judicial Officer to assign a designate for all or some duties
- minor grammatical fixes

Procedures

- removal of content duplicated in the TOR
- consistent with the Policy, expanded and clarified grounds for appeal and evidence required for a complete package
- strengthened language regarding decision making and where files may be closed
- provided greater level of responsibility and accountability to the Chair
- updated the initial review and hearing processes to better align with administrative law principles
- added the ability for the Committee, Chair, and Judicial Officer to assign a designate for all or some duties
- editorial revisions for clarity and ease of reading, such as changing ‘appellant’ to ‘student’
- questions posed to solicit feedback on review processes and the procedures for oral hearing
- minor grammatical fixes
- based on feedback from GNC, language will be added to clarify how decisions of the Appeals Committee will be implemented

NEXT STEPS:

The consultation on the TOR and Policy and Procedures will be as follows:

- ✓ GNC (consultation)
- AC (consultation)
- ALT (written consultation)
- Online Consultation (written consultation)
- GNC (approval – procedure, recommendation - policy)

- AC (approval – policy, recommendation for approval – TOR)
 - Board (approval – TOR)
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SUPPORTING MATERIALS:

- Academic Appeals Committee TOR – revised April 2023
- Undergraduate Academic Appeals Policy – revised April 2023
- Undergraduate Academic Appeals Procedure – revised April 2023

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:

- At least fFour (4) and not more than six (6) tenured, tenure-track, or teaching faculty members elected from the constituency
- Three (3) ~~elected~~ undergraduate student representatives elected from the student body
- One (1) staff member in a frontline student-facing role selected through an expression of interest process

A eChair will be appointed from among the tenured, tenure-track, or teaching faculty members of the Committee. The chair will be selected in accordance with the relevant process established by the Governance and Nominations Committee. The eChair’s role and responsibilities are set out in the Undergraduate Academic Appeals Procedures.

A vVice-eChair will be selected by the Committee each year from among the members of the Committee.

When required, members of the Committee will hear appeals in the-accordance with the Appeal panels will be convened from among the members of the Committee in accordance with the Undergraduate Academic Appeals Procedures.



Classification Number	ACD 1512
Framework Category	Academic
Approving Authority	Academic Council
Policy Owner	Provost
Approval Date	June 22, 2021
Review Date	June 2024
Supersedes	February 23, 2016; Academic Regulations – Undergraduate Academic Calendar 2016-2017

UNDERGRADUATE ACADEMIC APPEALS POLICY

PURPOSE

1. The purpose of this Policy is to provide a route for review of Decisions affecting students where there ~~is are sufficient new evidence to offer, or where there were procedural irregularities in the original decision grounds.~~ The review of ~~D~~ecisions may lead to an Informal Resolution or a formal Appeal.

DEFINITIONS

2. For the purposes of this Policy, the following definitions apply:

“**Appeal**” means a formal process conducted by the Academic Appeal Committee to review Decisions on grounds ~~of new evidence or procedural irregularities~~ specified in this Policy.

“**Decision**” means a decision affecting the rights of a student, made by a Decision-Maker. This includes:

- a) Decisions of the dean, Registrar, or delegate relating to:
 - Academic Standing (review of academic standing);
 - Grade Reappraisals and Reconsiderations;
 - Time Limits established by the [Graduation and Conferral of Degrees Policy](#) [link];
 - Late withdrawal requests;
 - Examination deferrals; or
 - The imposition of disciplinary penalties during an appeal.
- b) Decisions of the Academic Integrity Committee relating to academic conduct/misconduct or professional suitability.
- c) Any other decision for which the Academic Appeals Committee grants leave to appeal.

“**Decision-Maker**” means a University body or member of the University administration, including the Academic Integrity Committee, Registrar, Dean or delegate, with the authority to make Decisions under applicable policies.

“**Graduate-level Decisions**” means decisions related to students registered in the School of Graduate and Post-Doctoral Studies and/or made under Graduate Academic policies or regulations.

“**Informal Resolution**” means a voluntary process conducted by the Judicial Officer or their designate that engages both parties in a reconsideration of the Decision. The outcome of an Informal Resolution is determined by the agreement of the parties.

