

UNIVERSITY OF MANITOBA PROCEDURE

Procedure:	SENATE COMMITTEE ON APPEALS
Parent Policy:	Senate Committee on Appeals Policy
Effective Date:	July 1, 2012
Revised Date:	November 5, 2014
Review Date:	July 1, 2022
Approving Body:	Senate
Authority:	
Responsible Executive Officer:	University Secretary
Delegate:	
Contact:	Student Appeals Officer, Office of the University Secretary
Application:	Faculty/School Councils; Students

Part I Reason for Procedure

- 1.1 To set out Procedures secondary to the Policy entitled “Senate Committee on Appeals” in order to establish a process for appeals to be heard, and to provide guidance to the members of Panels of the Senate Committee on Appeals, and to the student and Faculty/School representatives in relation to appeal hearings.

Part II Procedural Content

General

- 2.1 The Senate, in approving the Procedures outlined herein, wishes to impress upon the parties appearing before the Committee that the appeal hearing is intended to be a review of the facts which bear on the issues before the Committee. Questions by the Committee members to the Appellant and to the Respondent during the course of the appeal hearing should be expected. Nothing in these Procedures should be taken, however, as relieving the

Appellant of the responsibility of making a submission and presenting evidence in support of his/her appeal.

- 2.2 Prior to submitting an appeal to the Committee, the Appellant must have exhausted all procedures and appeal processes available to him/her within Department/Faculty/College/School councils, or their designated committees.
- 2.3 Appeals involving a specific course should be formally initiated through the Department/Faculty/School giving the course, while appeals relating to a program should be initiated through the Faculty/School responsible for the program.

Filing an Appeal

- 2.4 An appeal along with all relevant documentation must be filed in the Office of the University Secretary within twenty (20) working days from the date on the letter of decision from the Faculty/School or until such time as the Chair may allow if a written request for an extension is made prior to the deadline.
- 2.5 If an Appellant files an appeal beyond the twenty (20) working days period, the Appellant must provide written reasons for the delay. The Chair shall have the discretion to extend the deadline for filing the appeal if it is determined that there are special circumstances which justify or excuse the delay. The Chair's decision is final and not appealable.
- 2.6 The Appellant must submit all documentation that will be relied on for the appeal and must include the following:
 - (a) a completed and signed Senate Committee on Appeals - Appeal Form. The form is developed by the University Secretary with the advice of the Committee and is available at the Student Advocacy Office, the Office of the University Secretary and on the University of Manitoba website;
 - (b) a letter to the Chair clearly explaining the grounds for the appeal, with specific reference to section 2.5 of the Senate Committee on Appeals Policy;
 - (c) a copy of the letter of decision from the last appeal level;
 - (d) a copy of all of the documentation submitted to the last appeal level (no new documentation can be submitted at this time);
 - (e) the names of any witnesses, recognizing that calling them is at the discretion of the Chair (see subsection 2.35(b) of these Procedures); and
 - (f) if the Appellant intends to have a lawyer present at the appeal hearing, the name and address of the lawyer shall be provided at the time of filing the appeal.

All submitted documents are considered confidential and will be subject to the provisions of *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

- 2.7 The remedy sought of the Committee shall not differ from that requested of the last appeal level unless extraordinary circumstances are presented.
- 2.8 It is the Appellant's responsibility to inform the Office of the University Secretary immediately of any change to his/her contact information. During the appeal process, the Office of the University Secretary may be required to contact the Appellant by letter, phone or email. If reasonable attempts at contact are unsuccessful, notice will be given by registered mail at the last known address of the Appellant or to the Appellant's spokesperson that, unless contact is made within thirty (30) days of the date of the notice, the appeal will be deemed to be abandoned and the file will be closed.
- 2.9 The Appellant shall have the right to be accompanied by a spokesperson:
 - (a) the Appellant shall, by completing an Authorization Form, have the right to waive his/her appearance at the hearing and be represented by a spokesperson. The Authorization Form is developed by the University Secretary with the advice of the Committee and is available at the Student Advocacy Office, at the Office of the University Secretary and on the University of Manitoba website;
 - (b) the spokesperson may be an advocate from the Student Advocacy Office, 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, a member of the Appellant's immediate family or a lawyer. It is the Appellant's sole responsibility to ensure:
 - (i) that his/her spokesperson is familiar with the Senate Committee on Appeals Policy and Procedures;
 - (ii) the adequacy of his/her representation, if any; and
 - (iii) to pay for his/her own lawyer's fees, if any.

