

## UNIVERSITY OF MANITOBA PROCEDURE

<b>PROCEDURE:</b>	<b>STUDENT DISCIPLINE APPEAL PROCEDURE</b>
<b>Parent Policy:</b>	Student Discipline Bylaw
<b>Effective Date:</b>	September 1, 2016
<b>Revised Date:</b>	September 1, 2018
<b>Review Date:</b>	September 1, 2028
<b>Approving Body:</b>	Board of Governors
<b>Authority:</b>	Student Discipline Bylaw
<b>Responsible Executive Officer:</b>	President
<b>Delegate:</b>	University Secretary
<b>Contact:</b>	University Secretary
<b>Application:</b>	Students, Faculty/College/School Councils, Unit Heads, Academic Staff and Employees

### Part I Reason for Procedures

- 1.1 These Appeal Procedures are secondary to the Student Discipline Bylaw and are intended to establish a process for appeals to be heard, and to provide guidance to the members of appeal panels, to the student and to the Faculty/College/School representatives in relation to appeal hearings.

### Part II Procedures

#### Definitions

- 2.1 The following terms are defined for the purpose of this Bylaw and related Procedures:
- (a) "**Academic Misconduct**" has the same meaning as defined in section 2.5 of the Student Academic Misconduct Procedure.
  - (b) "**Academic Staff**" refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This

includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.

- (c) **"Appeal Body"** means the appropriate persons or bodies as identified in sections 2.9 to 2.14.
- (d) **"Appeal Procedure"** means this Student Discipline Appeal Procedure.
- (e) **"Appellant"** means the Student appealing a Disciplinary Action taken against him or her.
- (f) **"Bylaw"** means the Student Discipline Bylaw.
- (g) **"College"** means a Professional College as defined under the Definitions of Academic Units Policy.
- (h) **"Disciplinary Action"** means the specific disciplinary actions available for each Disciplinary Authority under Table 3 of this Bylaw.
- (i) **"Disciplinary Authority"** means the discipline authority designated to determine a matter of student discipline for Academic Misconduct or Non-Academic Misconduct.
- (j) **"Faculty"** means a Faculty as defined under the Definitions of Academic Units Policy.
- (k) **"Local Disciplinary Committee"** or **"LDC"** means the standing or, from time to time, ad hoc committee appointed to hear and determine disciplinary matters under section 2.24 of this Appeal Procedure.
- (l) **"Non-Academic Misconduct"** has the same meaning as defined in section 2.5 of the Student Non-Academic Misconduct and Concerning Behaviour Procedure.
- (m) **"Notice of Appeal"** means the appeal documentation that must be filed by the Student under section 2.16.
- (n) **"Respondent"** means the Disciplinary Authority whose decision is being appealed.
- (o) **"School"** means a "School of the University" or a "School of a Faculty", as those terms are defined under the Definitions of Academic Units Policy.

- (p) **"Sexual Assault"** has the same meaning as defined under the Sexual Assault Policy.
- (q) **"Student"** means any of the following individuals:
  - (i) **Admitted** – an individual who has accepted an offer of admission to the University;
  - (ii) **Current** – an individual who is either registered in course(s) or in a program of studies at the University or is eligible to continue in their studies at the University either because the individual meets minimum academic performance requirements or will be eligible to continue after discharging a financial hold or serving suspension due to academic or discipline;
  - (iii) **Former** – an individual who has graduated from the University or who has withdrawn (either voluntarily or was required to withdraw).
- (r) **"Student Advocate"** is a member of the University's Student Advocacy Office who provides students with information on their rights and responsibilities, as well as assistance with resolving problems or concerns resulting from actions or decisions taken by the University.
- (s) **"Table 3"** means Table 3: Disciplinary Actions and Disciplinary Authorities, which follows the Bylaw.
- (t) **"Unit"** means a Faculty, School, College, institute, centre, academic support unit (for example, libraries) or administrative unit whose Unit Head reports to the President or a Vice-President, Associate Vice-President or Vice-Provost. An academic department within a faculty or school is not a Unit as the term is used within this Procedure.
- (u) **"Unit Head"** refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.
- (v) **"University"** means The University of Manitoba.
- (w) **"University Community"** means all Board of Governors members, Senate members, Faculty/College/School Councils, employees, Students, volunteers, external parties, contractors and suppliers.
- (x) **"UDC"** means the University Discipline Committee composed under section 2.53 of this Appeal Procedure.

