



# University of Waterloo Policy 72

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## Student Appeals

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**Established:** September 1, 2008  
**Last Updated:** September 13, 2010  
**Class:** G

### 1. INTRODUCTION

This policy applies to University of Waterloo (University or UW) students appealing a decision made under Policy 33 – Ethical Behaviour, Policy 70 – Student Petitions and Grievances or Policy 71 – Student Discipline.

Resources to advise students include the Conflict Management and Human Rights Office, Student Resource Office, Secretariat and faculty undergraduate and graduate offices. Resources to assist students include Counselling Services, Health Services, and Office for Persons with Disabilities.

Authority to deal with matters under this policy rests with the various Faculty Committees on Student Appeals and the University Committee on Student Appeals.

Matters pertaining to courses offered by and events occurring on the property of:

**Conrad Grebel University College** – Appeals of grievance decisions and academic discipline decisions are handled under this Policy. Appeals of non-academic discipline decisions are handled under this Policy, except that, if the student involved has signed a contract with the college, then the discipline is handled under the terms of the contract and/or *Grebel Residents Handbook*.

**Renison University College** – Appeals of grievance decisions in an academic setting and academic discipline decisions are handled under this Policy. Appeals of non-academic discipline decisions are handled under this Policy, except for residence matters, which are dealt with under residence procedures.

**St. Paul's University College** – Appeals of grievance decisions in an academic setting and academic discipline decisions are handled under this Policy. Grievance decisions in an academic support setting are handled under policies and procedures established by St Paul's. Appeals of non-academic discipline decisions are handled under this Policy except for residence matters, which are dealt with under residence procedures.

**St. Jerome's University** – Appeals are handled under policies and procedures established by St. Jerome's.

See Appendix A - Procedure - Appeal to a Faculty Committee on Student Appeals (FCSA)

See Appendix B - Procedure - Appeal to University Committee on Student Appeals (UCSA)

See Appendix C - Glossary

### 2. PRINCIPLES

The principles set out in Policy 33 – Ethical Behaviour, Policy 70 – Student Petitions and Grievances or Policy 71 – Student Discipline apply to an appeal from a decision made under the applicable policy.

Within 10 working days of notification of a decision, a student who can establish a ground for appeal may appeal by delivering a [Notice of Appeal \(Form 72A\)](#) to the appropriate office.

A student may appeal the finding, the penalty, or both. Following an appeal, the tribunal may take one or more of the following courses of action:

- i. confirm a finding;
- ii. reverse a finding;
- iii. confirm a penalty;
- iv. assess a different penalty;
- v. refer a matter back to a previous level.

### **Grounds for appeal**

A decision may be appealed only when a student is able to establish that:

- a) there was a fundamental procedural error seriously prejudicial to the student; or
- b) there was clear evidence of bias in a hearing or decision; or
- c) significant new information relevant to the case that was not available through diligence prior to the decision has been discovered; or
- d) inadequate weight was given to the evidence provided; or
- e) the severity of the penalty imposed exceeds the nature of the offence for reasons identified by the student;

AND the outcome of the case at the original hearing might have been substantially affected by any of the above circumstances.

Dissatisfaction with University policy or ignorance or neglect of published deadlines is not a sufficient ground for appeal.

Sound decisions shall not be overturned on the basis of technicalities which did not materially affect the decision.

The following matters cannot be appealed:

**academic:** admission; readmission; course, program or degree requirements; petitions. All such decisions at the department/school or faculty level are final.

**non-academic:** those decided by a licence-holder (e.g., alcohol related) or by the UW Police; and matters of fees, contracts or agreements (e.g., Food Services Meal Plan).

Proceedings dealing with appeals under or matters arising from this Policy may be suspended or terminated by the UCSA Chair (in consultation, as appropriate) if legal action is initiated.

### **3. FACULTY COMMITTEES ON STUDENT APPEALS**

A Faculty Committee on Student Appeals (FCSA) has jurisdiction to hear an appeal concerning:

- a) a grievance decision in an academic setting made by an associate dean under Policy 70 - Student Petitions and Grievances
- b) a decision on a reassessment challenge under Policy 70 – Student Petitions and Grievances
- c) a decision of an associate dean under Policy 71 - Student Discipline where the penalty imposed does not include suspension for more than three consecutive terms or expulsion (in those cases the University Committee on Student Appeals has jurisdiction)

The size and composition of an FCSA shall be determined by each faculty, provided that there shall be student and faculty members. A tribunal formed to hear an appeal shall consist of the chair of the FCSA, a student member and a faculty member.

