

**Policy No. & Title: A128: STUDENT APPEALS***Effective:* 2016-09-28*Next Review:* 2021-09-28*Policy Sponsor:* Senior Vice-President, Academic*Ref Cttee:* College Council*Approvals:* 2015-10-21/CC-15-02 (effective 2015-09-01), 2016-09-28/CC-16-01

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**1. PURPOSE**

The purpose of this policy is to establish guiding principles and procedures under which a student may initiate an appeal concerning a perception of unfair treatment of the student arising from a College decision or action that results in a direct and significant adverse outcome for the student.

**2. POLICY**

The College is committed to fair, timely and consistent decision-making that relates to policies and procedures regarding students. The College acknowledges a student's right to appeal. This policy guides the procedures for processing all student appeals except appeal of eviction from residence (see policy C207: Residence Operations) and appeal of a student fee (see A132: Student Fees).

The Senior Vice-President, Academic establishes procedures as necessary to achieve the purpose of this policy. Such procedures are focused on joint problem-solving, process improvement and incorporate the principles of procedural fairness, avoid actual or perceived bias or conflict of interest and provide for timely response. This policy reflects the College's values and in particular our "Focus on Students."

This Policy shall be interpreted and applied in accordance with guidelines and directives on accessible education published by the Ontario Human Rights Commission. Requests for academic accommodations from students with disabilities and other protected groups will be meaningfully considered when they arise.

**3. REFERENCES**

College Policies:

[A101: Accommodation of Applicants and Students with Disabilities](#)

[A112: Course Grade System](#)

[A130: Student Code of Conduct](#)

[A132: Student Fees](#)

[C207: Residence Operations](#)

Statement of Rights and Responsibilities (endorsed by Fanshawe College and the Fanshawe Student Union)

**4. ADDENDA**

Standard 1: PROCEDURAL FAIRNESS

Standard 2: GROUNDS FOR APPEAL AND SUPPORTING EVIDENCE

Procedure A: STUDENT APPEAL PROCESS

Procedure B: COMMITTEE OF REVIEW PROCEDURES AND HEARING PROTOCOL

Procedure C: APPEAL HEARING INTRODUCTION

*Policy No. & Title:* A128: STUDENT APPEALS

*Addendum:* **Standard 1: PROCEDURAL FAIRNESS**

*Issued by:* Senior Vice-President, Academic

*Effective:* 2015-09-01

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## **1. PURPOSE**

The purpose of this document is to outline the principle of procedural fairness as applied in the student appeal process.

## **2. EXPLANATION**

The term procedural fairness refers to the decision-making process that ensures that the student has a fair opportunity to make their case to a College decision-maker or Committee of Review.

Procedural fairness is supported by the following:

- The student knows the facts of the case including the evidence that underlies the issue in question.
- The student has a fair opportunity to correct or contradict the evidence and assertions of the College in the matter.
- Responding College officials make decisions without actual or perceived bias or conflict of interest.

The appeal process incorporates these concepts. For example, the process leading up to a hearing ensures that the student not only has notice of the hearing, but also has a good sense of the case and the matters on which they should focus when preparing their evidence and submissions.

Procedural fairness also requires the College to carry out decision-making in the following manner:

- College officials base decisions only on the evidence presented and that such evidence is provided to both parties.
- College officials do not base decisions on information that was not presented to the parties.
- College officials base decisions on reasonable inferences drawn from the evidence presented.
- In coming to a decision, College officials consider all of the evidence presented and the submissions of the parties.
- College officials provide reasons for a decision, including a summary of the evidence relied upon in reaching a decision.

With respect to the notion of “bias,” it is important that the appeal process includes a Committee of Review in which the decision-makers are free from both actual bias and the reasonable apprehension of bias. A reasonable apprehension of bias could arise, for example, where a Committee member has a direct or indirect interest in the outcome of the appeal, or where a Committee member has participated at an earlier stage in the decision that is now under appeal.

*Policy No. & Title:* A128: STUDENT APPEALS

*Addendum:* **Standard 2: GROUNDS FOR APPEAL AND SUPPORTING EVIDENCE**

*Issued by:* Senior Vice-President, Academic

*Effective:* 2015-09-01

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## 1. PURPOSE

The purpose of this document is to outline the concepts of the grounds for an appeal and supporting evidence, as applied in the student appeal process.