SCOPE AND AUTHORITY

3. This Policy applies to Decisions other than Graduate-level Decisions.
4. The Graduate Academic Appeal Policy provides a route for reconsideration of Graduate-level Decisions.
5. The Provost, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

POLICY

6. There will be a committee established with the delegated authority to conduct Appeals and determine the outcome of Appeals. This committee will be established by the Board of Governors through the approval of Terms of Reference specifying the composition of the committee.
7. The University Secretary ~~will appoint as the~~ Judicial Officer. The Judicial Officer and/or their designate ~~to will~~ review requests for Decision reviews, ~~to provide advice to the Chair of the Academic Appeals Committee regarding the determination of~~ determine whether there are grounds ~~to believe that new evidence or procedural irregularity that~~ affected the outcome of the Decision, ~~to~~ engage the parties in a voluntary Informal Resolution process, and ~~to~~ provide administrative and procedural support to the Academic Appeals Committee.
8. A Decision may be appealed only when a student is able to establish that ~~has grounds to request a review of a Decision where there is:~~
 - a) Significant ~~n~~New information relevant to the Decision has been discovered evidence (evidence ~~relevant to the Decision made at the lower level, but that~~, through no fault of the student, was not available at the time of the original Decision ~~not presented at that level~~. Generally speaking, events or performance subsequent to the ~~lower level~~ Decision ~~are~~ will not to be construed as new evidence); or
 - b) Evidence of procedural irregularity in the original consideration of the matter by the Decision-Maker; or-
 - c) There is clear evidence of bias in a Decision; or
 - b)d) The severity of the penalty imposed exceeds the nature of the offence for reasons identified by the student.

AND the outcome of the Decision might have been substantially affected by any of the above circumstances.

Commented [KM1]: Will further define procedural irregularity in an FAQ as clarity is needed for students and faculty applying the Procedures. E.g. lack of reasons in decision letter, inadequate weight given to evidence provided, fail to follow procedures, etc.

Dissatisfaction with the outcome of the Decision or University policy, or ignorance or neglect of published deadlines by the student are not sufficient grounds for appeal.

9. Procedures for requesting a review of a Decision will be established under this Policy.
10. A student may elect to participate in a voluntary Informal Resolution process conducted by the Judicial Officer or their designate, where the Judicial Officer believes the process will be effective. Procedures for Informal Resolution will be established under this Policy.
11. Where the student does not elect to participate in Informal Resolution, or the parties do not come to an agreement on a resolution, the matter will proceed to an app~~ea~~l. Procedures for conducting an Appeal will be established under this Policy.
12. **Status during an App~~ea~~l**
 - 12.1. Under normal circumstances, disciplinary penalties will not be enforced before an Appeal is decided, nor will official transcripts be issued.
 - 12.2. In cases where continued attendance by the student would have a detrimental effect on the student or others (including, but not limited to circumstances where issues of safety and security to the individuals or property are involved), the dean of the relevant faculty may determine that the penalty imposed by the faculty will stay in effect until the completion of the App~~ea~~l proceedings.
 - 12.3. If the Appeal is granted, formal registration will be reinstated or the matter remitted back to the dean or Pro~~v~~ost for reconsideration as appropriate.

MONITORING AND REVIEW

13. This Policy will be reviewed as necessary and at least every three years. The Registra~~r~~Provost, or successor thereof, is responsible to monitor and review this Policy.

RELEVANT LEGISLATION

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RELATED POLICIES, PROCEDURES & DOCUMENTS

15. Undergraduate Academic Appeals Procedures
Fair Processes Policy
Graduation and Conferral of Degrees Policy
Grading System and Academic Standing Policy (Undergraduate)



Classification Number	ACD 1512.01
Parent Policy	Academic Appeal Policy
Framework Category	Academic
Approving Authority	Academic Council
Policy Owner	Provost
Approval Date	June 15, 2021
Review Date	June 2024
Supersedes	February 23, 2016; Academic Regulations – Undergraduate Academic Calendar 2016-2017

UNDERGRADUATE ACADEMIC APPEALS PROCEDURES

PURPOSE

1. The purpose of these Procedures is to outline the process for requesting a Decision review where there ~~is new evidence to offer, or where procedural irregularities affected the original decision~~ are sufficient grounds. The review may lead to an Informal Resolution or a formal Appeal to the Academic Appeals Committee.