## **Appeals Generally**

- 2.2 Students have a right to appeal Disciplinary Actions made by a Disciplinary Authority, subject to section 2.23 of the Bylaw.
- 2.3 Only the Student who has been the subject of a Disciplinary Action has the right to appeal.
- 2.4 An Appeal Body may dispose of the matter by instituting any Disciplinary Action authorized to it under Table 3. The resulting disposition may be the same, more severe or less severe than the original Disciplinary Action and the Appellant must be so informed of this possibility prior to the commencement of an appeal hearing.
- 2.5 When an appeal is heard by an Appeal Body, the Appellant must be invited to attend the hearing and, if in attendance, be permitted to ask questions and offer an explanation. Every reasonable attempt should be made to schedule the hearing at a time and place that permits the Appellant's participation.
- 2.6 If the Appellant, Respondent or their respective representatives are unable to attend the hearing in person, the use of a digital communication, such as audio or video conferencing, may be used with prior consent of the chair of the Appeal Body, provided that such means enable all parties to clearly communicate. A request for such a meeting must be made at least one week in advance of the hearing date.
- 2.7 Subject to sections 2.40 and 2.74 of this Appeal Procedure, the Appellant may appear in person and be represented by a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, or a member of the Appellant's immediate family. It is the Appellant's sole responsibility to determine the adequacy of their representation.
- 2.8 Subject to sections 2.40, 2.45, 2.76, and 2.83 of this Appeal Procedure, a representative designated in writing by the Appellant may:
  - (a) attend any disciplinary hearing; and
  - (b) participate in any disciplinary hearing to the extent of asking questions of anyone in attendance and making submissions to any Appeal Body.

## **Appeal Routes**

- 2.9 If the Appellant wishes to appeal the Disciplinary Action of a member of the Academic Staff (except for suspension from attendance for the balance of the meeting of one class), or the decision of a department head, the Notice of Appeal must be delivered to the appropriate Unit Head in the Unit offering course(s) and

the Unit Head in the Unit in which the Appellant is registered, with a copy to the Academic Staff or department head, as the case may be.

- 2.10 If an Appellant is appealing within a Unit that does not have department heads, then the first level of decision will be the Unit Head of that respective Unit and the next level of appeal will be as set out in section 2.11 of this Procedure.
- 2.11 If the Appellant wishes to appeal the Disciplinary Action of a Unit Head, or the Director of Student Residences, the Notice of Appeal must be delivered to the appropriate Local Disciplinary Committee in care of the respective Unit Head or Director of Student Residence.
- 2.12 If the Appellant wishes to appeal the Disciplinary Action of the University Librarian (other than as a delegate of the President), a delegate of the University Librarian, or an ad hoc committee appointed by the University Librarian, the Notice of Appeal must be delivered to the Chair of the Senate Committee on Libraries, with a copy to the person or ad hoc committee which made the initial disciplinary decision. Within ten (10) working days of receipt of the Notice of Appeal, the Chair of the Senate Committee on Libraries will appoint a Library Appeals Committee to hear the appeal.
- 2.13 If the Appellant wishes to appeal the disciplinary decision of any of the following Disciplinary Authorities, the Notice of Appeal must be delivered to the UDC in care of the Secretary of the UDC (University Secretary):
  - (a) the decision of an LDC or the Library Appeals Committee;
  - (b) the decision of the Executive Director of Enrolment Services;
  - (c) the decision of the Dean of the Faculty of Graduate Studies in relation to fraudulent documents submitted for admission to the Faculty;
  - (d) the decision of the Executive Director of Enrolment Services or the Associate Vice-President (Administration) or an ad hoc committee appointed by either of these persons;
  - (e) the decision of the Chief Information Officer of Information Services and Technology (IST);
  - (f) the decision of the Registrar;
  - (g) the decision of the Vice-President (Administration);
  - (h) the decision of the Vice-Provost (Students); or
  - (i) the decision of the President or delegate.

- 2.14 If the disciplinary matter involved two or more Students and two or more Students appeal:
- (a) The Students must have separate hearings, but the members of the Appeal Body may be the same for each hearing, subject to sections 2.33 and 2.67 of this Procedure;
  - (b) The Respondents may bring in relevant information on the other Student(s) as it pertains to each appeal; and
  - (c) Every effort must be made to protect the identity of the other Student(s).

