



Senate Committee on Appeals Terms of Reference and Procedural Guidelines

Terms of Reference

(RSBC 1996 c.

the Committee the authority and
the Senate, all final appeals from students
academic regulations and

judgment.

- (c) The Committee also hears student appeals from decisions of the President to suspend a student or deal summarily with any matter of student discipline in accordance with section 61 of the ()0.h

al with the Committee, a student must have pursued and
views, appeals, or remedies provided by the University of

(f) Alternate Hearing Panel Members

If not enough Committee members are able to serve on a Hearing Panel, the University Secretary in consultation with the Senate Committee on Agenda and Governance may select faculty members and students who are not

8. Re-opening of an Appeal

- (a) Normally, an appeal may be re-opened only if, in the opinion of the members of the Committee who were not members of the Hearing Panel that initially heard the appeal, there is new, material evidence and the Committee is satisfied that:
 - (i) the evidence could not have been found and tendered at the original hearing by the exercise of reasonable diligence; and,
 - (ii) the relevancy and cogency of the new evidence is such that if it had been tendered at the original hearing it could reasonably be expected to have affected the outcome.
- (b) Prior to making its decision, the Committee shall read the decision of the initial Hearing Panel including any dissenting reasons.
- (c) Where the Committee decides to re-open an appeal, the appeal shall be referred to a Hearing Panel that consists of members who were not members of the Hearing Panel that previously heard the appeal.
- (d) In all cases, an appeal may only be re-opened within one year of the Hearing Panel's final decision.

9. Annual Report to Senate

- (a) The Committee's annual report to Senate shall contain the following information:
 - (i) the number of appeals that have been heard and decided since the last report to Senate;
 - (ii) a summary of each appeal that has been decided, prepared in a manner that is not likely to disclose the identity of the Appellant, the Respondent, or individual instructors, and that includes:
 - (1) the decision, act, or treatment that was the subject of the appeal;
 - (2) the grounds or reasons for the appeal;
 - (3) the remedy or relief sought by the Appellant;
 - (4) the disposition of the appeal by the Hearing Panel; and
 - (iii) the number of appeals that have been heard and decided since the last report to Senate;

Approved and Revised by Senate:

May 20, 1982

May 4, 1983

October 7, 1992

October 8, 1997

January 12, 2000

October 4, 2000

May 7, 2004

April 3, 2009

October 7, 2011

December 6, 2013

January 5, 2018



Senate Committee on Appeals Terms of Reference and Procedural Guidelines

PROCEDURAL GUIDELINES FOR ACADEMIC APPEALS

PREAMBLE

The purpose of these Procedures is to provide a fair and equitable process for the review of academic decisions made by the University of Victoria.

These Procedures apply to all students who are registered at the University of Victoria and who are subject to the University's academic policies and procedures. The purpose of these Procedures is to provide a fair and equitable process for the review of academic decisions made by the University of Victoria.

a Notice of Appeal.

University is open for business.

Committee on Appeals.

Academic certificates, written opinions, and digitized

Committee on Appeal's Terms of Reference.

t.

person or body whose final act, decision, or

Senate and as set out in the current University of Victoria's academic policies and procedures, including those students who meet the criteria for being appealed.

University Secretary and includes a person designated by

al.

1.0 NOTICE OF APPEAL

1.1 Prerequisite to Filing an Appeal

A Student who wishes to appeal must, prior to filing an appeal to the Committee, have exhausted any other reviews, appeals, or remedies provided by the University of Victoria's policies, undergraduate and

- (h) a list of key Documents that the Appellant believes are in the possession of the Respondent and requests from the Respondent, and the reasons why the Documents are necessary.

2.0 JURISDICTION OF THE COMMITTEE AND COMMITTEE PROCEDURE

- (a) the Respondent's reasons for the decisions, acts, or treatment that were referred to in the Appellant's Notice of Appeal;
 - (b) the response to matters contained in the Appellant's Notice of Appeal and a summary of the facts and evidence which the Respondent relies upon;
 - (c) the determination sought by the Respondent;
 - (d) any provision, regulation, or policy on which the Respondent relies;
 - (e) whether the Respondent seeks an in-person hearing or is satisfied with the hearing.
- 1279 Tj01 (51(a) T089025 36.2.26.6 (5108T(c)03W 5861908d(-)Tj0(018)-8 (a.2.C
(P2 ()))TJs.224 1.9 (g)-8.405 Td (((P2 ()))TJ)7TT2 1 Tf.8 0325 (.8 0325 (c4 1.9 (g)D.9 Th)-.29.3 (

the evidence is relevant and cogent, and:

- (a) the Party could not reasonably have anticipated based on the Notice of Appeal, the Response, and the Reply that the evidence would be relevant to the appeal; or
- (b) the Party could not, with reasonable diligence, have discovered the existence of the evidence.