DEFINITIONS

For the purposes of these Procedures the following definitions apply:

2. **“Appeal”** means a formal process conducted by the Academic Appeal Committee to review Decisions on grounds ~~of new evidence or procedural irregularities~~ specified in the Undergraduate Academic Appeal Policy.

“Appeal Panel” means a subset of the Academic Appeals Committee that is convened when necessary to hear an Appeal. The Appeal Panel will be composed of at least three members of the Academic Appeals Committee, as determined by the Chair, provided that at least one student member and at least two teaching staff members are present. The Chair or Vice-Chair shall be counted as one of the Appeal Panel members.

“Balance of Probability” means a standard of proof that applies to all decisions. This standard requires a decision-maker to, after considering and weighing the evidence, believe a fact, event or allegation is more likely to have occurred than not when arriving at a decision.

“Decision” means a decision affecting the rights of a student, made by a Decision-Maker. This includes:

- a) Decisions of the dean, Registrar, or delegate relating to:
 - Academic Standing (review of academic standing);
 - Grade Reappraisals and Reconsiderations;
 - Time Limits established by the [Graduation and Conferral of Degrees Policy](#) [link];
 - Late withdrawal requests;
 - Examination deferrals; or
 - The imposition of disciplinary penalties during an appeal.

- b) Decisions of the Academic Integrity Committee relating to academic conduct/misconduct or professional suitability.
- c) Any other decision for which the Academic Appeals Committee grants leave to appeal.

“Decision-Maker” means a University body or member of the University administration, including the Academic Integrity Committee, Registrar, Dean or delegate, with the authority to make Decisions under applicable policies.

“Graduate-level Decisions” means decisions related to students registered in the School of Graduate and Post-Doctoral Studies and/or made under Graduate Academic policies or regulations.

“Informal Resolution” means a voluntary process conducted by the Judicial Officer or their designate that engages both parties in a reconsideration of the Decision. The outcome of an Informal Resolution is determined by the agreement of the parties.

“Working Day” means any day, excluding Saturdays, Sundays, statutory holidays and university closures, on which business can be conducted.

SCOPE AND AUTHORITY

- 2.3. These Procedures apply to Decisions other than Graduate-level Decisions.
- 3.4. The Graduate Academic Appeal Policy provides a route for reconsideration of Graduate-level Decisions.
- 4.5. The Provost, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

PROCEDURES

5.6. Process for submitting a request for Decision review

6.1. A student must have completed any prior levels of appeal open to them before filing a Notice of Appeal.

5.1.6.2. Requests must be submitted to the Judicial Officer no later than 4:00 p.m. on the tenth - within 10 Working Days after the date of the original administrative Decision by the Decision-Maker using the notice of required appeal form supplied and must contain:

- A complete copy of the Decision that is being appealed;
- The form of remedy or redress requested;
- The specific grounds on which the appeal request is made;
- A summary of the evidence in support of these grounds; and
- The text of the relevant procedural regulations (if any) allegedly violated or otherwise deemed applicable to the case.

6.3. To provide the required information, it will be necessary for the student to provide documentation in addition to the notice of appeal form.

5.2.6.4. Requests which do not include all of the required information outlined in Section 6.42 will be dismissed as incomplete.

6.7. Initial Review

6.1.7.1. The Decision review request is initially reviewed by the Chair of the Academic Appeals Committee in consultation with the Judicial Officer to assess whether the review request falls under the jurisdiction of the Academic Appeals Committee and that there is some evidence, which if believed, constitutes new evidence or a procedural irregularity sufficient grounds as described in Section 8 of the Undergraduate Academic Appeals Policy. There are four (4) potential outcomes arising out of this initial review:

- a) The evidence submitted by the appellant student, even if accepted by the committee as true, would not be sufficient to prove either sufficient grounds of appeal on a Balance of Probabilities, and the appeal review is dismissed without a hearing Appeal or further consideration (Dismissal);
- b) There is some evidence of one or both sufficient grounds, and the Judicial Officer Chair recommends a voluntary Informal Resolution process involving the Decision-Maker and the student. (Informal Resolution);
- c) There is some evidence of one or both sufficient grounds, and the matter proceeds to a formal oral or written hearing an Appeal (Appeal Formal Hearing); or
- d) There is overwhelming evidence of one or both sufficient grounds, such that the Committee can render a decision on the merits of the appeal review without proceeding to a formal Appeal a hearing (Appeal Granted).