**Procedure** – See Appendix A.

### **4. UNIVERSITY COMMITTEE ON STUDENT APPEALS**

The University Committee on Student Appeals (UCSA) has jurisdiction to hear and make final adjudication of student appeals concerning:

- a) a discipline penalty imposed under Policy 33 - Ethical Behaviour

- b) a grievance decision in an academic support setting made under Policy 70 - Student Petitions and Grievances
- c) a decision of an associate dean under Policy 71 - Student Discipline where the penalty imposed includes suspension for more than three consecutive terms or expulsion
- d) a decision of the vice-president, academic & provost under Policy 71 - Student Discipline
- e) a decision of a Faculty Committee on Student Appeals
- f) any other matter concerning a student referred to it by the Senate or Board of Governors

UCSA shall consist of 15 members: the chair, 12 members appointed by Senate for overlapping two-year terms (renewable), six of whom shall be faculty members (one from each faculty) and six of whom shall be student members (4 undergraduate and 2 graduate) and two senior academic support staff members appointed by the provost for overlapping two-year terms (renewable), one of whom will serve on a UCSA tribunal when a non-academic appeal is heard. Faculty members on UCSA shall not hold administrative offices at the level of department chair/school director or higher. A tribunal formed to hear an appeal shall consist of the chair of the UCSA, a student member and a faculty member.

Proceedings dealing with appeals under or matters arising from this Policy may be suspended or terminated by the UCSA chair (in consultation, as appropriate) if legal action is initiated.

Decisions of the UCSA chair and/or UCSA tribunals are final.

**Procedure** – See Appendix B.

## **5. REPORTING**

A report on each appeal submitted is to be filed in the Secretariat by the chair who received the appeal. A summary is posted to the Secretariat website annually.

Each FCSA shall report annually to UCSA. In addition, each FCSA shall make recommendations to the faculty with respect to matters arising from appeals as it sees fit.

UCSA shall report annually to Senate on the number of cases heard at the University and faculty levels, their nature and such recommendations as it sees fit to make with respect to matters under its jurisdiction.

Information related to a decision will be retained in compliance with the University's records retention schedule.

## **FORMS**

Student to complete and deliver  
[Notice of Appeal \(Form 72A\)](#)

Respondent to complete and deliver  
[Reply \(Form 72B\)](#)

## **Appendix A – Procedure - Appeal to a Faculty Committee on Student Appeals (FCSA)**

Note: See Policy 72 Principles for grounds for appeal and section 3 for jurisdiction of FCSA.

### **1. Parties**

Parties shall include the appellant (the student bringing the appeal) and the respondent (the associate dean or person whose original decision is being appealed).

### **2. Burden of Proof**

The appellant shall bear the onus of showing, on the balance of probabilities, that a ground for appeal has been established.

The general rule is that the burden or responsibility for proving a fact is on the person who asserts it. The fact is to be established on a balance of probabilities.

### **3. Starting an Appeal**

Within 10 working days of being notified of a decision, the appellant may initiate an appeal of that decision by filing a [Notice of Appeal \(Form 72A\)](#) with supporting documentation with the chair of the Faculty Committee for Student Appeals, c/o Office of the Dean of the faculty.

The *Notice of Appeal* shall set out information about the appellant and the decision being appealed, the ground(s) for the appeal, the outcome sought, names of any potential witnesses, and the name of any support person who will accompany the appellant. The *Notice of Appeal* will also include a list of relevant documents and copies of all such documents to which the appellant has access.

Within 5 working days of receipt of the appellant's materials the chair shall review them for completeness under section 6 below.

Within 5 working days of receipt of the appellant's materials (or receipt of rectified materials if requested under section 6 below) the chair shall deliver copies to the respondent.

Within 15 working days of receipt of the appellant's materials, the respondent shall file with the chair a [Reply \(Form 72B\)](#) with supporting documentation. The *Reply* shall include the names of any potential witnesses and the name of any colleague who will accompany the respondent. The *Reply* will also include a list of relevant documents and copies of all such documents to which the respondent has access.

Within 5 working days of receipt of the respondent's materials, the chair shall deliver copies to the appellant.

### **4. Delivery of Documents**

- a) Documents referred to in this procedure may be delivered personally or by email, regular mail, or fax.
- b) The student shall provide the chair with the following information:
  - i. an email address;
  - ii. a full mailing address; and
  - iii. a telephone number.

The student shall ensure that such information is current and accurate at all times until the appeal is dealt with.

- c) Delivery to the chair shall be effected through the Office of the Dean of the faculty.
- d) If the document is sent by email or fax, it shall be deemed to be received on the next working day.
- e) If the document is sent by mail, it shall be deemed to be received on the 5th working day after it was mailed.

### **5. Failure to Adhere to Time Limits**

- a) Time shall be considered to be critical to the fair disposition of appeals.