Panels

- 2.10 The Chair shall convene a Panel to determine whether the Panel has jurisdiction, whether the Appellant has standing, whether there are sufficient grounds of appeal and to hear the appeal.
- 2.11 The Panel shall be prepared to convene as quickly as possible in those cases that require prompt action and, in general, shall attempt to handle all appeals with due dispatch.

- 2.12 A Panel shall consist of at least four (4) members, including the Chair, one (1) student and one (1) academic member.
- 2.13 A quorum of the Panel shall be a minimum of four (4) members, including the Chair, ensuring at least one (1) student and one (1) academic member are present.
- 2.14 If a member of the Panel informs the Chair that he/she is unable to sit on an appeal for any reason and quorum is compromised, a replacement will be sought from the remaining members of the Committee:
- (a) if this is an urgent matter and the Chair is unable to secure a replacement, then the Chair shall request the University Secretary to take appropriate action to fill the vacancy;
 - (b) if quorum is compromised on the day of the appeal hearing, the Chair will offer both the Appellant and the Respondent the opportunity either to waive quorum and continue with the appeal hearing, or to have the hearing rescheduled as soon as possible. The appeal hearing will be rescheduled if either party so requests.
- 2.15 The evidence before the Panel will be weighed on a balance of probabilities.
- 2.16 The determination of all matters before the Panel will be decided by a simple majority.
- 2.17 The Chair will vote only in the event of a tie.
- 2.18 A member of the Panel shall be disqualified who:
- (a) is an academic member of the Faculty or School in which the Appellant is registered for any course; or
 - (b) is a student currently registered in any course in the Faculty or School in which the Appellant is currently registered for any course; or
 - (c) is an individual who was involved in an earlier stage of decision making respecting the appeal; or
 - (d) is a member of the committee which was responsible for making the decision appealed; or
 - (e) is otherwise in a conflict of interest with either the Appellant or the Respondent.

An academic member or student who is a member of the Faculty of Health Sciences shall only be disqualified if they are a member of the same professional college as the Appellant.

- 2.19 Where a member of a Panel is challenged by the Appellant or the Respondent on grounds such as conflict of interest, bias or malice, the remaining members of the Panel shall consider the merits of the challenge and determine whether or not the member is disqualified from hearing the appeal. Should a challenge result in a loss of quorum, the Panel shall adjourn and a subsequent hearing shall be scheduled.
- 2.20 A staff member from the Office of the University Secretary will serve as a resource person and recording secretary for the meetings and appeal hearings. The recording secretary shall not have a vote.

Process

- 2.21 A Panel shall be convened and will review, in camera, the Appellant's submission to determine whether the Committee has jurisdiction to hear the appeal, whether the Appellant has standing, and whether there are grounds for the appeal. The Chair, at his/her discretion, may invite the parties to make submissions on the question of jurisdiction or standing. The Chair shall direct the Panel that, in its consideration, the benefit of the doubt will always be given to the Appellant:
- (a) if the Panel determines that there is no jurisdiction to hear the appeal, and/or the Appellant has no standing, and/or there are insufficient grounds to consider an appeal, the file shall be closed, the appeal will be deemed dismissed and the Appellant and the Respondent will be informed by letter (subsection 2.39(a) of these Procedures);
 - (b) if the Panel determines that there is jurisdiction to hear the appeal, the Appellant has standing, and there are sufficient grounds, the process shall continue.
- 2.22 The Office of the University Secretary shall inform the relevant Dean or Director in writing of the appeal, provide the Appellant's documentation, and request a written response within ten (10) working days, or until such time as the Chair may allow if a written request for an extension is made prior to the deadline.
- 2.23 The Chair shall have the discretion to extend the deadline for filing the response if it is determined that there are special circumstances which justify or excuse the delay. The Chair's decision is final and not appealable.
- 2.24 If the deadline is not met, the appeal will proceed without the Respondent's written submission.
- 2.25 The Faculty/School must submit all documentation that the Respondent will rely on for the appeal hearing and must include the following:
- (a) a letter to the Chair clearly outlining the response to the appeal;