### **Filing an Appeal**

2.15 The Appellant must deliver the Notice of Appeal to the appropriate Appeal Body within ten (10) working days as of the date on the letter notifying the Appellant of the Disciplinary Action from the lower body.

2.16 The Notice of Appeal must include:

- (a) such appeal application form, with current mailing address and telephone numbers, as may be required by the Appeal Body;
- (b) copies of such written materials as the Appellant wishes considered in connection with the appeal;
- (c) copies of the letter indicating the lower level decision, if not a first level appeal;
- (d) A letter clearly outlining the reason for the appeal and the remedy sought, including an indication of whether the Appellant is appealing the decision on:
  - (i) the finding of facts;
  - (ii) the Disciplinary Action imposed by the Disciplinary Authority; or
  - (iii) both the facts and the Disciplinary Action; and
- (e) the name and contact information of any representative that the Appellant wishes to have present at the appeal hearing, subject to subject to sections 2.7, 2.39 and 2.74 of this Appeal Procedure.
- (f) In the case of an appeal to the LDC or UDC, a listing of all resources or witnesses the Appellant wants in attendance at the hearing and their relevance. The scheduling of witnesses and resource people is the responsibility of the Appellant.

- 2.17 Subject to section 2.18, if an appeal is not received by the next level Appeal Body by the deadline set out in section 2.15, the Disciplinary Action against the Student will be implemented.
- 2.18 The time for delivery of a Notice of Appeal may be extended by the Appeal Body, or by the chair of the Appeal Body where the Appeal Body is the LDC or the UDC.
- 2.19 The Disciplinary Action implemented may be put on hold if the Appeal Body receiving the next level of appeal deems the lateness acceptable and grants the Appellant permission to proceed with the appeal after deadline.
- 2.20 The Appellant and the designated representative of the Appellant must receive the same notices of hearings held by the LDC and the UDC as the Respondents.

### **Responsibilities of Respondents**

- 2.21 The Respondent will be given ten (10) working days to respond to the Notice of Appeal.
- 2.22 Respondents must submit the following:
- (a) A written response to the Appellant's Notice of Appeal;
  - (b) All relevant documentation the Respondents will rely on as support for their position regarding the appeal; and
  - (c) In the case of an appeal to the LDC or UDC, a listing of all resource people or witnesses they want in attendance at the hearing and their relevance. The scheduling of witnesses and resource people is the responsibility of the Respondent.
  - (d) All the above documents must be filed within the time set out in section 2.21. If the Respondent had not received permission for an extension, a written request must be submitted to the Appeal Body to determine whether the Respondent's submission will be accepted.
- 2.23 If no response is received from the Respondent by the date requested by the office coordinating the appeal, a hearing may be set.

### **LOCAL DISCIPLINE COMMITTEE (LDC)**

#### **LDC Jurisdiction**

- 2.24 Each Faculty/College/School, and the University Student Residences under the jurisdiction of the Office of Student Residences, must establish a standing or, from time to time, ad hoc committee to hear and determine disciplinary matters appealed to it by Students from a decision of the Dean/Director of that

Faculty/College/School, or the Director of Student Residences for the University Residences under the Office of Student Residences' jurisdiction.

- 2.25 The LDC and the hearing panels thereof must exercise disciplinary authority on all Students that are appealing a decision from the Dean or Director of the Faculty/College/School or University Student Residence.
- 2.26 The Disciplinary Actions available to the LDC are set out in Table 3.

### **LDC Composition**

- 2.27 In Faculties/Colleges/Schools, the LDC must be composed of an equal number of faculty members and students with a minimum of eight (8) members.
- 2.28 In the case of University Student Residences, the LDC must be composed of an equal number of residence staff and students with a minimum of eight (8) members. Members must be appointed by the Director of Student Residences with the advice of the appropriate Residence Students' Association.
- 2.29 The chair of the LDC must be elected by and from the membership of the LDC.
- 2.30 A quorum must be half the members, with a minimum of four (4) members, ensuring at least one (1) student and one (1) faculty member are present.
- 2.31 Where the Disciplinary Action relates to two (2) or more Faculties, Colleges or Schools, the LDC hearing panel must contain at least one (1) student and one (1) faculty member from each Faculty/College/School.
- 2.32 The chair must only vote in the case of a tie.
- 2.33 The Appellant, or the Appellant's representative, if any, and Respondent must have the right to challenge for cause any member of the LDC, the validity of the challenge to be judged by the remainder of the LDC. Such cause may include current teacher-student relationship, bias, or any factor likely to prejudice a fair hearing. Any person, who was directly involved in the original Disciplinary Action, either as a principal in the case or as a Disciplinary Authority, must be automatically removed from any hearing panel regarding the appeal.

