

## **University 1 Appeals Committee ('Appeals Committee')**

### **Terms of Reference**

The University 1 Appeals Committee (referred to throughout as the “Committee”) has the authority to review, consider, and dispose of student appeals of any academic or disciplinary decision made by the Executive Director, Student Engagement and Success, or their designate. This Terms of Reference should be cross-referenced to the University 1 Appeals Committee Procedures.

The Committee shall:

- a) establish Panels to hear appeals as set out in the cross referenced Procedures;
- b) review these Terms of Reference and related Procedures periodically and, if necessary, recommend changes.

A Panel of the Committee shall:

- a) Constitute a Hearing Panel for each disciplinary appeal.
- b) Constitute a Hearing Panel for each academic appeal where it is determined, by the Chair, that at least one of the following apply:
  - i. failure of the Executive Director, Student Engagement and Success, or their designate to follow procedures
  - ii. failure of the Executive Director, Student Engagement and Success, or their designate to follow the rules of natural justice
  - iii. failure of the Executive Director, Student Engagement and Success, or their designate, to reasonably consider all factors relevant to the decision being appealed

### **Membership**

There shall be eight (8) voting and one (1) non-voting members of the University 1 Appeals Committee. The members shall be represented as follows:

- a) One (1) member elected from the membership as Chair for a one (1) year term
- b) Four (4) members appointed from the Associate Deans (Undergraduate)
- c) One (1) member appointed from the academic staff of Student Affairs
- d) Three (3) student members appointed by the University 1 Student Council; and
- e) Student Transitions and Success Centre Academic Advising Lead (ex-officio) as a non-voting, convening, and recording secretary.

## University 1 Appeals Committee Procedures for Academic Appeals

Students who disagree with a decision made by the Executive Director, Student Engagement and Success, or their designate, have access to the appeal route as laid out by these Procedures and University of Manitoba appeal processes. These Procedures should be cross referenced to the University 1 Appeals Committee Terms of Reference.

### Definitions

The following terms have the following defined meanings for the purpose of these Procedures:

- (a) **Appellant** - the student appealing a decision of the Executive Director, Student Engagement and Success
- (b) **Chair** - the Chair of the University 1 Appeals Committee
- (c) **Committee** - the University 1 Appeals Committee
- (d) **Panel** – members of the University 1 Appeals Committee convened for the purpose of hearing appeals:
- (e) **Respondent** - a designate of/or the Executive Director, Student Engagement and Success, in relation to an appeal
- (f) **Secretary**- the Student Transitions and Success Centre Academic Advising Lead will serve as a resource person and recording secretary for the meetings and appeal hearings. The recording secretary shall not have a vote.

### Filing an Appeal

An appeal along with all relevant documentation must be filed with the Secretary of the Committee within ten (10) working days from the date on the letter of decision from the Executive Director, Student Engagement and Success, or their designate, or until such time as the Chair may allow if a written request for an extension is made prior to the deadline.

If an Appellant files an appeal beyond the ten (10) 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 Appellant must submit all documentation that will be relied on for the appeal and must include the following:

- (a) a letter to the Chair clearly explaining the grounds for the appeal;
- (b) a copy of the letter of decision from the Executive Director, Student Engagement and Success, or their designate;

(c) a copy of all documentation submitted to the last appeal level (no new documentation can be submitted at this time); and

(d) the name of the appellant's spokesperson, advocate or representative

The Appellant shall be encouraged to be accompanied by a spokesperson, who may be an advocate from the Student Advocacy Office, or a representative from the University of Manitoba Students' Union, a family member, or a member of the University community not receiving payment for services.

It is the Appellant's sole responsibility to ensure:

(a) that his/her spokesperson is familiar with the University 1 Appeals Committee Terms of Reference and Procedures and;

(b) the adequacy of his/her representation.

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*.

It is the Appellant's responsibility to inform the Secretary of the Committee immediately of any change to his/her contact information. During the appeal process, the Secretary may be required to contact the Appellant by 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.