## 2. EXPLANATION

The “grounds” for an appeal refer to the reasons that have led to a perception of unfair treatment and form the foundation of the student’s argument in support of the appeal.

While there may be elements of several grounds in a given case, students are urged to concentrate on the primary grounds of the appeal. Prior to initiating an appeal, a student is urged to seek guidance from the College Ombuds or from the Fanshawe Student Union regarding the grounds.

The grounds identified by a student at the outset of an appeal must remain consistent during the course of the appeal process.

The following list defines each of the four types of permitted grounds under this policy, with examples and suggestions regarding the sort of evidence necessary to substantiate the grounds. Supporting evidence is usually in the form of witness testimony, documents and media or other objects.

2.1. Merit of Work: A claim of erroneous assessment of a student’s work or performance.

*Examples:*

- A student perceives their work to be of similar merit to another student’s work, but receives a different grade.
- Failure to record a completed assignment.
- Inappropriate grading of oral presentations, performances, placements, clinical evaluations, or practicum.

*Supporting Evidence:*

- Specific and detailed reasons in writing as to why the grade or documentation was inappropriate and related documentary evidence from course notes, textbooks, etc.
- Written records of exams and assignments relating to a disputed grade, if applicable.

2.2. Procedural Error: A claim that a College policy, procedure or rule has been overlooked, misinterpreted or misapplied.

*Example:*

- An evaluation is inconsistent with information provided in course documentation such as program guides, course information sheets or course syllabus.

*Supporting Evidence:*

- Course information sheet, a copy of the policy in question, etc.
- A written statement detailing where the policy misapplication occurred and how the deviation affected academic performance.

*Code of Conduct Example:*

- The College failed to adhere to the principles, procedures or timelines in policy A130: Student Code of Conduct.

*Supporting Evidence:*

- A written statement detailing the principles, procedures or timelines that were not followed and how this affected the outcome.

2.3. Medical, Legal or Compassionate Issue: A claim that an illness, medical or legal situation, or other extenuating and compelling circumstance, has affected timely completion of mandatory academic activity.

*Examples:*

- Death of a loved one.
- Hospitalization, infectious disease, other medical condition or treatment that prevents the student from taking action.
- A legal situation, such as a mandatory court appearance, but not incarceration.

*Supporting Evidence:*

- Written evidence such as, but not limited to, a death certificate or funeral notice and travel receipt, a hospitalization record, doctor's note, summons or subpoena.

*Accommodation Example:*

- A student was not granted a deadline extension for mental health reasons, because they did not provide new medical documentation.

*Supporting Evidence*

- The student provided disability related documentation to Accessibility Services, and the accommodation form indicates ongoing medical notes are not required.

2.4. Any Other Unfair Treatment: A claim that a College decision or action was unfair, unjust, prejudiced, unreasonable, excessive or inconsistent.

*Examples:*

- A student is not made aware of performance issues early enough to be able to address the issues.

*Supporting Evidence:*

- A written statement of the circumstances or events, and how they disadvantaged the student.

*Code of Conduct Example:*

- A student believes that a Code of Conduct sanction applied was too severe, given the nature of the Code of Conduct violation.

*Supporting Evidence:*

- A written statement detailing how the decision was unfair or unreasonable, or an example of previous sanctions for similar violations that indicate inconsistency.

*Accommodation Example:*

- A student was not allowed to utilize an approved accommodation within the classroom or test centre.

*Supporting Evidence:*

- Accommodation is indicated on the student's accommodation form that the student provided to the instructor or test centre

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*Policy No. & Title:* A128: STUDENT APPEALS

*Addendum:* **Procedure A: STUDENT APPEALS**

*Issued by:* Senior Vice-President, Academic

*Effective:* 2015-09-01

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## 1. PURPOSE

The purpose of this document is to guide a student through the process of appealing perceived unfair treatment arising from a College decision or action, and that has resulted in direct and significant adverse outcome for the student. This procedure is designed as a joint problem-solving process.

## 2. PROCEDURE OVERVIEW

### 2.1. Problem-Solving

The objective of this process is to achieve a fair and timely resolution of the issues raised. All parties contribute to this objective by focusing on full disclosure of the facts, agreement on the issues, active listening and attention to time limits.