### **LDC Hearing Procedures**

- 2.34 The Appellant must be presumed innocent until the evidence presented indicates that, on the balance of probabilities Disciplinary Action is warranted. The LDC, in weighing the balance of probabilities, must consider the severity of the alleged incident.
- 2.35 The hearing must be by way of a trial de novo unless the appeal has been made only in relation to the severity of the Disciplinary Action imposed.



- 2.36 Hearings must be closed unless the Appellant requests in writing at least forty-eight (48) hours before the hearing that a hearing be open and there is no reasonable objection to an open hearing.
- 2.37 If the appeal hearing is in closed session, no observers may be present in the room. If the appeal hearing is in open session, any observers present will not be allowed to contribute in any way to the proceedings. Regardless of open or closed status, no electronic or other recording devices will be permitted.
- 2.38 Regardless of section 2.36, hearings related to discipline under the Respectful Work and Learning Environment Policy and/or discipline under the Sexual Assault Policy must be closed.

### **Representatives at LDC Hearing**

- 2.39 At the LDC hearing, the Appellant may appear in person and be represented by a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, or a member of the Student's immediate family. It is the Appellant's sole responsibility to determine the adequacy of their representation.
- 2.40 If the Appellant or the Respondent wishes to have a lawyer present, the lawyer(s) present may only be a non-participating observer(s) at hearings of the LDC, but may represent the Appellant or Respondent at hearings of the UDC.

### **Failure to Attend LDC Hearing**

- 2.41 An Appellant who fails to attend a scheduled appeal hearing may have the appeal considered on the basis of the Appellant's written submission, the presentation of the Appellant's designated representative, if any, and the verbal and written submissions made by the Respondent.
- 2.42 The Appellant shall be advised that the LDC has made a decision regarding the appeal and that the Appellant has ten (10) days to provide reasons for missing the hearing prior to the implementation of the decision. The LDC Chair will determine whether the hearing should be re-scheduled based on any submission from the Appellant. A reasonable attempt will be made to reconvene the same members should the hearing be re-scheduled.

### **Evidence at LDC Hearing**

- 2.43 The Appellant and the Appellant's designated representative, if any, and the Respondent or the Respondent's representative, will receive in writing, at least five (5) working days before the date set for the hearing, the names of the members of the LDC hearing panel who will hear the appeal and the information that has been submitted to the LDC hearing panel by both relevant parties, in

accordance with *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

- 2.44 The Appellant, or the Appellant's designated representative, if any, and the Respondent, or the Respondent's representative, if any, may call witnesses and submit other evidence. The Appellant, the Appellant's representative, if any, and the Respondent, or Respondent's representative, if any, are responsible for arranging their own witnesses. If witnesses are to be called, a witness list must be provided by the Appellant or the Appellant's representative, if any, in their original appeal package provided to the Chair and a witness list must be provided by the Respondent or the Respondent's representative, if any, with their response to the appeal.
- 2.45 The Appellant must not be required to testify, but if the Appellant elects to do so, then the Appellant may be cross-examined by the Respondent, or the Respondent's representative, if any.
- 2.46 The Appellant or the Appellant's designated representative, if any, and the Respondent, must have the right to cross-examine witnesses.
- 2.47 The LDC may consider confidential information from the University Health Service, Counselling Service, University Chaplains and other similar services which are submitted by these services to the LDC at the request of the Appellant. Such confidential information submitted to the LDC may only be used for the purpose of the appeal.

### **Adjournments of LDC Hearing**

- 2.48 Requests for adjournment must be granted within reason.