- b) If the appellant fails to adhere to the time limits for pursuing an appeal, the appellant shall be precluded from pursuing the matter further.
- c) If the respondent fails to file documents as required, a hearing may be convened without receiving such documents.
- d) If a party is not able to deliver its materials by the deadlines specified in this procedure, the party may request an extension of time. The request shall be made in writing to the chair prior to the specified deadline. The request shall include the following information:
  - i. the reasons for the requested extension; and
  - ii. the length of extension sought.

The chair may alter any time limit established by this procedure. In deciding whether to grant an extension, the chair will consider the adequacy of the reasons given for the extension, and any prejudice that may result from an extension. If an extension of time is granted to one party, the chair will inform all parties of the revised schedule, in writing. The decision of the chair is final.

## **6. Decision Not to Proceed**

- a) The chair may decide not to proceed with an appeal if:
  - i. the *Notice of Appeal* is substantially incomplete or inaccurate, or the documents provided are substantially incomplete; or
  - ii. the *Notice of Appeal* is received after the deadline for starting an appeal has passed and there has not been a request for an extension of time.
- b) If the decision is made under i, the chair will notify the appellant of his/her decision not to proceed with reasons for the decision and the requirements to rectify.
- c) The appellant must rectify within 10 working days of service of the notice.
- d) If the chair determines that the *Notice of Appeal* and other documents are so deficient that the identity of the other parties and/or the grounds of the appeal cannot be determined, the chair may require that the deficiency be rectified within the time prescribed by section 3 (Starting an Appeal).
- e) If the appellant fails to rectify as required, the appeal shall be dismissed and the chair will notify the appellant to that effect within 1 working day of the expiration of the time to rectify.

## **7. Appointment and Convening of a Tribunal**

- a) If the matter is to proceed, the chair shall appoint a tribunal within 5 working days. Discretion shall be exercised in the selection of tribunal members by excluding members who may know the parties or the circumstances of the alleged offence. Within 2 working days of the appointment of the tribunal the chair shall notify the parties. Any party may challenge a tribunal member by providing written reasons to the chair within 5 working days of receipt of the notification. If the chair determines that the challenge has merit, he/she shall appoint a different member and notify the parties within 2 working days. The decision of the chair is final and the tribunal appointment process is complete. If no challenge is filed, the chair shall advise the parties that the tribunal appointment process is complete.
- b) Within 10 working days of completion of the tribunal appointment process the tribunal shall convene in camera to examine the documents filed by the parties and determine any issues related to the hearing, including whether the hearing is to be conducted as an oral hearing or a written hearing. The hearing will generally be conducted as a written hearing where:
  - i. credibility is not a significant factor, and/or
  - ii. the material facts are not in dispute.
- c) If the tribunal requires additional information, it may request that the appellant and/or respondent supplement the original documentation and provide deadlines for doing so.

## **8. Dismissal of Appeal Without a Hearing**

- a) A tribunal may dismiss a case after a review of the documents filed and without hearing from the parties if at the in camera meeting under section 7.b):
  - i. it determines that the tribunal does not have jurisdiction; or
  - ii. it determines that the appeal is clearly without merit or is frivolous or vexatious or commenced in bad faith; or
  - iii. it determines that the *Notice of Appeal* does not raise a valid ground of appeal or does not assert

evidence capable of supporting a valid ground.

b) The chair shall notify the parties in writing of the tribunal's intention to dismiss the appeal without hearing from the parties, and shall invite written submissions of the parties on the tribunal's jurisdiction to hear the matter or the merit of the appeal, provided that such submissions are filed with the chair within 5 working days of receipt of the notification.

c) If a decision is made to dismiss an appeal without hearing from the parties, the chair shall inform the parties in writing of its decision within 5 working days of the decision.

## **9. Oral Hearing**

a) If an oral hearing is to be held, it shall be scheduled by the chair to commence as soon as possible after the appointment of a tribunal, but in no case more than 30 working days from notification that the tribunal appointment process is complete.

An attempt shall be made to schedule the hearing at a time convenient for the tribunal and for the parties to the appeal. However, any party whose reasons for absence are not considered valid by the chair or whose absence may cause unreasonable delay, shall be notified that the tribunal will proceed in that party's absence.

b) The parties shall be given at least 10 working days' notice of the time and place of the hearing.

c) The notice shall include a statement that if a party does not attend the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notices in the proceeding.

All participants - tribunal, appellant, respondent (also support persons and any witnesses called) are to respect the sensitive nature of the proceedings and to hold all related discussions and information in confidence. Note: This is not intended to preclude either party from consulting a support person or legal counsel for advice.