### 2.2. Informal Discussion

Prior to initiating an appeal, a student is urged to consider either or both of the following optional actions:

- Seek guidance from the College Ombuds or from the Fanshawe Student Union regarding the issue itself or the appeal process. This action may clarify issues and options for the student.
- Attempt to resolve the issue by discussing it with the professor or other person who made the decision.

### 2.3. Steps in the Appeal Process

The student appeal procedure has three possible Steps. A student may not proceed to the next Step until the preceding Step is complete.

- Step 1: **Appeal to the Chair or Manager** responsible for the department that made the decision or took the action in question. This Step involves joint problem-solving, with discussion between the student and the Chair or Manager focusing on issue clarification and exploration of solutions.
  - Step 2: **Appeal to a Dean** (or similar official as designated by the College). This Step is available only after completion of Step 1. The student presents a documented case with the objective of demonstrating that the issue of the appeal has resulted in unfair treatment. The College responds with a similar presentation. The Dean or similar official decides the merits of the case.
  - Step 3: **Appeal to a Committee of Review**. This Step is available only after completion of
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Step 2. It involves a formal hearing before a Committee of Review appointed by a Vice-President. The student and the Dean each present their case similar to Step 2. The Committee decides the merits of the case. Prior to a Committee of Review hearing, the Appeals Administrator conducts a pre-hearing conference and may attempt mediation.

The *Appeal Step Details* table in section 3 below is a “how to” guide that may be used by a student as a checklist of required actions at each Step of the appeal process.

#### 2.4. 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 direct and significant adverse outcome for the student. In preparing for an appeal, and to meet this onus, the student needs to consider the following questions that establish the four main elements of an appeal case: **issue**, **grounds**, **evidence** and **remedy** sought.

- *What is the decision or action that led to the unfair treatment?* This clearly identifies the **issue** being challenged.
- *How did the decision or action result in a direct adverse outcome for the student?* This identifies the **grounds** for the appeal. Appeal grounds accepted under this policy are limited to the four matters described in Standard 2.

Note that the decision or action being challenged, and the grounds presented at the outset of an appeal, must remain consistent throughout the appeal process.

- *What is the **evidence** that supports the perception that the issue and grounds have led to unfair treatment?* Evidence is the information (physical, documentary or verbal) used to establish a relevant fact. Verbal evidence can only arise from what a witness has personally seen, heard or otherwise experienced.
- *What **remedy** is sought?* A statement of what the student would perceive as a satisfactory outcome from the appeal.

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

#### 2.5. Right to Dismiss

A student who initiates a Step 2 or Step 3 appeal must be prepared to present a substantive, complete and documented case that is consistent with this policy. If a Step 2 or Step 3 case fails to meet these criteria, or is outside the prescribed time limits, the College reserves the right to dismiss the case.

To avoid dismissal of an appeal, a student who is unfamiliar with or uncomfortable with an appeal process is urged to consult with the Fanshawe Student Union or the College Ombuds for advice on appeal preparation and presentation.

## 2.6. New Relevant Information

Information that was not available earlier in the appeal process and that has a significant bearing on the issue in question, may be presented at any Step and will be considered.

*Example:*

- Since the issue was last discussed with the College, the student has found a more compelling relevant example that supports the student's case.

*Supporting Evidence:*

- Documentation of the new example or evidence from a witness.

*Code of Conduct Example:*

- A new or undocumented witness, or physical, video or audio evidence becomes known and provides information that was not available during initial investigation or meeting with the student, and that may affect the decision made.

*Supporting Evidence:*

- Documentation or a statement from the new witness; copies of the video or audio evidence; or submission of the physical evidence.

## 2.7. Time Limits

An appeal may be initiated no later than seven business days from the time the student becomes aware, or should have become aware, of the issue in question. Following initiation of an appeal, the process is subject to the time limits listed in the Step Details table below.

The student is responsible for ensuring that the College has accurate contact information. If at any time during the process, the College is unable to contact the student and the student has not contacted the College within the required time limit, the appeal is considered abandoned.

Where the decision-maker or Appeals Administrator deems that adherence to a prescribed time limit is detrimental to a fair process, the decision-maker or Appeals Administrator may authorize a variance from a prescribed time limit. In such cases, the Appeals Administrator ensures that deadlines for pre-hearings, hearings, submission of documents and so on are timely and do not unfairly affect the student's progression.