7.8. Informal Resolution

7.1. The Judicial Officer or their designate may, with the consent of the appellant student, refer the matter back to the original Decision-Maker for reconsideration in light of the new evidence or procedural irregularity information provided in the request for Decision review. grounds. The Informal Resolution process is voluntary. The student may instead request for the review to proceed as an Appeal.

7.2. The Informal Resolution process is voluntary. The appellant may instead request a Formal Hearing.

7.3.8.1. The Decision-Maker will review the Decision in consultation with the Judicial Officer or their designate and, within ten (10) Working Days make a written offer of resolution to the appellant student.

7.4.8.2. The appellant student will have five (5) Working Days to either accept or communicate their non-acceptance in writing to the Academic Appeals Committee Judicial Officer or designate.

~~7.5.8.3.~~ If the ~~appellant student~~ rejects the ~~informal~~ Resolution offer, the matter will proceed to an ~~Appeal~~ Formal Hearing of the Academic Appeals Committee.

~~7.6.8.4.~~ Once an ~~informal~~ Resolution offer is rejected by the ~~appellant student~~, it cannot be accepted or requested at a later date. ~~During an Appeal,~~ the Academic Appeals Committee is not bound by the original Decision or any Informal Resolution offer.

~~8.9.~~ **Formal Hearing**

~~9.1.~~ The Academic Appeals Committee may exercise its discretion to ~~proceed with an Appeal~~ call a formal hearing to assess the merits of the case ~~where~~ there is some evidence, which if accepted by the ~~Committee~~ as true, ~~that would constitute new evidence or evidence of procedural irregularity sufficient grounds or where the student has rejected an Informal Resolution offer,~~ a matter may move to Appeal. ~~Moving a matter to Appeal, and deciding the appropriate method of hearing the Appeal, is the decision of the Chair in consultation with the Judicial Officer or their designate. Where merited, the committee will exercise its discretion to call a hearing. Hearings may be in writing or in person.~~ Oral hearings may be warranted in circumstances where documentary evidence requires clarification, findings of credibility are required to reach a decision, or for matters involving serious consequences.

~~8.1.9.2.~~ Hearings will be conducted by an Appeal Panel convened from among the members of the Academic Appeals Committee.

~~9.10.~~ **Written Hearing Procedures**

~~9.1.10.1.~~ ~~Where it is deemed appropriate by the Academic Appeals Committee to proceed with a written hearing,~~ As soon as reasonably practicable the ~~Judicial Officer or their designate, acting on behalf of the~~ Committee will provide a copy of the ~~Notice of Appeal form and supporting documentation provided by the student~~ to the responding Decision-Maker;

~~9.2.10.2.~~ The responding Decision-Maker has ten (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 will be provided to the ~~appellant student~~ by email;

~~9.3.10.3.~~ The ~~appellant student~~ will have ten (10) Working Days from the ~~electronic~~ mailing date of the ~~responding~~ Decision-Maker's response to provide any final written response. A copy of this will be provided to the responding Decision-Maker.

~~9.4.10.4.~~ ~~Where the appeal is to be determined in writing,~~ the members hearing the ~~Appeal~~ of the Panel may convene in person or via ~~video~~/teleconference to consider the submissions of the ~~appellant student~~ and the responding Decision-Maker.

~~10.11.~~ **Oral Hearing Procedures**

~~10.1.11.1.~~ ~~Where it is deemed appropriate by the Academic Appeals Committee to proceed with an oral hearing,~~ as soon as reasonably practicable the ~~Judicial Officer or their designate, acting on behalf of~~ Upon receipt of the Notice of Appeal, the

Commented [KM1]: Do we want an in-between process here?
Some sort of review by the Committee but beyond the Chair?