## **10. Order of the Hearing**

a) At the outset of the hearing, the chair shall:

- i. review the order of the hearing,
- ii. note for the record the documentary information submitted by the parties, and
- iii. note the names of the witnesses for each party.

b) The appellant is the first party heard.

i. Appellant's opening statement shall contain:

- a brief description of his/her position; and
- what remedy he/she seeks.

ii. Appellant's case provides the factual support to show why the remedy sought should be granted and may include any or all of the following:

- appellant's oral testimony;
- oral testimony of appellant's witnesses; and
- documents or other written evidence in support of this testimony which were filed with the *Notice of Appeal*.

iii. Questioning of the appellant and his/her witnesses by the respondent and/or by the tribunal occurs at the close of each person's testimony.

c) Following the completion of the appellant's case, the respondent presents his/her case.

i. Respondent's opening statement shall contain:

- a brief reply to the appellant's claims; and
- the main arguments justifying the action or decision being appealed.

ii. Respondent's case provides the factual support to defend the action or decision being appealed and may include any or all of the following:

- respondent's oral testimony;

- oral testimony of respondent's witnesses; and
- documents or other written evidence in support of this testimony which were filed with the *Reply*.

iii. Questioning of the respondent and his/her witnesses by the appellant and/or by the tribunal occurs at the close of each person's testimony.

d) The appellant and his/her witnesses have the right to offer testimony or other evidence in reply to the issues raised in the respondent's case.

e) After the testimony of each witness, the tribunal may, in addition to asking questions of the witness as outlined above, request copies of such documents mentioned in testimony as the tribunal in its discretion sees fit.

**After this point in the hearing, no new evidence or witnesses may be introduced.**

f) The parties are entitled to make closing arguments, and to summarize briefly the main points of their cases, in the following order:

- i. appellant
- ii. respondent
- iii. appellant.

g) In the interest of fairness to any or all of the parties, the tribunal may alter the order described above.

### **11. Witnesses**

Parties to the appeal and the tribunal have the right to call, question and cross-examine witnesses. Parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the tribunal.

At least 5 days before the hearing the parties shall provide the chair with a list of witnesses they plan to call if they differ from those listed on the *Notice of Appeal* or *Reply*.

If a party believes that a member of faculty, the administration, or the student body has relevant evidence, the party may, at least 5 days before the hearing, submit a written requisition to the chair asking that (s)he formally request that the person attend as a witness at the hearing. The written requisition shall include the following information about the requested witness:

- i) full name;
- ii) status (i.e. faculty, staff, student);
- iii) current telephone number;
- iv) current email address;
- v) summary of the evidence the requested witness is expected to give; and
- vi) brief statement as to the relevance of the evidence to the proceeding.

If the chair concludes that the requested witness is likely to have relevant evidence, the chair may request that person to attend.

The tribunal has discretion to limit the testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case. The chair may limit the questioning of a witness when satisfied that the examination has been sufficient to disclose fully and fairly all matters relevant to the appeal, or that questioning is irrelevant or abusive.

Witnesses generally are present in the hearing room only during the time they are testifying.

### **12. Recess or Adjournment**

The tribunal may consider and grant a recess or an adjournment at the request of either party to allow review of written or documentary evidence submitted at the hearing.

The tribunal may grant an adjournment at any time during the hearing to ensure a fair hearing.

### **13. Evidence**

Parties to the appeal shall have knowledge of each other's case by means of the exchange of the *Notice of Appeal* and the *Reply* before the hearing.

Parties to the appeal have the right to present evidence in support of their case to the tribunal and to see any written or documentary evidence presented to the tribunal.

The tribunal has the power to require production of written or documentary evidence by the parties or by other sources.

The tribunal has the power to rule on the admissibility of evidence.

a) The chair may admit as evidence at a hearing any oral testimony or any document or other object relevant to the subject matter of the appeal and, if it considers it to be credible and trustworthy, the tribunal shall determine its weight in relation to the other evidence admitted.

b) Where the chair is satisfied as to the authenticity of a copy of a document or other thing, it may be admitted as evidence at a hearing.

c) The chair may exclude evidence on the ground that it is unduly repetitious, irrelevant, or otherwise inadmissible, for example because of confidentiality or privacy concerns.

### **14. Record of the Proceeding**

Although the hearing shall be recorded in order to obtain an accurate record of the proceedings, such recording is done for convenience purposes only and the malfunction of the recording device or subsequent loss of the recording shall not invalidate, in any way, the related hearing. The recording shall be held in confidence by the Office of the Dean of the relevant faculty in compliance with the University's records retention schedule.

### **15. Similar Questions of Fact or Policy**

If two or more proceedings before the FCSA involve the same or similar questions of fact or policy, the chair may decide to:

a) combine the proceedings or any part of them, with the consent of the parties;

b) hear the proceedings at the same time, with the consent of the parties; or

c) hear the proceedings one immediately after the other.