## 2.8. Committee of Review

### 2.8.1. *Designates*

Designates are persons appointed by a Vice-President 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 annually, or as otherwise required, facilitates appropriate training for Designates and other employees involved in the appeal process, and for members of the Fanshawe Student Union. The Appeals Administrator maintains documentation of the nature and extent of such training, and maintains a list of trained Designates available for assignment to a Committee of Review.

Upon receipt of a Step 3 Notice of Appeal, the applicable Vice-President 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. The Vice-President may delegate their authority to appoint Designates to the Appeals Administrator. The Appeals Administrator ensures that Designates selected for an appeal have no vested interest in the appeal.

#### *2.8.2. Committee of Review Hearing Procedure*

A Committee of Review follows Procedure B: Committee of Review Procedures and Hearing Protocol and Procedure C: Appeal Hearing Introduction. The Committee has a duty to act fairly and takes guidance from Standard 1: Procedural Fairness.

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.

#### *2.8.3. Decision Final*

The decision of the Committee of Review, and any resulting remedy set by the applicable Vice-President, are final and binding under this policy. If an appeal is granted, the student is prohibited from again appealing the same incident.

### 2.9. Support Persons and Interpreters

The student or the College official responding to an appeal may seek assistance or support from, or be accompanied by, another person of their choice. Examples: a trusted friend, a member of the Student Union (see the [Student Union website](#)).

The role of the support person is to act as a resource and provide support and advice to the party. Except as provided in the next two paragraphs, the support person is not permitted to speak for or advocate on behalf of the party.

The support person may, during a Step 1, Step 2 or Step 3 meeting, request brief recesses to speak privately with the student. Such recesses are not permitted to unduly delay the meeting. The support person is permitted to openly coach the student during a Committee of Review hearing.

In cases where the student's support person is a member of the Fanshawe Student Union, the support person may, at the student's request, use up to ten minutes at the start of any Step meeting to make a presentation that sets the context of the appeal (*e.g.*, clarifies the primary issue, the grounds, the evidence, the remedy sought, and the primary reasons the student disagrees with any earlier findings). In exceptional circumstances (such as but not limited to conflict of interest, or direct appeal involvement), and at the discretion of the Appeals Administrator, if the Fanshawe Student Union is not the support person for the appellant, the appellant's chosen support person may use the ten minutes at the opening of the appeal that

would have otherwise been provided to the Fanshawe Student Union. Note that the one-hour time limit for presentation of the student's case remains in effect.

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

Where appropriate, at the request of the student, an interpreter may also attend an appeal meeting.

When a support person or an interpreter will be attending an appeal Step meeting, the party must advise the decision-maker at Step 1 or 2, or the Appeals Administrator at Step 3, of the identity and contact information of such persons at least three business days in advance of any meeting.

#### 2.10. Accommodation

The College recognizes that there may be circumstances where a student's ability to proceed with an appeal may be compromised and requires accommodation by the College. The Appeals Administrator, Dean or decision-maker grants accommodation as is appropriate.

#### 2.11. Continuation in a Program or Course

Where a student initiates a Step 2 appeal concerning a grade or other academic decision affecting academic standing or progression, and that grade or decision would normally prevent progression to the next term of a program or enrolment in a course, a Dean may permit the student to continue in all or portions of the program, or to enrol in the course, pending a decision on the appeal. The Dean may require the student's acceptance, in writing, of binding conditions regarding such a continuation. Permission to continue is not granted in the case of an appeal against termination.

Where a Dean permits such continuation, normal program and course fees apply. In the event that the appeal is denied, and the student is not permitted to continue in the program or course, fees paid for the continuation are refunded.

#### 2.12. Appeals Administrator

The Vice-Presidents appoint 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 appeals hearing process. Does not vote on Committee matters.
- Determining whether there are sufficient grounds for an appeal to proceed or whether another policy prevails;
- Training and support for College staff and FSU executive members involved in the process; and
- Where a mediated solution appears possible, attempting resolution.

#### 2.13. Administrative Fee

An appeal administrative fee, refundable if the appeal is successful, is payable to the College through the Office of the Registrar when Step 3 is initiated. The Office of the Registrar reviews the

**COLLEGE POLICY MANUAL**

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amount of the administrative charge on an annual basis. Any fee change is subject to consultation with the Student Union.