8.3 Notwithstanding the absence of any of the

- (ii) the Respondent may address questions to the witness;
 - (iii) the Appellant may address further questions to the witness that are limited to matters that have been raised for the first time in questions by the Respondent; and
 - (iv) members of the Hearing Panel may address questions to the witness.
- (c) After the Appellant has completed the presentation of the Appellant's

make a decision; and

- (ii) the Hearing Panel has given the Parties notice of its intention to invite other witnesses and has given the Parties an opportunity to make representations to the Hearing Panel about the proposed invitation.
- (g) The Hearing Panel Chair will invite the Appellant to make a final submission (normally limited to 20 minutes) with regard to the disposition of the appeal.
- (h) The Hearing Panel Chair will invite the Respondent to make a final submission (normally limited to 25 minutes) with regard to the disposition of the appeal.
- (i) The Hearing Panel Chair will invite the Appellant to respond (normally limited to five minutes) to the Respondent's submission.

10.5 Admissibility of and Weight Attributed to Evidence

Only evidence that is relevant to issues that are identified in the Notice of Appeal, the Respondent's Response, and the Reply are admissible. The Hearing Panel Chair shall determine on behalf of the Hearing Panel whether evidence is admissible. The Hearing Panel shall decide how much weight, if any, should be given to evidence that is admitted.

10.6 Written Submissions

- (a) At the conclusion of an in-person hearing, the Hearing Panel may request the Parties to make written submissions instead of or in addition to oral submissions. Where the Parties are requested to make written submissions, the submissions must be filed with the University Secretary within five (5) Business days after the last day of the hearing.
- (b) The University Secretary shall send a copy of each written submission to the members of the Hearing Panel and the other Party.

10.7 Recording of the In-Person Hearing of an Appeal

Except with the express permission of the Hearing Panel, no audio or video recording may be made of an in-person hearing. Parties and members of the Hearing Panel members with disabilities who need accommodation will be permitted to use electronic and other aids to assist them.

10.8 Adjournments

The Hearing Panel may adjourn an in-person hearing at any time and order the hearing to be resumed at a specified date and time or at a date and time for which notice is to be given to the Parties by the University Secretary.

10.9 Failure of a Party to Attend a Scheduled In-Person Hearing

If a Party fails to attend a scheduled in-person hearing, where the Party was given reasonable notice of the hearing or resumption of an adjourned hearing, the Hearing Panel may order the hearing to proceed in the absence of the Party or the Hearing Panel may:

- (a) where the Appellant is the Party who has failed to attend, dismiss the appeal;
- (b) where the Respondent is the Party that has failed to attend, grant the remedy or relief requested by the Appellant against that Respondent.

11.0 REPRESENTATION

A Party may act in person or be represented by an advocate or legal counsel at any stage of an appeal. Notice of advocate's or counsel's names must be provided to all other Parties and to the Committee at least three (3) Business days before the hearing date, unless the Committee allows otherwise.

12.0 ACCESS OF PARTIES TO WRITTEN MATERIAL

One of the objectives of the Procedural Guidelines is to ensure that each Party has access to all Documents that are relevant to the issues in the appeal. To the extent that a Party has not otherwise been provided with a copy of a relevant Document that is in the possession of the University, a Hearing Panel may request that the appropriate University official provide the Party with a copy of a Document or access to a Document. Such a request shall not be made where the Document is a confidential or privileged Document, or is a Document that must not be produced under the *Freedom of Information and Protection of Privacy Act*.

13.0 FAILURE TO COMPLY WITH PROCEDURAL G

15.0 DECISION OF HEARING PANEL

15.1 Basis of Decision

(of)TJ2 ()TJ (He)1A.7 (4.1p) ()mipg te. Rs (L30B(06)2 - 035 (15)4 (05)2) 038 (1) 2382 (05) (0) 916) 718 (00p) (1) 018

reconsidered; and

- (ii) The factors that either should or should not be taken into



Senate Committee on Appeals Terms of Reference and Procedural Guidelines

PROCEDURAL GUIDELINES FOR NON-ACADEMIC APPEALS

PREAMBLE

The purpose of these Procedural Guidelines is to provide guidance to Hearing Panels and the Parties to an appeal of a non-academic decision or sanction made by the President in accordance with section 61 of the *University Act*.