- (b) a copy of the appeal documentation submitted by the Appellant to the last appeal level, unless already submitted by the Appellant;
- (c) a copy of the documentation the Respondent relied upon to make his/her decision at the last appeal level (no new documentation can be submitted at this time);
- (d) a recommendation on the preference of holding those parts of the appeal hearing, receiving statements from the Appellant and others in closed or open session;
- (e) a list of the names and responsibilities of those individuals representing the Respondent at the appeal hearing;
- (f) the names of any witnesses, recognizing that calling them is at the discretion of the Chair (see subsection 2.35(b) of these Procedures); and
- (g) if the Respondent intends to have a lawyer present at the appeal hearing, the name and address of the lawyer shall be provided at the time of filing the response.

All submitted documents are considered confidential and will be subject to the provisions of *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*.

- 2.26 The Appellant, his/her spokesperson, if any, the Respondent and Panel members will be provided with a written notice of the appeal hearing date, place and time.
- 2.27 The Office of the University Secretary shall distribute the Appellant's submission and the Respondent's submission to the Appellant, the Respondent and the Panel members.
- 2.28 An Appellant may withdraw his/her appeal by completing a signed Withdrawal of Appeal Form. The form is developed by the University Secretary with the advice of the Committee and is available at the Student Advocacy Office, at the Office of the University Secretary and on the University of Manitoba website.

At the Appeal hearing

- 2.29 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 spokesperson, if any, and the verbal and written submissions made by the Respondent.
- 2.30 The Panel, in camera, shall decide whether to hear the appeal in open or closed session taking into account the preferences of both the Appellant and the Respondent. If there is any disagreement between the Appellant and the

Respondent on this point, the Panel may ask both parties to present submissions or to answer questions. The Panel may, at the request of either party, or on its own initiative, decide to move from open to closed session or vice-versa at any stage in the appeal hearing.

- 2.31 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.
- 2.32 All Panel members, the Appellant and/or the spokesperson, if any, and the Respondent and/or the spokesperson, if any, will have standing to speak during the appeal hearing.
- 2.33 The Chair will invite both parties to enter the hearing room and announce whether the appeal hearing is to be in closed or open session or request to hear from the parties if there is a disagreement (section 2.30 of these Procedures).
- 2.34 The Chair shall introduce all parties and outline the appeal hearing process, including the identification of all individuals with standing. The Chair shall ask both parties if they have any questions about the process involved in the appeal hearing and/or the guidelines under which the Panel operates.
- 2.35 During the appeal hearing, the Chair:
 - (a) may limit oral evidence or oral submissions based on relevance, repetition or privacy;
 - (b) will not normally permit evidence from witnesses;
 - (c) determines all questions on admissibility of evidence and the appeal hearing process;
 - (d) may allow the submission of new information by the Appellant or the Respondent only with the consent of the opposing party;
 - (e) may seek legal advice. However, the Panel will consider all matters relating to the interpretation of Senate, Faculty/School/College/ Department governing documents.
- 2.36 The appeal hearing must recess if any Panel member or individual with standing leaves the room temporarily. Either party may request a recess at any point in the appeal hearing. Such a request shall not be unreasonably denied.
- 2.37 The Panel may, on its own initiative, decide to call, during the appeal hearing, additional resource individuals for further clarification on any issue raised in the appeal.