### **Disposition of LDC Hearing**

- 2.49 A decision to uphold or deny an appeal, in whole or in part, and a decision to take different Disciplinary Action, in whole or in part, requires a simple majority of LDC Committee members present and voting. The results of the hearing must be conveyed in writing, in a timely fashion, by the Chair of the LDC to the Appellant or the Appellant's designated representative, if any and to the Respondent or the Respondent's designated representative, as the case may be.
- 2.50 If, after hearing all the evidence, the LDC is satisfied on the evidence presented that the Appellant has committed Academic Misconduct or Non-Academic Misconduct, the LDC may dispose of the matter by instituting any Disciplinary Action set out in the column entitled "Deans, Directors or LDC" in Table 3.

## **UNIVERSITY DISCIPLINE COMMITTEE (UDC)**

### **UDC Terms of Reference**

2.51 The UDC must:

- (a) Report annually to the President.
- (b) Establish procedures, consistent with this Bylaw, for hearing panels.
- (c) Hear appeals, either as a committee of the whole or through a hearing panel, from decisions of Disciplinary Authorities.
- (d) Review the Bylaw and related procedures periodically and, if necessary, to recommend changes to them.

### **UDC Jurisdiction**

2.52 The UDC and the hearing panels thereof shall exercise Disciplinary Authority on behalf of the Board of Governors on all Students that are appealing a decision from the Disciplinary Authorities that are set out in section 2.13 of this document.

### **UDC Composition**

2.53 The UDC shall be composed of nineteen (19) members. The nineteen (19) shall include:

- (a) eight (8) faculty members nominated by the Senate Nominating Committee and appointed by the Board of Governors;
- (b) seven (7) students nominated by the Student Senate Caucus and appointed by the Board of Governors;
- (c) the President of the University of Manitoba (or designate), as an ex-officio member;
- (d) the President of the University of Manitoba Students' Union (or designate), as an ex-officio member;
- (e) the President of the University of Manitoba Graduate Students' Association (or designate), as an ex-officio member; and
- (f) the Chair appointed pursuant to section 2.57. The Chair must only vote in the event of a tie.

2.54 Positions for which no nomination had been received from the Student Senate Caucus by September 15<sup>th</sup> shall be nominated by the Senate Nominating Committee.

- 2.55 The terms of office shall be three (3) years for academic staff, and one (1) year for students, from June 1 to May 31(academic staff), and October 14 to October 13 (students). A member whose term of office has expired in any year shall continue in office until a successor has been appointed and shall be eligible for reappointment.
- 2.56 A quorum must be nine (9) the members, where a minimum of one (1) student and one (1) academic are present.
- 2.57 A Chair will be appointed by the Board of Governors for a three (3) year term.
- 2.58 The Vice-Chair shall be elected from and by the members of the UDC for a three (3) year term.

### **UDC Hearing Panels**

- 2.59 When a matter has been appealed to the UDC, the Chair must either convene the UDC or convene a hearing panel thereof to hear the appeal.
- 2.60 A quorum shall be a minimum of four (4) members, ensuring at least one (1) student and one (1) faculty member are present including the Chair.
- 2.61 The Chair may vote only if there is a tie.
- 2.62 UDC members who have a conflict of interest in a particular case, or have a temporary work conflict, or are otherwise unable to sit, may disqualify themselves from hearing an appeal.
- 2.63 Notwithstanding the foregoing, the Chair of the UDC may, in a particular case, require that a larger hearing panel be convened to consider the matter, provided that such a larger hearing panel maintains the proportional representation as set out in section 2.60.
- 2.64 The Chair of the UDC may use his/her discretion to reject an appeal if the appeal appears to be clearly outside the jurisdiction of the UDC, (for example, matters not dealing with discipline nor related Disciplinary Actions taken by a lower Appeal Body).
- 2.65 When an appeal is received based on a fine or the amount ordered, the only decision from which an appeal is taken is the amount levied by way of fine or the amount ordered to be paid by way of restitution; then, if such fine or restitution does not exceed \$500.00, the Chair may, at the Chair's discretion, personally decide the matter, or may convene a hearing panel to hear the appeal.
- 2.66 A staff member from the Office of the University Secretary, will serve as recording secretary for the hearings.

- 2.67 The Appellant, or the Appellant's representative, if any, and the Respondent must have the right to challenge for cause any member of the UDC hearing panel, the validity of the challenge to be judged by the remainder of the UDC hearing panel if such a challenge is made at this time. Such cause may include current teacher-student relationship, bias, or any other factor likely to prejudice a fair hearing. Any person who was directly involved in the original Disciplinary Action, either as a principal in the case or as a Disciplinary Authority, must be automatically removed from any hearing panel regarding the appeal. The Office of the University Secretary after consultation with the Chair will make every reasonable attempt to address any concerns made prior to the hearing date regarding bias by either the Appellant or the Respondent.