A Hearing Panel has the authority to depart from the Procedural Guideline to the extent necessary to ensure that the principles of fairness and natural justice are satisfied in a particular appeal.

DEFINITIONS

In these Procedural Guidelines:

“Appellant” means a person who has filed a Notice of Appeal.

“Business day” means a day when the university is open for business.

“Committee” means the Senate Committee on Appeals.

“Document” includes letters, emails, medical certificates, written opinions, and d “Respondent” means, the subject of an appeal.

“Student” means a student as defined by Senate and as set out in the Victoria undergraduate and graduate calendars, including those student definition at the time of the action that is being appealed.

“University Secretary” means the University Secretary and includes a the University Secretary.

The singular of any term includes the plural.

PROCEDURAL GUIDELINES

1.0 NOTICE OF APPEAL

1.1 Filing Notice of Appeal

A Student who wishes to appeal must file a written Notice of Appeal with the University Secretary.

process or altered the outcome of the decision against the Student;

- (b) that the decision under appeal was made with an erroneous interpretation of applicable university policies, procedures, regulations, or other rules, and this may reasonably be seen to have altered the outcome of the decision against the Student;
- (c) that a factual error occurred of sufficient magnitude that it may reasonably be seen to have altered the outcome of the decision against the Student;
- (d) that a reasonable person, exercising their judgment on the evidence leading to the decision that is under appeal, could not have made the decision that is under appeal; or
- (e) that new, material evidence is available which, despite the exercise of due diligence by the Student wishing to appeal, could not have been made available at the time of the decision giving rise to the appeal, and the relevancy and cogency of the new evidence is such that if it had been tendered at the original hearing it could reasonably be expected to have altered the outcome.

2.3 Role of the Chair of the Senate Committee on Appeals

- (a) The Committee Chair shall expeditiously review each Notice of Appeal and shall determine whether the appeal is within the Committee's jurisdiction.
- (b) The Committee has jurisdiction to hear appeals from decisions of the President to suspend a Student or deal summarily with any matter of Student discipline in accordance with section 61 of the *University Act*. This jurisdiction includes appeals of temporary or permanent suspensions imposed under the Resolution of Non-Academic Misconduct Allegations Policy or the Sexualized Violence Prevention and Response Policy. The Committee has no jurisdiction to hear appeals of sanctions imposed under the Resolution of Non-Academic Misconduct Allegations Policy or the Sexualized Violence Prevention and Response Policy other than suspensions by the President.
- (c) Where the appeal is of a sanction imposed under the Resolution of Non-Academic Misconduct Allegations Policy or the Sexualized Violence Prevention and Response Policy that is not a suspension, the Committee Chair shall determine that the appeal is outside the Committee's jurisdiction and the Committee shall not consider it.
- (d) The Committee Chair may request that the Appellant or
The Committee

- (f) If the appeal is within the jurisdiction of the Committee, the Committee Chair will determine whether the appeal shall proceed before a three (3) member or (5) member Hearing Panel in accordance with the Committee's Terms of Reference.

2.4 Role of the University Secretary

- (a) The University Secretary shall inform the Appellant of the Committee Chair's determination of whether or not the matter is within the Committee's jurisdiction and whether the matter will be considered by a three (3) member or five (5) member Hearing Panel.
- (b) Where the Committee Chair determines that a Notice of Appeal contains grounds of appeal that are within the Committee's jurisdiction, the University Secretary shall send a copy of the Notice of Appeal and any accompanying Documents to the Respondent.

3.0 CREATING THE HEARING PANEL

After the Committee Chair has determined that an appeal will proceed, the University Secretary will create a three (3) member or five (5) member Hearing Panel as directed by the Committee Chair.

4.0 RESPONSE BY THE RESPONDENT

4.1 Time for Delivering Response

Within ten (10) Business days after the date on which the University Secretary sends a copy of the Notice of Appeal to a Respondent, the Respondent shall file a written response (the "Response") with the University Secretary. The Committee Chair will consider a request from the Respondent to extend the deadline for the Response in extenuating circumstances.

4.2 Content of Response

The Response shall include the following information:

- (a) the Respondent's reasons for the decisions, acts, or treatment that were referred to in the Appellant's Notice of Appeal.

Respondent relies to support their Response, and attached copies of those Documents if they have not been supplied by the Appellant; and

- (g) a list of key Documents that the Respondent believes are in the possession of the Appellant and requests from the Appellant, and the reasons why such Documents are necessary.

4.3 University Secretary to forward Response to Appellant

The University Secretary shall forward a copy of the Response to the Appellant.