### **16. Appropriate Procedures**

Where any procedural matter is not dealt with specifically in this Policy, the tribunal may, after hearing submissions from the parties and considering the principles of fairness, establish an appropriate procedure.

Any procedural requirement contained in this policy may be waived with the consent of the tribunal and of all the parties.

### **17. Deliberations and Decision**

Following the formal hearing, the tribunal shall deliberate in a closed session. The decision need not be unanimous. Each tribunal member has one vote; a majority vote on an issue resolves that matter.

Notice of the decision shall be given to the appellant as soon as possible.

The tribunal shall prepare a written report of its decision. The report shall include:

a) the membership of the tribunal;

b) the background of the appeal;

c) the tribunal's findings of fact; and

d) the tribunal's decision with reasons.



A copy of the report shall be sent to the parties as soon as possible, normally within 5 working days of the making of the decision. A copy of the tribunal's decision shall be forwarded to University departments with a legitimate need to know. In order to inform the University community, the decision shall be filed in the Secretariat.

### 18. Appeal

Within 10 working days of notification of the FCSA report, a student who can establish a ground for appeal may appeal an FCSA decision by completing a [Notice of Appeal \(Form 72A\)](#) and delivering it to the UCSA Chair, c/o Secretariat, Needles Hall with supporting documentation, following the procedure set out in Appendix B.

Who	When	What
Appellant (student)	Within 10 working days of notification of the decision [section 3]	Deliver <i>Notice of Appeal</i> to chair FCSA <a href="#">(Form 72A)</a> [section 3]
Chair FCSA	Within 5 working days of receipt of <i>Notice of Appeal</i> [section 3]	Review appellant's materials, request rectification if necessary [section 6]
Appellant (if request made)	Within 10 working days of receipt of request for rectification [section 6]	Rectify
Chair FCSA	Within 5 working days of the filing of <i>Notice of Appeal</i> or of rectification if it was requested [section 3]	Deliver appellant's materials to respondent
Respondent	Within 15 working days of receipt of <i>Notice of Appeal</i> [section 3]	Deliver <a href="#">Reply [Form 72B]</a>
Chair FCSA	Within 5 working days of receipt of <i>Reply</i> [section 3]	Deliver respondent's materials to appellant
Chair FCSA	Within 5 working days of receipt of <i>Reply</i> [section 7]	Appoint tribunal, notify parties
Appellant and Respondent (optional)	Within 5 working days of receipt of notice [section 7]	Challenge appointment of a tribunal member
Chair FCSA	Within 10 working days of completion of the tribunal appointment process [section 7]	Convene tribunal to examine documents, decide written/oral hearing
Chair FCSA	Within 30 working days of completion of the tribunal appointment process [section 9]	Hearing scheduled to begin
Chair FCSA	At least 10 working days before hearing [section 9]	Notify parties of hearing
Appellant and respondent (if necessary)	At least 5 working days before hearing [section 11]	Provide list of witnesses if different than original list
	<b>Hearing</b>	

Who	When	What
Chair FCSA	Normally within 5 working days of the decision [section 17]	Release written report of decision
	<b>Appeal to UCSA (if proceeding)</b>	
Student (optional)	Within 10 working days of receipt of decision See Appendix B	Appeal by submitting <a href="#">Notice of Appeal (Form 72A)</a>

## **Appendix B – Procedure - Appeal to University Committee on Student Appeals (UCSA)**

Note: See Policy 72 Principles for grounds for appeal and section 4 for jurisdiction of UCSA.

### **1. Parties**

Parties shall include the appellant (the student bringing the appeal) and the respondent (the associate dean or person whose original decision is being appealed).

### **2. Burden of Proof**

The appellant shall bear the onus of showing, on the balance of probabilities, that a ground for appeal has been established.

The general rule is that the burden or responsibility for proving a fact is on the person who asserts it. The fact is to be established on a balance of probabilities.

### **3. Starting an Appeal**

Within 10 working days of being notified of a decision, the appellant may initiate an appeal of that decision by filing a [Notice of Appeal \(Form 72A\)](#) with supporting documentation with the chair of the University Committee for Student Appeals, c/o Secretariat.

The *Notice of Appeal* shall set out information about the appellant and the decision being appealed, the ground(s) for the appeal, the outcome sought, names of any potential witnesses, and the name of any individual who will accompany the appellant. The *Notice of Appeal* will also include a list of relevant documents and copies of all such documents to which the appellant has access.

Within 5 working days of receipt of the appellant's materials the chair shall review them for completeness under section 6 below.

Within 5 working days of receipt of the appellant's materials (or receipt of rectified materials if requested under section 6 below) the chair shall deliver copies to the respondent.