Committee, in consultation with the appellant student and the responding Faculty, will schedule a date for the oral hearing;

10-2-11.2. No less than ten (10) working days prior to the hearing, the appellant student, will deliver to the Judicial Officer or designate:

- a) Any written submissions to be relied upon at the hearing;
- b) Copies of all documents to be referred to at the hearing;
- c) A list of persons attending as witnesses and a brief summary of each witness's intended evidence;

10-3-11.3. No less than five (5) working days prior to the hearing, the responding Decision-Maker, will deliver to the Judicial Officer or designate:

- a) Any written submissions to be relied upon at the hearing;
- b) Copies of all documents to be referred to at the hearing;

- c) A list of persons attending as witnesses and a brief summary of each witness's intended evidence;

10-4-11.4. The Judicial Officer or designate will share submissions with the appellant student, the responding decision-maker and members of the Academic Appeals Committee Panel.

10-5-11.5. The hearing shall be conducted by the Chair or Vice-Chair. At the commencement of the Oral Hearing, the eChair will identify the parties and the members of the Committee Appeal Panel;

Commented [KM2]: May need additional language here regarding advanced notice of those in attendance, witnesses, etc. to be reviewed by Legal.

10-6-11.6. The appellant student or a representative will briefly describe the case to be presented, and provide factual support for the case through documentary evidence and testimony of the appellant student and any witnesses, if relevant;

10-7-11.7. The responding Decision-Maker or a representative will briefly reply to the appellant's student's case and provide facts in opposition to the case through documentary evidence and the testimony of witnesses, if relevant;

10-8-11.8. Committee-The Appeal Panel members may ask questions at the conclusion of each person's statement or testimony, or at the conclusion of the appellant's student's or responding Decision-Maker's case;

10-9-11.9. Normally, neither the appellant student nor the responding Decision-Maker or representative 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 Chair may grant permission for the cross-examination of some or all witnesses;

10-10-11.10. Following the presentation of the appellant's student's and the responding Decision-Maker cases, each of the appellant student and the responding

Decision-Maker may make brief closing statements to summarize the main points of their respective positions;

~~10.11.11.11.~~ Following the foregoing steps, the parties will withdraw and the ~~Committee-Appeal Panel~~ will move in camera for its deliberations;

~~11.12.~~ The decision of the ~~Committee-Appeal Panel~~ will be in writing and will include the names of the ~~Committee-Appeal Panel~~ and all who appeared, a brief summary of the issues on the appeal, the Committee's ~~Appeal Panel's~~ decision and reasons in support of the decision.

~~10.12.11.13.~~ The decision of the Appeal Panel shall be deemed to be a decision of the Academic Appeals Committee and is considered final.

~~11.12.~~ Outcomes

~~11.1.12.1.~~ The Academic Appeals Committee will grant ~~an appeal~~ a request, either through Initial Review or Appeal, where the ~~new evidence or evidence of a procedural irregularity has grounds have~~ been proven by the ~~appellant student~~ on a Balance of Probabilities and ~~has have~~ not been rebutted. In this case, the Academic Appeals Committee may:

- a) overturn the ~~D~~decision,
- b) substitute a different decision and/or sanction; or
- c) order any other remedy viewed to be appropriate in all of the circumstances.

~~11.2.12.2.~~ The decision of the Academic Appeals Committee may include some, none, or all of the remedy or redress requested by the appellant. ~~–~~(Eg. Academic standing, final grades or sanctions may change in favour of or not in favour of student, withdrawals may be granted or rescinded, notations added to, deleted from or changed on transcript, assessments re-written or re-appraised)

~~12.13.~~ Time Limits

~~12.1.13.1.~~ The time limits specified under these procedures may be extended by the ~~Chair~~ at the request of the ~~appellant student~~ or responding Decision-Maker, if reasonable grounds are shown for the extension.

MONITORING AND REVIEW

~~13.14.~~ These Procedures will be reviewed as necessary and at least every three years. The ~~Registrar~~ Provost, or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

~~14.~~ This section intentionally left blank

RELATED POLICIES, PROCEDURES & DOCUMENTS

15. Undergraduate Academic Appeals Policy

[Notice of Academic Appeal Form](#)

Fair Processes Policy

Graduation and Conferral of Degrees Policy

Grade Reappraisal and Review of Academic Standing Policy and Procedures