5.0 REPLY BY THE APPELLANT

5.1 Time for Delivering a Reply

If the Appellant needs to file a Reply, it must be filed with the University Secretary within seven (7) Business days after the date upon which the University Secretary sends a copy of the Response to the Appellant.

5.2 Content of Reply

A Reply by the Ap

- (a) discuss whether the Parties are willing to explore the resolution of the appeal by mediation prior to a hearing;
 - (b) explore with the Parties and decide whether the matter can proceed solely on the basis of the written materials submitted, or whether an in-person hearing is warranted in the circumstances;
 - (c) if the matter is to proceed as an in-person hearing, identify the names of witnesses that will be called by the Parties at an in-person hearing;
 - (d) if the matter is to proceed as an in-person hearing, make a determination of the time that will likely be required by each Party to present its evidence at an in-person hearing;
 - (e) discuss any matter that may assist in expediting the hearing of the appeal, such as issues for the appeal; and
 - (f) determine if any additional Documents are necessary to hear the appeal.
- 7.2 Synoptic minutes of the pre-hearing conference which record the expectations of the Hearing Panel with regard to the conduct of the appeal shall be made and distributed to the Parties.
- 7.3 At a pre-hearing conference, the Hearing Panel may make any order that will

10.2 *In Camera* Hearing and Confidentiality

All in-person hearings shall be held *in camera* and the proceedings are confidential to the Parties and the members of the Hearing Panel. The Hearing Panel's written report shall be the official record of the hearing.

10.3 Presence of Parties and Witnesses During In-Person Hearing

- (a) Parties are entitled to be present throughout an in-person hearing.
- (b) With regard to witnesses who are not Parties as described above, a Hearing Panel may order that witnesses who have not yet given testimony not be permitted to enter the hearing room until they are called as a witness. Such an order may be appropriate where the Hearing Panel concludes that if witnesses are permitted to hear the testimony of earlier witnesses, some witnesses may be inclined to present their testimony in a manner that is consistent with, or influenced by, that of earlier witnesses.

10.4 Order of Witnesses, Questioning and Final Submissions

An in-person hearing will proceed in the following manner:

- (a) The Hearing Panel Chair invites the Appellant to make a brief opening statement (not exceeding 10 minutes) that outlines the issues in the appeal from the Appellant's perspective.
- (b) The Hearing Panel Chair invites the Appellant to present evidence that is relevant to the issues in the appeal. Witnesses who are called by the Appellant will be questioned in the following order:
 - (i) the Appellant may address questions to the witness;
 - (ii) the Respondent may address questions to the witness;
 - (iii) the Appellant may address further questions to the witness that are limited to matters that have been raised for the first time in questions by the Respondent; and
 - (iv) members of the Hearing Panel may address questions to the witness.
- (c) After the Appellant has completed the presentation of the Appellant's evidence, the Hearing Panel Chair invites the Respondent to make a brief opening statement (not exceeding 10 minutes) that outlines the issues in the appeal from the Respondent's perspective.
- (d)

10.5 Admissibility of and Weight Attributed to Evidence

Only evidence that is relevant to issues that are identified in the Notice of Appeal, the Respondent's Response, and the Reply are admissible. The Hearing Panel Chair shall determine on behalf of the Hearing Panel whether evidence is admissible. The Hearing Panel shall decide how much weight, if any, should be given to evidence that is admitted.

10.6

be necessary to implement the Hearing Panel's decision to allow the appeal.

15.3 Orders and Recommendations that a Hearing Panel May Make

- (a) A Hearing Panel may:
 - (i) Allow an appeal, and
 - (1) refer the subject matter of the appeal back to the Respondent for review or reconsideration in accordance with the reasons of the Hearing Panel; or
 - (2) make any decision that the Senate could make with regard to the subject matter of the appeal;
 - (ii) Dismiss the appeal; or
 - (iii) Dismiss the appeal and make recommendations to the Respondent or other appropriate person or body.
- (b) The reasons of the Hearing Panel may contain recommendations with regard to:
 - (i) The process by which the matter should be reviewed or reconsidered; and
 - (ii) The factors that either should or should not be taken into account upon the review or reconsideration of the matter.

15.4 Notification of Hearing Panel's D4 (e)11.8 oia

written report that is signed by the members of the Hearing Panel who agree with the decision.

- (b) Where the decision of the Hearing Panel is not unanimous, a member of the Hearing Panel who does not agree with the majority shall provide written reasons for her or his dissent.
- (c) The decision together with any dissenting reasons shall be delivered to the University Secretary who shall provide copies to the Parties.

Approved and Revised by Senate:
January 5, 2018