### **UDC Hearing Procedures**

- 2.68 The Appellant must be presumed innocent until the evidence presented indicates that, on the balance of probabilities Disciplinary Action is warranted. The UDC, in weighing the balance of probabilities, must consider the severity of the alleged incident.
- 2.69 The hearing before the UDC hearing panel must be by way of a *trial de novo* unless the appeal has been made only in relation to the severity of the Disciplinary Action imposed.
- 2.70 After an appeal hearing has commenced, the appeal may be withdrawn by the Appellant only with leave of the UDC hearing panel.
- 2.71 Hearings must be closed unless the Appellant requests in writing at least forty-eight (48) hours before the hearing that a hearing be open and there is no reasonable objection to an open hearing.
- 2.72 If the appeal hearing is in closed session, no observers may be present in the room. If the appeal hearing is in open session, any observers present will not be allowed to contribute in any way to the proceedings. Regardless of open or closed status, no electronic or other recording devices will be permitted.
- 2.73 Regardless of section 2.71, hearings related to discipline under the Respectful Work and Learning Environment Policy and/or discipline relating to Sexual Assault must be closed.

### **Representatives at UDC Hearing**

- 2.74 At the UDC hearing, the Appellant may appear in person and may be represented by a Student Advocate, a representative from the University of Manitoba Student's Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, a member of the Appellant's immediate family, or a lawyer. It is the Appellant's sole responsibility to determine the adequacy of their representation.

- 2.75 At the UDC hearing, the Respondent may be represented by a lawyer from the University of Manitoba's Office of Legal Counsel.
- 2.76 If any party intends to have a lawyer present at the hearing, that party must notify the Chair of the UDC at least seven (7) working days prior to the hearing. In that event, the UDC hearing panel may also retain the services of legal counsel. A rescheduling of the hearing may be required for all parties to retain legal counsel.
- 2.77 Subject to the notice provision in section 2.76, a representative designated in writing by any party may:
- (a) attend the disciplinary hearing; and
  - (b) participate in any disciplinary hearing to the extent of asking questions of anyone in attendance and making submissions to the UDC.
- 2.78 The Appellant and the Appellant's designated representative, if any, and the Respondent and the Respondent's representative, if any, shall be entitled to receive in writing, at least five (5) working days before the date set for the hearing, the information that has been submitted to the previous Appeal Body by the parties in accordance with *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

### **Failure to Attend UDC Hearing**

- 2.79 An Appellant who fails to attend a scheduled appeal hearing may have the appeal considered on the basis of the Appellant's written submission, the presentation of the Appellant's designated representative, if any, and the verbal and written submissions made by the Respondent.
- 2.80 The Appellant must be advised that the UDC has made a decision regarding the appeal and that the Appellant has ten (10) days to provide reasons for missing the hearing prior to the implementation of the decision. The Chair must determine whether the hearing should be re-scheduled based on any submission from the Appellant. A reasonable attempt will be made to reconvene the same members should the hearing be re-scheduled.

### **Evidence at UDC Hearing**

- 2.81 The Appellant, or the Appellant's representative, if any, and the relevant Respondent, or the Respondent's representative, if any, may call witnesses and submit other evidence. The Appellant, or the Appellant's representative, if any, and the relevant Respondent, or the Respondent's representative, if any, are responsible for arranging their own witnesses. If witnesses are to be called, a witness list must be provided by the Appellant or the Appellant's representative, if any, in their original appeal submission provided to the Chair and a witness list must be provided by the relevant Respondent, or the Respondent's representative, if any, with their response to the appeal.

