

TERMS OF REFERENCE

Cttee ID & Name: **TOR34: COMMITTEE OF REVIEW**

Issued by: Senior Vice-President, Academic

Effective: 2021-09-01

1. PURPOSE

The purpose of the Committee of Review is to hear Step 3 appeals in accordance with policy A128: Academic Appeals.

2. MEMBERSHIP**2.1. Designates**

Designates are persons appointed by a Vice-President, or Appeals Administrator as delegated, as potential members of a Committee of Review. A Committee of Review consists of three members with one member from each of these Designate groups: College faculty and other employees; College administrators; and members of the Fanshawe Student Union. The administrative member acts as Chair during Committee deliberations. The Appeals Administrator serves as the non-voting leader of the Committee of Review hearing.

The Appeals Administrator facilitates appropriate training for Designates and other employees involved in the appeal process, and for members of the Fanshawe Student Union.

Upon receipt of a Notice of Appeal to the Committee of Review, the Vice-President, or Appeals Administrator as delegated, appoints three Designates to form a Committee of Review. Designates are selected such that they have no vested interest in the appeal. The Designates comprising the Committee are not from the Faculty or department from which the appeal arose.

2.2. Appeals Administrator

The Vice-President appoints administrators to act as Appeals Administrator and Alternate Appeals Administrator. Their role includes, but is not limited to, the following tasks:

- Administering the appeal process generally such as receiving and assessing appeal documentation, scheduling meetings, communicating with the parties, and guiding the Committees of Review through the appeal hearing process. The Appeals Administrator does not vote on Committee matters.
- Determining whether there are sufficient grounds for an appeal to proceed or whether another policy prevails; they may recommend dismissal of the appeal to the Vice President if grounds and/or evidence is not sufficient or it is outside of the timelines as noted in Policy A128.
- Training and support for College staff and FSU executive members involved in the process; and where a mediated solution appears possible, attempting resolution.

COLLEGE COMMITTEES

3. MEETINGS

- 3.1. The Committee of Review is only convened to hear Step 3 Appeals relating to policy A128: Academic Appeals. Meetings will follow the steps outlined in Procedure A: Committee of Review Procedures and Hearing Protocol. The Committee has a duty to act fairly and takes guidance from A128: Academic Appeals, Standard 1: Procedural Fairness.
- 3.2. Committee members review all relevant documentation and other materials prior to a hearing. At the hearing, each party has up to one hour to present their case and respond to questions. An extension of this time limit may only occur through agreement of all Committee members.

4. REFERENCES

College Policy

A128: Academic Appeals

A136: Academic Integrity

5. ADDENDA

Procedure A: COMMITTEE OF REVIEW PROCEDURES AND HEARING PROTOCOL.

Procedure B: APPEAL HEARING INTRODUCTION

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Cttee ID & Name: TOR34: COMMITTEE OF REVIEW - APPEALS

Addendum: **Procedure A: COMMITTEE OF REVIEW PROCEDURES AND HEARING PROTOCOL**

Issued by: Senior Vice-President, Academic

Effective: 2021-09-01

1. PURPOSE

The purpose of this document is to guide the activity of a Committee of Review established under Policy A128 to hear a student appeal.

2. GENERAL MATTERS

2.1. Delivery of Notices and Documents

Unless there is a need to transfer physical items, communications regarding an appeal are sent and received by email through the Appeals Administrator. Email is deemed received on the day after sending. Physical items are deemed received immediately if delivered by hand, on the second day after the document was given to a courier, or on the fifth day after mailing if by any form of mail.

2.2. Time Limits

By mutual agreement, the student and the Appeals Administrator may alter time limits set out in Procedure A and B.

3. PRE-HEARING MATTERS

3.1. Pre-Hearing Conference

The Appeals Administrator arranges and convenes a pre-hearing conference no later than five business days prior to a scheduled appeal hearing. The purpose of the conference is to identify and attempt to resolve procedural issues in advance of the Committee of Review hearing. Procedural issues include issues regarding disclosure, the length of time set for the appeal hearing, or any other matter that may assist in the fair and expeditious conduct of the proceeding, the party may request.

Each party advises the Appeals Administrator and the other party, in writing of the procedural issues they wish to raise at the conference.

3.2. Pre-Hearing Conference Procedures

The Appeals Administrator chairs the pre-hearing conference attended by the student and the applicable Dean or similar official (hereinafter, simply “the Dean”). Each party can state their position on an issue that either party raises. However, if a party raises an issue at the pre-hearing conference, but, in the opinion of the Appeals Administrator did not provide sufficient notice to the other party, the other party may request an opportunity to respond to the issue in writing within one business day.

3.3. Amending Witness Lists

Either Party, after receiving the names of any witnesses of the opposing party may amend their list of witnesses, so long as that party provides notice to the other party of the change. Such notice is given at either the pre-hearing conference or at least two business days in advance of the appeal hearing. A written outline of the anticipated evidence of each new witness must accompany the notice.