2.38 The appeal hearing shall proceed as follows:

- (a) the Chair shall ask the Appellant, or his/her spokesperson, if any, to make an oral statement to the Panel. If the Appellant wishes to make such a statement it may be used to summarize, elaborate upon, or explain the Appellant's written submission;
- (b) the Chair shall invite members of the Panel to ask questions arising from the Appellant's oral statement and submitted documentation. Cross examination will not be permitted. The Respondent is allowed to ask questions for clarification pertaining to the statement through the Chair;
- (c) the Chair shall ask the Respondent, or his/her spokesperson, if any, to make an oral statement summarizing or elaborating his/her response;
- (d) the Chair shall invite members of the Panel to ask questions arising from the Respondent's oral statement and submitted documentation. Cross examination will not be permitted. The Appellant is allowed to ask questions for clarification pertaining to the statement through the Chair;
- (e) after both parties have presented their statements, Panel members may ask further questions of either party seeking clarification or additional information;
- (f) when the Panel is satisfied that it has acquired all of the necessary information, the Chair shall ask each party to make a closing statement;
- (g) after both parties have presented their closing statements, the Chair shall temporarily dismiss both parties, and the Panel shall commence its deliberations, in camera;
- (h) once the Panel enters its deliberations, it shall be polled by the Chair to determine if they have sufficient information to arrive at a decision or if additional information is required;
- (i) if the Panel determines that it has received all of the necessary information to come to a decision, the Chair shall release both parties;
- (j) if the Panel determines that more information is required, the Chair will recall the parties into the hearing room. Normally, the Panel will receive the additional information through further questions posed to either the Appellant or the Respondent. However, if more detailed information is required, the Panel may reconvene at a later date at which time both parties have the right to be present;
- (k) the Panel shall complete its deliberations and voting in camera.

- 2.39 The Chair of the Panel shall, after a decision has been made, report the results of that decision in writing to the Appellant and the Respondent, and/or their spokespersons, if any. The letter shall include either:
- (a) that there is no jurisdiction to hear the appeal, the Appellant has no standing, and/or that there are insufficient grounds to proceed to an appeal hearing; or
 - (b) a brief summary of the following:
 - (i) the facts of the appeal;
 - (ii) the issues of the appeal; and
 - (iii) brief reasons for the decision of the Committee with specific reference to section 2.5 of the Senate Committee on Appeals Policy.
- 2.40 All members of the Panel will keep all materials and information used for the appeal in strict confidence and, following the appeal hearing, surrender such materials to the recording secretary who will arrange to have the materials destroyed in a confidential manner.
- 2.41 Files on completed cases shall be retained by the University Secretary and shall remain confidential.

Appeal Decisions Requiring Subsequent Senate Approval

- 2.42 If the Panel, upon hearing an appeal regarding "graduation notwithstanding a deficiency", wishes to recommend that Senate award a degree, the Appellant shall be informed of the decision but with the explicit warning: "It is Senate's prerogative to agree or disagree with the adequacy of the reasons given by the Committee for such action. You must, therefore, await the final decision by Senate to award or not award your degree."
- 2.43 If the Panel, upon hearing an appeal regarding the selection of awards requiring Senate approval, wishes to recommend that Senate confer the award, the Appellant shall be informed of the decision but with the explicit warning: "It is Senate's prerogative to agree or disagree with the adequacy of the reasons given by the Committee for such action. You must, therefore, await the final decision by Senate."
- 2.44 In time-sensitive circumstances where the presentation of the award would occur at a convocation before the next scheduled Senate meeting, a special meeting of Senate may be convened to consider the recommendation of the Committee.

Periodic Reports to Senate

- 2.45 The Chair shall report the action taken, if any, on each appeal to Senate in such a manner as to preserve confidentiality.

Part III Accountability

- 3.1 The Office of Legal Counsel is responsible for advising the University Secretary that a formal review of this Procedure is required.
- 3.2 The University Secretary is responsible for the implementation, administration and review of this Procedure.
- 3.3 Faculty/School Councils and Students are responsible for complying with this Procedure.

Part IV Review

- 4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is July 1, 2022.
- 4.2 In the interim, this Procedure may be revised or repealed if:
- (a) the University Secretary or Approving Body deems it necessary or desirable to do so;
 - (b) the Procedure is no longer legislatively or statutorily compliant; and/or
 - (c) the Procedure is now in conflict with another Governing Document.
 - (d) the Parent Policy is revised or repealed.

Part V Effect on Previous Statements

- 5.1 This Procedure supersedes all of the following:
- (a) academic and admission regulations and any resolutions on the subject matter contained herein;
 - (b) Academic Appeals Procedures and Guidelines Policy (revised February 1, 1989 and April 5, 2000);

- (c) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
- (d) all previous Administration Governing Documents on the subject matter contained herein.

Part VI
Cross References

- 6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
- (a) [Senate Committee on Appeals Policy](#)