**2.14. Reprisal or Retaliation**

Reprisal or retaliation against any person arising from their participation in an appeal is prohibited. Substantiated incidents of reprisal or retaliation are subject to sanction.

**3. APPEAL STEP DETAILS** (Required student actions are preceded by a check box: )

**STEP 1: APPEAL TO A CHAIR OR MANAGER**

PARTY	ACTION	TIME LIMIT
Student	<ul style="list-style-type: none"> <li><input type="checkbox"/> Gathers supporting documentation.</li> <li><input type="checkbox"/> Formally requests in writing a Step 1 meeting with the Chair or Manager.</li> <li><input type="checkbox"/> Submits a Step 1 <i>Notice of Appeal</i>* to the Office of the Registrar. (* form available from the Office of the Registrar)</li> <li><input type="checkbox"/> Meets with the Chair or Manager and attempts to resolve the issue.</li> </ul>	Submit Step 1 <i>Notice of Appeal</i> within 7 business days from the time the student becomes aware, or should have become aware, of the issue in question.
Chair or Manager	<ul style="list-style-type: none"> <li><input type="checkbox"/> Reviews the issue with the student by:               <ul style="list-style-type: none"> <li>• Meeting with the student within seven business days of the request.</li> <li>• Reviewing documents and other relevant information.</li> <li>• Deciding whether there is justification to grant the appeal.</li> </ul> </li> <li><input type="checkbox"/> Advises the student in writing of the decision, and, if applicable, implementing the decision.</li> <li><input type="checkbox"/> Forwards all documentation to the Office of the Registrar.</li> </ul>	Provide Step 1 written decision within 7 business days of meeting with the student.
Student	<ul style="list-style-type: none"> <li><input type="checkbox"/> A Student who is not satisfied with the Step 1 outcome may initiate Step 2.</li> </ul>	

**COLLEGE POLICY MANUAL**

**STEP 2: APPEAL TO A DEAN (or similar official)**

PARTY	ACTION	TIME LIMIT
Student	<ul style="list-style-type: none"> <li><input type="checkbox"/> Submits a Step 2 <i>Notice of Appeal</i> to the Office of the Registrar along with a written submission including:               <ul style="list-style-type: none"> <li><input type="checkbox"/> A statement of the issue and grounds of the appeal.</li> <li><input type="checkbox"/> A summary of supporting evidence.</li> <li><input type="checkbox"/> A statement of remedy sought.</li> </ul> </li> <li><input type="checkbox"/> An appeal administration fee is due with this submission.</li> </ul>	Submit Step 2 <i>Notice of Appeal</i> within 7 business days of the receipt of the Chair or Manager's Step 1 response, or end of the Step 1 response time limit.  <i>(Step 2 continues on next page)</i>
PARTY	ACTION	TIME LIMIT
Dean	<ul style="list-style-type: none"> <li><input type="checkbox"/> Records the date of receipt on the <i>Notice of Appeal</i>.</li> <li><input type="checkbox"/> Meets with the student, official and others as appropriate.</li> <li><input type="checkbox"/> Reviews the evidence available.</li> <li><input type="checkbox"/> Makes a decision.</li> <li><input type="checkbox"/> Provides the decision in writing with reasons to the student, the Chair/Manager and others as appropriate.</li> <li><input type="checkbox"/> If applicable, completes a <i>Student Record Change Report</i>.</li> <li><input type="checkbox"/> Forwards all documentation to the Office of the Registrar.</li> </ul>	Provide written decision within 15 business days from receipt of the Step 2 <i>Notice of Appeal</i> .
Student	<ul style="list-style-type: none"> <li><input type="checkbox"/> A Student who is not satisfied with the Step 2 outcome may initiate Step 3.</li> </ul>	