The remedy sought of the Committee shall not differ from that requested of the last appeal level unless extraordinary circumstances are presented, and no new information or documentation may be included.

### **Process**

The Chair will review the Appellant's submission to determine whether there are grounds for the appeal.

(a) if the Chair determines that 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 of the option to appeal to the Senate Committee on Appeals.

(b) if the Chair determines that there are sufficient grounds, a Panel shall be called to hear the appeal.

(c) if the Chair determines there is relevant information or documentation that was not considered by the University 1 Authorized Withdrawal Committee or Executive Director, Student Engagement and Success, or their designate, the Chair shall return the appeal for consideration at the lower level.

The Secretary shall inform the Executive Director, Student Engagement and Success or their designate, 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.

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. If the deadline is not met, the appeal will proceed without the Respondent's written submission.

The Appellant, his/her spokesperson, the Respondent and Panel members will be provided with a written notice of the appeal hearing date, place and time.

The Secretary shall distribute the Appellant's submission and the Respondent's submission to the Appellant, the Respondent and the Panel members.

An Appellant may withdraw his/her appeal by providing confirmation of such in writing to the Secretary of the Committee.

### **Panels**

In the case where the Chair determines that the Committee has jurisdiction, the Appellant has standing, and there are sufficient grounds to proceed, a Panel shall be called to hear the appeal.

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.

Quorum for each Panel shall consist of:

Four (4) voting members of the Appeals Committee (as defined in the crossed-referenced Terms of Reference), ensuring at least one Student and one academic staff member;

If quorum is compromised on the day of the appeal hearing, the Chair will offer the Appellant the opportunity either to waive quorum and continue with the appeal hearing, or to have the hearing rescheduled as soon as possible.

The evidence before the Panel will be weighed on a balance of probabilities, and the determination of all matters before the Panel will be decided by a simple majority.

The Chair will vote only in the event of a tie.

A member of the Panel shall be disqualified who:

- (a) is currently the instructor of any course in which the Appellant is currently registered; or
- (b) is a student currently registered in any course in which the Appellant is currently registered; or
- (c) is otherwise in a conflict of interest with either the Appellant or the Respondent.

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.

### **At the Appeal hearing**

No observers may be present in the room, unless permitted by the Chair. Requests for such must be made in writing, through the Secretary of the Committee a minimum of five (5) business days in advance of the hearing.

No electronic or other recording devices will be permitted.

All Panel members, the Appellant and/or the spokesperson and the Respondent (if in attendance) will have standing to speak during the appeal hearing.

An Appellant who fails to attend a scheduled appeal hearing may have the appeal considered on the basis of the Appellant's written submission and the written submission made by the Respondent.

The Chair shall introduce all parties and outline the appeal hearing process, including the identification of all individuals with standing. The Chair shall ask if there are any questions about the process involved in the appeal hearing and/or the guidelines under which the Panel operates.

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.

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.

The appeal hearing shall proceed as follows:

(a) the Chair shall ask the Appellant, or his/her spokesperson 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. No new information may be introduced

(b) the Chair shall invite members of the Panel to ask questions arising from the Appellant's oral statement and submitted documentation. The Respondent (if in attendance) is allowed to ask questions for clarification pertaining to the statement, through the Chair;

(c) If the Respondent is in attendance, the Chair shall ask the Respondent to make an oral statement summarizing or elaborating upon 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. 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.

(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 closed session.

The Chair shall, after a decision has been made, report the results of that decision in writing to the Appellant and their spokesperson, and the Respondent. The letter shall include the decision of the Committee and 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 Panel

(iv) the right of the Appellant to appeal the decision to the University of Manitoba Senate Committee on Appeals within twenty (20) working days of the date of the decision. A referral to the Student Advocacy Office shall be made.

All members of the Panel will keep all materials and information used for the appeal in strict confidence and, following the appeal hearing, other than the materials possessed by the recording secretary, delete all electronic materials and surrender any printed materials to the recording secretary who will arrange to have the materials destroyed in a confidential manner.