Within 15 working days of receipt of the appellant's materials, the respondent shall file with the chair a [Reply \(Form 72B\)](#) with supporting documentation. The *Reply* shall include the names of any potential witnesses and the name of any individual who will accompany the respondent. The *Reply* will also include a list of relevant documents and copies of all such documents to which the respondent has access.

Within 5 working days of receipt of the respondent's materials, the chair shall deliver copies to the appellant.

### **4. Delivery of Documents**

- a) Documents referred to in this procedure may be delivered personally or by email, regular mail, or fax.
- b) The student shall provide the chair with the following information:
  - i an email address;

- ii a full mailing address; and
- iii a telephone number.

The student shall ensure that such information is current and accurate at all times until the appeal is dealt with.

- c) Delivery to the chair shall be effected through the Secretariat.
- d) If the document is sent by email or fax, it shall be deemed to be received on the next working day after it was sent.
- e) If the document is sent by mail, it shall be deemed to be received on the 5th working day after it was mailed.

### **5. Failure to Adhere to Time Limits**

- a) Time shall be considered to be critical to the fair disposition of appeals.
- b) If the appellant fails to adhere to the time limits for pursuing an appeal, the appellant shall be precluded from pursuing the matter further.
- c) If the respondent fails to file documents as required, a hearing may be convened without receiving such documents.
- d) If a party is not able to deliver its materials by the deadlines specified in this procedure, the party may request an extension of time. The request shall be made in writing to the chair prior to the specified deadline. The request shall include the following information:
  - i. the reasons for the requested extension; and
  - ii. the length of extension sought.

The chair may alter any time limit established by this procedure. In deciding whether to grant an extension, the chair will consider the adequacy of the reasons given for the extension, and any prejudice that may result from an extension. If an extension of time is granted to one party, the chair will inform all parties of the revised schedule, in writing. The decision of the chair is final.

### **6. Decision Not to Proceed**

- a) The chair may decide not to proceed with an appeal if:
  - i. the *Notice of Appeal* is substantially incomplete or inaccurate, or the documents provided are substantially incomplete; or
  - ii. the *Notice of Appeal* is received after the deadline for starting an appeal has passed and there has not been a request for an extension of time.
- b) If the decision is made under i, the chair will notify the appellant of his/her decision not to proceed with reasons for the decision and the requirements to rectify.
- c) The appellant must rectify within 10 working days of service of the notice.
- d) If the chair determines that the *Notice of Appeal* and other documents are so deficient that the identity of the other parties and/or the grounds of the appeal cannot be determined, the chair may require that the deficiency be rectified within the time prescribed by section 3 (Starting an Appeal).
- e) If the appellant fails to rectify as required, the appeal shall be dismissed and the chair will notify the appellant to that effect within 1 working day of the expiration of the time to rectify.

### **7. Appointment and Convening of a Tribunal**

- a) If the matter is to proceed, the chair shall appoint a tribunal within 5 working days. Discretion shall be exercised in the selection of tribunal members by excluding members who may know the parties or the circumstances of the alleged offence. Within 2 working days of the appointment of the tribunal the chair shall notify the parties. Any party may challenge a tribunal member by providing written reasons to the chair within 5 working days of receipt of the notification. If the chair determines that the challenge has merit, he/she shall appoint a different member and notify the parties within 2 working days. The decision of the chair is final and the tribunal appointment process is complete. If no challenge is filed, the chair shall advise the parties that the tribunal appointment process is complete.
- b) Within 10 working days of completion of the tribunal appointment process the tribunal shall convene in camera to examine the documents filed by the parties and determine any issues related to the hearing, including

whether the hearing is to be conducted as an oral hearing or a written hearing. The hearing will generally be conducted as a written hearing where:

- i. credibility is not a significant factor, and/or
  - ii. the material facts are not in dispute.
- c) If the tribunal requires additional information, it may request that the appellant and/or respondent supplement the original documentation and provide deadlines for doing so.

### **8. Dismissal of Appeal Without a Hearing**

- a) A tribunal may dismiss a case after a review of the documents filed and without hearing from the parties if at the in camera meeting under section 7.b):
  - i. it determines that the tribunal does not have jurisdiction; or
  - ii. it determines that the appeal is clearly without merit or is frivolous or vexatious or commenced in bad faith; or
  - iii. it determines that the *Notice of Appeal* does not raise a valid ground of appeal or does not assert evidence capable of supporting a valid ground.
- b) The chair shall notify the parties in writing of the tribunal's intention to dismiss the appeal without hearing from the parties, and shall invite written submissions of the parties on the tribunal's jurisdiction to hear the matter or the merit of the appeal, provided that such submissions are filed with the chair within 5 working days of receipt of the notification.
- c) If a decision is made to dismiss an appeal without hearing from the parties, the chair shall inform the parties in writing of its decision within 5 working days of the decision.

