
TERMS OF REFERENCE

Cttee ID & Name: **TOR37: APPEAL HEARING COMMITTEE - STUDENT SERVICES**

Issued by: Vice-President, Students, Employees & Culture

Effective: 2024-02-01

1. PURPOSE

The purpose of the Appeal Hearing Committee is to hear Code of Conduct appeals in accordance with policy A130: Student Code of Conduct.

2. MEMBERSHIP

2.1. Committee Formation

The Committee is formed by the Executive Director, Student Wellness, Accessibility and Belonging (the “Executive Director”). The Executive Director, or designate, acts as the Appeal Hearing Committee Chair (Chair) during Committee deliberations, and serves as a non-voting leader. Representation on an Appeal Hearing Committee includes: one student representative from the Fanshawe Student Union (FSU), one administrator, and one additional College community member. These representatives are selected such that they have no vested interest in the appeal.

2.2. Appeal Hearing Committee Chair

The role of the Chair includes, but is not limited to, the following tasks:

- Where a mediated solution appears possible, attempting resolution.
- Administering the appeal process generally such as receiving and assessing appeal documentation, scheduling meetings, communicating with the parties, and guiding the Appeal Hearing Committee through the appeal hearing process.
- Training and support for College staff and FSU executive members involved in the process.

3. MEETINGS

- 3.1. The Appeal Hearing Committee is only convened to hear Appeals relating to policy A130: Student Code of Conduct. Meetings will follow the steps outlined in Procedure 2: Appeals.
- 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, including all witnesses. An extension of this time limit may only occur through agreement of all Committee members.
- 3.3. The Appeal Hearing will be held in private, and all proceedings will be confidential.

4. REFERENCES

College Policy

A130: Student Code of Conduct

5. ADDENDA

Procedure A: APPEAL HEARING PROCEDURES AND HEARING PROTOCOL

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Addendum: **Procedure A: APPEAL HEARING PROCEDURES AND HEARING
PROTOCOL**

Issued by: Vice-President, Students, Employees & Culture

Effective: 2024-02-01

1. PURPOSE

The purpose of this document is to guide the activity of an Appeal Hearing Committee established under Policy A130 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 via the Chair. 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 Chair may alter time limits set out in this procedure.

3. PRE-HEARING MATTERS

3.1. Agreement on Issues

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

3.2. 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 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.

4. RESPONSIBILITIES OF THE CHAIR DURING AN APPEAL

4.1. The Chair follows the procedure and timing specified in this section and also outlined Section 6.

4.2. The Chair provides each party with the opportunity to present their case fully while limiting irrelevant or redundant material.

4.3. The Chair conducts the proceedings in an atmosphere of fairness and quest for truth.

4.4. The Chair compiles and maintains a record of the proceedings including documentation and any other records.

4.5. As soon as possible following the hearing, the Chair prepares a written draft decision and recommendation with a brief statement of reasons. Committee members finalize the draft by consensus.

COLLEGE COMMITTEES

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 Appeal Hearing Committee 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.

5. SUPPORT PERSONS

A support person may accompany a party at any level in the process. 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 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 AN APPEAL HEARING

6.1. Time Limits for Presentations at Hearing

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

The student will present first to the Appeal Hearing Committee for a maximum of one hour, including witness. The student will then leave the proceeding and the College will present to the Appeal Hearing Committee for a maximum of one hour, including witnesses. The College representatives will then leave the meeting.

The Chair ensures that proceedings advance in a timely manner and that evidence presented in the hearing is relevant to the case.

6.2. 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 Appeal Hearing Committee 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.

6.3. 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.

6.4. Hearing Closed to Public

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

7. WITNESSES AND PRESENTATION OF INFORMATION

The student or College representatives may bring relevant witnesses to the Appeal Committee 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 Appeal Committee Hearing except for their testimony. The entering of witness oral testimony counts toward the one-hour time limit allocated to each party.

Although witnesses are not under oath and strict rules of evidence are not applied, the Appeal Hearing Committee bases its decision on believable and convincing evidence 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.

8. DECISION AND RECOMMENDATION OF THE APPEAL HEARING

At the conclusion of the proceeding, the Appeal Hearing Committee deliberates in closed session 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 Appeal Hearing Committee may also make recommendations for the student or the Vice-President, Students, Employees & Culture (the "Vice-President") on other matters related to the appeal.

The Executive Director, or designate, 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 is submitted to the Vice-President within three business days of the end of the hearing.

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

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