3.4. Agreement on Issues

The parties are encouraged to agree on facts, documents or other evidence that is not in dispute between them. The Appeals Administrator refers any unresolved procedural issues to the Committee of Review for a decision and advises the parties of such decisions in writing prior to the hearing.

If a party chooses not to raise a procedural issue at the pre-hearing conference, the party may be required to satisfy the Committee that there was an acceptable reason. Otherwise, the Committee may dismiss the procedural issue.

4. RESPONSIBILITIES OF THE APPEALS ADMINISTRATOR AND COMMITTEE CHAIR DURING AN APPEAL

- 4.1. The Appeals Administrator follows the procedure and timing specified in A128: Academic Appeals, Procedure A and conducts the hearing according to the order of proceedings as set out in this Procedure and in Procedure B.
- 4.2. The Appeals Administrator provides each party with the opportunity to present their case fully while limiting irrelevant or redundant material.
- 4.3. The Appeals Administrator conducts the proceedings in an atmosphere of fairness and quest for truth.
- 4.4. The Appeals Administrator compiles and maintains a record of the proceedings including documentation and any other records.
- 4.5. As soon as possible following the hearing, the Committee Chair prepares a written draft decision and recommendation with a brief statement of reasons. Committee members finalize the draft by consensus.

5. SUPPORT PERSONS

A support person may accompany a party at any Step in the process. With the exception of the examples cited in A128: Academic Appeals, Procedure A – section 2.9, the support person is not permitted to speak or advocate on behalf of the party. The party who engages a support person is responsible for any associated costs.

A support person is prohibited from acting in the capacity of a lawyer or paralegal while attending an appeal meeting.

The support person may openly coach the party during an appeal, they may act as a resource and provide support and advice to the party through open dialogue or notes, and they may request short recesses to speak privately with the appellant (provided such recesses do not create undue delays in the proceedings).

6. PROTOCOL FOR A COMMITTEE OF REVIEW APPEAL HEARING

6.1. Failure to Attend Hearing

Where a notice of an appeal hearing is delivered to a party in accordance with this Procedure, and that party fails to attend, the Committee may proceed in the absence of the party and the party is not entitled to any further notice of the proceeding.

6.2. Hearing Closed to Public

An appeal hearing is closed to the public. The Appeals Administrator, at their sole discretion, may allow persons other than the parties to be present.

COLLEGE COMMITTEES

6.3. Time Limits for Presentations at Hearing

Unless the Appeals Administrator determines otherwise, the maximum time allotted for an appeal hearing is two hours, with half of the available time allotted to each party.

6.4. Maintenance of Order at Hearing

The Appeals Administrator may give direction as is considered necessary for the maintenance of good order at the hearing.

6.5. Limit on Unduly Repetitious Evidence

The Appeals Administrator may limit evidence that is unduly repetitious.

6.6. Onus

In presenting an appeal, the student has the onus (i.e., the responsibility) to present a logical and compelling case that demonstrates a lack of fairness and that has resulted in a direct and significant adverse outcome for the student. In preparing for an appeal, and to meet this onus, a student needs to consider the following questions that establish the four main elements of an appeal case: -issue, grounds, evidence and remedy sought.

In responding to an appeal, the College has the onus to present a compelling case that substantiates the fairness of the matters at issue.

The Committee of Review has the onus to base their decision and recommendations to the Vice-President based on the balance of probability of the evidence and submission presented.

7. ORDER OF PROCEEDINGS

The Appeals Administrator guides the hearing through the following Steps:

- 7.1. The Appeals Administrator commences the hearing by introducing the members of the Committee of Review and reading or paraphrasing Procedure C: Appeal Hearing Introduction.
- 7.2. The student presents their case focusing on answering the four questions outlined in the Onus section of Procedure A. The Committee Members and the Dean have an opportunity to question the student and witnesses. The student has an opportunity to re-question their witness if desired on any new matters brought out during questioning by the Dean. This process repeats for each witness. The student has a maximum of one hour to present their case.
- 7.3. Following the completion of the student's presentation, the Dean makes their presentation. If the Dean gives evidence or calls any witnesses, the student has an opportunity to question the Dean and witnesses. The Dean has an opportunity to re-question the witness if desired on any new matters brought out during questioning of the witness by the student. This process repeats for each witness. The Dean has a maximum of one hour to present their case.
- 7.4. The student has the opportunity to reply to the Dean's case or to clarify anything that requires clarification following the Dean's case.

8. WITNESSES AND PRESENTATION OF INFORMATION

The student or Dean may bring relevant witnesses to the hearing. Each is responsible for notifying their witnesses of the date, time and location of the hearing and for ensuring the availability of their witnesses at the scheduled time.

Witnesses are excluded from the hearing except for their testimony. Entering of witness oral testimony counts toward the one-hour time limit allocated to each party.