**COLLEGE POLICY MANUAL**

**STEP 3: APPEAL TO A COMMITTEE OF REVIEW**

**Important: See Procedures B and C for Committee of Review Hearing Protocol.**

PARTY	ACTION	TIME LIMIT
Student	<ul style="list-style-type: none"> <li><input type="checkbox"/> Submits a Step 3 <i>Notice of Appeal</i> to the Office of the Registrar, along with a written submission including:               <ul style="list-style-type: none"> <li><input type="checkbox"/> A statement of the issue and grounds of the appeal.</li> <li><input type="checkbox"/> A witness list and summary of supporting evidence.</li> <li><input type="checkbox"/> A statement of remedy sought.</li> </ul> </li> <li><input type="checkbox"/> An appeal administration fee is due with this submission.</li> </ul>	Submit Step 3 <i>Notice of Appeal</i> within 7 business days of the receipt of the Dean's Step 2 response (or of the end of the time limit for the Dean's Step 2 response).
Appeals Admin'r	<ul style="list-style-type: none"> <li><input type="checkbox"/> Records the date of receipt on the <i>Notice of Appeal</i> and supporting documentation.</li> <li><input type="checkbox"/> Confirms that Step 2 was properly completed.</li> <li><input type="checkbox"/> Examines student's submission. If incomplete, provides student with a 3-day opportunity to complete. If not completed, and in consultation with the applicable Vice-President, may dismiss the appeal and so advise the parties.</li> <li><input type="checkbox"/> Delivers a copy of the student's submission to the applicable Vice-President.</li> <li><input type="checkbox"/> If so delegated by the applicable Vice-President, appoints three Designates to form a Committee of Review. Otherwise, Vice-President appoints Designates.</li> <li><input type="checkbox"/> Arranges and conducts a pre-hearing conference. If an opportunity for mediation exists, attempts to mediate a resolution.</li> </ul>	Complete appeal hearing within 30 business days from receipt of the Step 3 <i>Notice of Appeal</i> .  <i>(Step 3 continues on next page)</i>
	<ul style="list-style-type: none"> <li><input type="checkbox"/> Arranges an appeal hearing.</li> <li><input type="checkbox"/> Forwards notice of the pre-hearing conference, notice of the appeal hearing and a copy of this procedure to the student.</li> </ul>	
Appeals Admin'r	<ul style="list-style-type: none"> <li><input type="checkbox"/> Conducts a pre-hearing conference.</li> <li><input type="checkbox"/> Delivers the student's submission to the Committee of Review.</li> </ul>	No later than 5 business days prior to the scheduled appeal hearing.

**COLLEGE POLICY MANUAL**

PARTY	ACTION	TIME LIMIT
Appeals Admin'r	<input type="checkbox"/> Conducts the hearing per Procedures B and C, and acts as a resource to the Committee.	As scheduled by the Appeals Administrator.
Chair of C'ttee of Review	<input type="checkbox"/> The administrative designate on the Committee of Review chairs the deliberations of the Committee leading to a binding decision and any associated recommendations. <input type="checkbox"/> Provides the binding decision and any associated recommendations to the Appeals Administrator in writing within three business days of the Appeal.	As scheduled by the Appeals Administrator.
Appeals Admin'r	<input type="checkbox"/> Informs the applicable Vice-President of the Committee decision and recommendations.	Within 3 business days following the hearing.
Applicable Vice-President	<input type="checkbox"/> Decides the appropriate remedy based on the recommendations of the Committee. <input type="checkbox"/> Informs the student, the Chair or Manager, the Dean, the Appeals Administrator and the Office of the Registrar in writing. <input type="checkbox"/> If applicable, completes a <i>Student Record Change Report</i> . <input type="checkbox"/> Forwards all documentation to the Office of the Registrar.	Within 3 business days of receipt of the decision of the Committee of Review.

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*Policy No. & Title:* A128: STUDENT APPEALS

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

*Issued by:* Senior Vice-President, Academic

*Effective:* 2015-09-01

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## **1. PURPOSE**

The purpose of this document is to guide the activity of a Committee of Review established under this policy 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 Procedure A and conducts the hearing according to the order of proceedings as set out in this Procedure and in Procedure C.
- 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 section 2.9 of Procedure A under this policy, 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 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

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**COLLEGE POLICY MANUAL**

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speaking 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.

**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 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 applicable Vice-President, on other matters related to the appeal.

The Committee Chair prepares a draft of the report to the applicable 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 applicable 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 applicable Vice-President, are final and binding.

Policy No. & Title: A128: STUDENT APPEALS

Addendum: **Procedure C: APPEAL HEARING INTRODUCTION**

Issued by: Senior Vice-President, Academic

Effective: 2015-09-01

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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.*

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**COLLEGE POLICY MANUAL**

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*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?*

**(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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