### **9. Oral Hearing**

- a) If an oral hearing is to be held, it shall be scheduled by the chair to commence as soon as possible after the appointment of a tribunal, but in no case more than 30 working days from notification that the tribunal appointment process is complete.

An attempt shall be made to schedule the hearing at a time convenient for the tribunal and for the parties to the appeal. However, any party whose reasons for absence are not considered valid by the chair or whose absence may cause unreasonable delay, shall be notified that the tribunal will proceed in that party's absence.
- b) The parties shall be given at least 10 working days' notice of the time and place of the hearing.
- c) The notice shall include a statement that if a party does not attend the hearing, the tribunal may proceed in the party's absence and the party will not be entitled to any further notices in the proceeding.

All participants - tribunal, appellant, respondent (also support persons and any witnesses called) are to respect the sensitive nature of the proceedings and to hold all related discussions and information in confidence. Note: This is not intended to preclude either party from consulting a support person or legal counsel for advice.

### **10. Order of the Hearing**

- a) At the outset of the hearing, the chair shall:
  - i. review the order of the hearing,
  - ii. note for the record the documentary information submitted by the parties, and
  - iii. note the names of the witnesses for each party.
- b) The appellant is the first party heard.
  - i. Appellant's opening statement shall contain:
    - a brief description of his/her position; and
    - what remedy he/she seeks.
  - ii. Appellant's case provides the factual support to show why the remedy sought should be granted and may include any or all of the following:
    - appellant's oral testimony;
    - oral testimony of appellant's witnesses; and

- documents or other written evidence in support of this testimony which were filed with the *Notice of Appeal*.
- iii. Questioning of the appellant and his/her witnesses by the respondent and/or by the tribunal occurs at the close of each person's testimony.
- c) Following the completion of the appellant's case, the respondent presents his/her case.
- i. Respondent's opening statement shall contain:
- a brief reply to the appellant's claims; and
  - the main arguments justifying the action or decision being appealed.
- ii. Respondent's case provides the factual support to defend the action or decision being appealed and may include any or all of the following:
- respondent's oral testimony;
  - oral testimony of respondent's witnesses; and
  - documents or other written evidence in support of this testimony which were filed with the *Reply*.
- iii. Questioning of the respondent and his/her witnesses by the appellant and/or by the tribunal occurs at the close of each person's testimony.
- d) The appellant and his/her witnesses have the right to offer testimony or other evidence in reply to the issues raised in the respondent's case.
- e) After the testimony of each witness, the tribunal may, in addition to asking questions of the witness as outlined above, request copies of such documents mentioned in testimony as the tribunal in its discretion sees fit.

**After this point in the hearing, no new evidence or witnesses may be introduced.**

- f) The parties are entitled to make closing arguments, and to summarize briefly the main points of their cases, in the following order:
- i. appellant
  - ii. respondent
  - iii. appellant.
- g) In the interest of fairness to any or all of the parties, the tribunal may alter the order described above.

**11. Witnesses**

Parties to the appeal and the tribunal have the right to call, question and cross-examine witnesses. Parties are responsible for producing their own witnesses and for paying the costs associated with their appearance before the tribunal.

At least 5 days before the hearing the parties shall provide the chair with a list of witnesses they plan to call if they differ from those listed on the *Notice of Appeal* or *Reply*.

If a party believes that a member of faculty, the administration, or the student body has relevant evidence, the party may, at least 5 days before the hearing, submit a written requisition to the chair asking that (s)he formally request that the person attend as a witness at the hearing. The written requisition shall include the following information about the requested witness:

- i. full name;
- ii. status (i.e. faculty, staff, student);
- iii. current telephone number;
- iv. current email address;
- v. summary of the evidence the requested witness is expected to give; and

vi. brief statement as to the relevance of the evidence to the proceeding.

If the chair concludes that the requested witness is likely to have relevant evidence, the chair may request that person to attend.

The tribunal has discretion to limit the testimony and questioning of witnesses to those matters it considers relevant to the disposition of the case. The chair may limit the questioning of a witness when satisfied that the examination has been sufficient to disclose fully and fairly all matters relevant to the appeal, or that questioning is irrelevant or abusive.

Witnesses generally are present in the hearing room only during the time they are testifying.

## **12. Recess or Adjournment**

The tribunal may consider and grant a recess or an adjournment at the request of either party to allow review of written or documentary evidence submitted at the hearing.

The tribunal may grant an adjournment at any time during the hearing to ensure a fair hearing.

## **13. Evidence**

Parties to the appeal shall have knowledge of each other's case by means of the exchange of the *Notice of Appeal* and the *Reply* before the hearing.

Parties to the appeal have the right to present evidence in support of their case to the tribunal and to see any written or documentary evidence presented to the tribunal.