Generally, the Committee of Review admits as evidence any oral testimony and any document or other item relevant to the subject matter of the proceedings. The Committee of Review may exclude anything unduly repetitious. Evidence may include photographs and other physical objects that place the Committee of Review in the position of a witness, using its own senses to make observations and draw conclusions. The use of this type of evidence first requires an explanation to establish the identity and relevance of the item.

Although witnesses are not under oath and strict rules of evidence are not applied, the Committee bases its decision on believable and convincing evidence that proceeds from personal knowledge and not from hearsay. Hearsay is evidence not proceeding from the personal knowledge of the witness.

9. DECISION AND RECOMMENDATION OF THE COMMITTEE OF REVIEW

At the conclusion of the proceeding, the Committee deliberates *in camera* for the purpose of reaching a decision and preparing recommended remedies. The final recommendation includes an answer to the question, "Should this appeal be granted?" and includes a brief statement of reasons for the finding.

The Committee may also make recommendations for the student or the Vice-President, on other matters related to the appeal.

The Committee Chair prepares a draft of the report to the Vice-President. The Committee members finalize the report by consensus. The final report and any relevant documentation received from the parties is submitted to the Vice-President within three business days of the end of the hearing.

The decision of the Committee of Review, and any remedy set by the Vice-President, are final and binding.

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COLLEGE COMMITTEES

Cttee ID & Name: TOR34: COMMITTEE OF REVIEW - APPEALS

Addendum: **Procedure B: APPEAL HEARING INTRODUCTION**

Issued by: Senior Vice-President, Academic

Effective: 2021-09-01

This is an introductory script for the Appeals Administrator to introduce a hearing of a Committee of Review established under this policy. The script purpose is to ensure that certain information is clearly stated at the beginning of an appeal hearing. The script may be read or paraphrased.

This is a proceeding of a Committee of Review to hear the appeal of <Name of Student> with respect to <Subject of appeal>. I am <Name and Title> and my role today is Appeals Administrator. I will lead this hearing, but it is the Committee of Review that hears and decides this case.

The information given at this proceeding will form the basis of a report from this Committee that will be forwarded to the <Title of Applicable Vice-President> who will determine an appropriate final and binding disposition of the appeal.

The order of proceeding of this hearing is as follows:

- 1. Introduction of members of the Committee of Review.*
- 2. Review of documentation.*
- 3. The student presents their case, and the <Title of Dean or other official> [hereinafter <Dean>] will be given an opportunity to question the student and any witnesses. The student will be given an opportunity to re-question their witness if desired, on any new matters brought out during questioning by the <Dean>. This process is repeated for each witness. A maximum of one hour is allocated for the Student's presentation.*
- 4. Following the completion of the student's presentation, the <Dean> will make their presentation.*
- 5. The <Dean> presents their case, and the student will have an opportunity to question the <Dean> and any such witnesses. The <Dean> will be given an opportunity to re-question the witness if desired, on any new matters brought out during questioning of the witness by the student. This process is repeated for each witness. A maximum of one hour is allocated for the <Dean> presentation.*
- 6. The student will be offered the opportunity to reply to the <Dean> case or to clarify anything that requires clarification following the Dean's case.*

During the course of this hearing, the onus is on you, <Name of Student>, to satisfy the Committee that there are sufficient reasons to question the <College decision or action> under appeal by raising a balance of probability as to its fairness or reasonableness. If you meet that onus, the onus is then on the <Dean> to substantiate the College position.

I will now introduce the Committee of Review. The members of the Committee are <Name and Title, "Committee Chair">, <Name and Title, "Committee Member"> and <Name and Title, "Committee Member">.

We have before us the following documentation: <Itemize documents>. Have you both had an opportunity to review these documents?

COLLEGE COMMITTEES

(If an answer is "No," the Appeals Administrator briefly adjourns the proceeding to permit the party to review the documentation.)

This hearing will be conducted informally, but in order to ensure an orderly, fair presentation, all questions and requests are to be directed through me. When presenting your position, please address the Committee.

Since both of you will be given an opportunity to present your position, we request that you not interrupt the other person's presentation.

While the Committee is not bound by legal rules of evidence, the Committee's decision will be based on believable and convincing information. We ask, therefore, that you give information that proceeds from personal knowledge and not from hearsay. Hearsay is defined as information that proceeds from the mere repetition of what someone else has seen or heard and not from the personal observation or knowledge of the person giving the information.

As well, we ask that you present information that relates only to the issues of this appeal and not to other matters. That is, you should present information that relates to, or bears directly on the points in issue and that proves or has a tendency to prove your position.

Are there any questions about the procedures to be followed?

We ask both parties and their witnesses, if any, to keep the matter of this appeal in strict confidence. We wish to reassure you, <Name of Student>, that the College will not tolerate any reprisal against you as a result of your filing an appeal. If you believe that a reprisal is occurring or has occurred from filing an appeal, please inform me.

We will now begin. I invite <Name of Student> to present your case.

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