- 2.82 The Appellant or the Appellant's designated representative, if any, and the Respondent, or the Respondent's representative, if any, must have the right to cross-examine witnesses.
- 2.83 The Appellant must not be required to give testimony but if the Appellant elects to do so, the Appellant may be cross-examined.
- 2.84 The UDC may consider confidential information from the University Health Service, Counselling Service, University Chaplains and other similar services which are submitted by these services to the UDC at the request of the Appellant. Such confidential information submitted to the UDC may only be used for the purpose of the appeal and will be treated as other documentation submitted for the appeal hearing as set out in section 2.87.
- 2.85 Where the Appellant appeals the disposition of a finding under the Respectful Work and Learning Environment Policy or under the Sexual Assault Policy, and upon the written request of the Chair of the UDC, the Vice-President (Administration) shall forward to the UDC the report of the investigator for consideration in the disposition of the appeal. Such confidential information submitted to the UDC may only be used for the purpose of the appeal and will be treated as other documentation submitted for the appeal hearing as set out in section 2.87.
- 2.86 Subject to section 2.78, the Appellant, the Appellant's representative and the relevant Disciplinary Authority normally must have the right to receive a copy of any university document that the UDC or hearing panel considers in relation to the appeal. The Chair of the Committee must make the final determination on this matter.
- 2.87 All members of the UDC and/or hearing panel will keep all materials and information used for the appeal in strict confidence and surrender such materials to the recording secretary who will have the materials destroyed by way of confidential shredding.

### **Adjournments**

- 2.88 Requests for adjournment shall be granted within reason.

### **Disposition**

- 2.89 A decision to uphold or deny an appeal, in whole or in part, and a decision to take different Disciplinary Action, in whole or in part, requires a simple majority.
- 2.90 If, after hearing all the evidence, the UDC is satisfied on the evidence presented that the Appellant has committed Academic Misconduct or Non-Academic Misconduct, the UDC may dispose of the matter by instituting any Disciplinary Action set out in the column entitled "UDC" in Table 3.

- 2.91 The Chair of the UDC or hearing panel must, after a decision has been made, report the results of that decision in writing to:
- (a) the Appellant or the designated representative of the Appellant, if any;
  - (b) the Respondent, or the Respondent's representative, if any, from whose decision the appeal has been heard;
  - (c) the Dean/Director of the Faculty/College/School involved; or the Associate Vice-President (Administration), the Director of Student Residences, or the Chief Information Officer (CIO) of IST, as the case may be;
  - (d) the Registrar;
  - (e) the Vice-President (Administration);
  - (f) the Vice-Provost (Students); or
  - (g) any others as deemed relevant.

### **Part III Accountability**

- 3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Appeal Procedure is required.
- 3.2 The President or his or her delegate is responsible for the implementation, administration and review of this Appeal Procedure.
- 3.3 Students, Faculty/College/School Councils, Unit Heads, Academic Staff and employees are responsible for complying with this Appeal Procedure.

### **Part IV Review**

- 4.1 Governing Document reviews must be conducted every ten (10) years. The next scheduled review date for this Appeal Procedure is September 1, 2028.
- 4.2 In the interim, this Appeal Procedure may be revised or repealed if:
- (a) the Approving Body deems it necessary or desirable to do so;
  - (b) the Appeal Procedure is no longer legislatively or statutorily compliant;
  - (c) the Appeal Procedure is now in conflict with another Governing Document; and/or



- (d) the Parent Policy is revised or repealed.

## **Part V Effect on Previous Statements**

- 5.1 This Procedure supersedes all of the following:
  - (a) Student Discipline Appeal Procedure, effective September 1, 2016;
  - (b) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
  - (c) all previous Administration Governing Documents on the subject matter contained herein.

## **Part VI Cross References**

- 6.1 This Appeal Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
  - (a) [Student Discipline Bylaw](#);
  - (b) [Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct](#);
  - (c) [Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct](#);
  - (d) [Table 3: Disciplinary Actions and Disciplinary Authorities](#);
  - (e) [Student Academic Misconduct Procedure](#);
  - (f) [Student Non-Academic Misconduct and Concerning Behaviour Procedure](#);
  - (g) [Definitions of Academic Units Policy](#);
  - (h) [Final Examinations and Final Grades Policy and Procedures](#);
  - (i) [Respectful Work and Learning Environment Policy](#);
  - (j) [Sexual Assault Policy](#);
  - (k) [RWLE and Sexual Assault Procedure](#);
  - (l) [Use of Computer Facilities Policy and Procedure](#);
  - (m) [Violent or Threatening Behaviour Policy and Procedure](#);

- (n) *The Freedom of Information and Protection of Privacy Act*, C.C.S.M. c. F175;
- (o) *The Personal Health Information Act*, C.C.S.M. c. P33.5.
- (p) Responsible Conduct of Research Policy
- (q) Responsible Conduct of Research – Investigation Procedure