The tribunal has the power to require production of written or documentary evidence by the parties or by other sources.

The tribunal has the power to rule on the admissibility of evidence.

a) The chair may admit as evidence at a hearing any oral testimony or any document or other object relevant to the subject matter of the appeal and, if it considers it to be credible and trustworthy, the tribunal shall determine its weight in relation to the other evidence admitted.

b) Where the chair is satisfied as to the authenticity of a copy of a document or other thing, it may be admitted as evidence at a hearing.

c) The chair may exclude evidence on the ground that it is unduly repetitious, irrelevant, or otherwise inadmissible, for example because of confidentiality or privacy concerns.

## **14. Record of the Proceeding**

Although the hearing shall be recorded in order to obtain an accurate record of the proceedings, such recording is done for convenience purposes only and the malfunction of the recording device or subsequent loss of the recording shall not invalidate, in any way, the related hearing. The recording shall be held in confidence by the Secretariat in compliance with the University's records retention schedule.

## **15. Similar Questions of Fact or Policy**

If two or more proceedings before the UCSA involve the same or similar questions of fact or policy, the chair may decide:

a) to combine the proceedings or any part of them, with the consent of the parties;

b) to hear the proceedings at the same time, with the consent of the parties; or

c) to hear the proceedings one immediately after the other.

## **16. Appropriate Procedures**

Where any procedural matter is not dealt with specifically in this Policy, the tribunal may, after hearing submissions from the parties and considering the principles of fairness, establish an appropriate procedure.

Any procedural requirement contained in this policy may be waived with the consent of the tribunal and of all the parties.

### 17. Deliberations and Decision

Following the formal hearing, the tribunal shall deliberate in a closed session. The decision need not be unanimous. Each tribunal member has one vote; a majority vote on an issue resolves that matter.

Notice of the decision shall be given to the appellant as soon as possible.

The tribunal shall prepare a written report of its decision. The report shall include:

- a) the membership of the tribunal;
- b) the background of the appeal;
- c) the tribunal's findings of fact; and
- d) the tribunal's decision with reasons.

A copy of the report shall be sent to the parties as soon as possible, normally within 5 working days of the making of the decision. A copy of the tribunal's decision shall be forwarded to University departments with a legitimate need to know. In order to inform the University community, the decision shall be filed in the Secretariat.

Who	When	What
Appellant (student)	Within 10 working days of notification of the decision [section 3]	Deliver <i>Notice of Appeal</i> to chair USCA ( <a href="#">Form 72A</a> ) [section 3]
Chair UCSA	Within 5 working days of receipt of <i>Notice of Appeal</i> [section 3]	Review appellant's materials, request rectification if necessary [section 6]
Appellant (if request made)	Within 10 working days of receipt of request for rectification [section 6]	Rectify
Chair UCSA	Within 5 working days of the filing of <i>Notice of Appeal</i> or of rectification if it was requested [section 3]	Deliver appellant's materials to respondent
Respondent	Within 15 working days of receipt of <i>Notice of Appeal</i> [section 3]	Deliver <a href="#">Reply [Form 72B]</a>
Chair UCSA	Within 5 working days of receipt of <i>Reply</i> [section 3]	Deliver respondent's materials to appellant
Chair UCSA	Within 5 working days of receipt of <i>Reply</i> [section 7]	Appoint tribunal, notify parties
Appellant and respondent (optional)	Within 5 working days of receipt of notice [section 7]	Challenge appointment of a tribunal member
Chair UCSA	Within 10 working days of completion of the tribunal appointment process [section 7]	Convene tribunal to examine documents, decide written/oral hearing

Who	When	What
Chair UCSA	Within 30 working days of completion of the tribunal appointment process [section 9]	Hearing scheduled to begin
Chair UCSA	At least 10 working days before hearing [section 9]	Notify parties of hearing
Appellant and Respondent (if necessary)	At least 5 working days before hearing [section 11]	Provide list of witnesses if different than original list
	<b>Hearing</b>	
Chair UCSA	Within 5 working days of the decision [section 17]	Release written report of decision

### Appendix C - Glossary

**appeal** – a proceeding undertaken to have a decision reviewed by taking it to a higher authority (i.e. Faculty Committee on Student Appeals (FCSA) or University Committee on Student Appeals (UCSA))

**appellant** - the student starting the appeal

**chair** – the chair of a committee or his/her designate

**respondent** – the person who made the original decision that is being appealed

**notification** –

- if sent by email or fax, the next working day after it was sent

- if sent by mail, the fifth working day after it was mailed

**support person** - includes a student, friend or family member, does not usually include a lawyer or paralegal

**working day** – Monday to Friday, inclusive, excluding statutory and University holidays

In most UW offices, regular business hours are 8:30 am to 4:30 pm., with some closed for lunch.