



**Terms of Reference
Procedural Guidelines for Academic Appeals
Procedural Guidelines for Non-Academic Appeals**

Terms of Reference

1. Preamble

- (a) The Senate Committee on Appeals (the “Committee”), a standing committee of Senate, is an impartial final appeal body of last resort for students at the University of Victoria. In accordance with the *University Act* (RSBC 1996 c. 468), the Senate has delegated to the Committee the authority and responsibility to decide, on behalf of the Senate, all final appeals from students on matters involving the application of academic regulations and requirements.
- (b) The Committee has no jurisdiction to consider a decision where the sole question in the student’s appeal turns on a question of academic judgment.
- (c) The Committee also hears student appeals from decisions of the President to suspend a student or deal summarily with any matter of student discipline in accordance with section 61 of the *University Act*, including appeals of temporary or permanent suspensions following proceedings under the Resolution of Non-Academic Misconduct Allegations Policy (AC1300) or the Sexualized Violence Prevention and Response Policy (GV0245).
- (d) Prior to filing an appeal with the Committee, a student must have pursued and exhausted all other reviews, appeals, or remedies provided by the University of Victoria’s undergraduate or graduate calendars or by the policies or regulations of the university or the student’s faculty.

2. Senate Committee on Appeals

(a) Composition

The membership of the Committee shall consist of fourteen (14) members appointed by the Senate on the recommendation of the Senate Committee on Agenda and Governance, and membership is not restricted to members of Senate. The membership of the Committee shall consist of:

- (i) ten (10) faculty members, one from each faculty, at least five (5) of whom shall be members of Senate (voting)
- (ii) one (1) graduate student representative (voting)
- (iii) three (3) student members of Senate from at least two different faculties (voting)

Total membership – 14 (14 voting members)

- (b) The secretary of the committee is the Associate University Secretary (as designated by the University Secretary).

- (c) A quorum for a meeting of the Committee for matters other than the hearing of a student appeal shall be 50% of the members plus one (1).
- (d) Committee members will receive training on the processes of administrative tribunals and the principles of procedural fairness.
- (e) Senate standing and *ad hoc* committee meetings are normally closed. A committee may determine that the whole or part of any committee discussion or document presented to the committee shall be held in confidence.

3. Hearing Panels Composition

(a) Hearing Panels

Each student appeal that proceeds for consideration by the Committee shall be heard by a Hearing Panel composed of members of the Committee. A Hearing Panel may explore the resolution of an appeal by mediation.

(b) Composition of Three (3) Member Hearing Panels

Each Hearing Panel shall normally consist of three (3) members of the Committee unless the Committee Chair determines that the issues are of such significance that a five (5) member panel is warranted. A three (3) member panel shall be composed as follows:

- (i) the Chair or Vice-Chair of the Committee who shall serve as Chair of the Hearing Panel;
- (ii) one (1) student member; and
- (iii) one (1) faculty member.

(c) Composition of Five (5) Member Hearing Panels

The Committee Chair may determine that the issues under appeal are of such significance that a five (5) member Hearing Panel is warranted, in which case one (1) additional student member and one (1) additional faculty member will be added to the Hearing Panel.

(d) Selection of Hearing Panel Members

The University Secretary shall select the Hearing Panel in accordance with Terms of Reference and Procedural Guidelines, and with a view to creating a fair and impartial Hearing Panel. Before selecting members for the Hearing Panel the University Secretary will instruct potential panel members to disclose any known conflict of interest or apprehension of bias.

(e) Alternate Chair of Hearing Panel

If neither the Chair nor the Vice-Chair of the Committee is able to serve on a Hearing Panel, or at the request of the Committee Chair, the University Secretary shall designate another member of the Committee as the Chair of the Hearing Panel.

(f) Alternate Hearing Panel Members

If not enough Committee members are able to serve on a Hearing Panel, the University Secretary in consultation with the Senate Committee on Agenda and Governance may select faculty members and students who are not Committee members but who are members of Senate. The ratio of faculty members and students set out in subsections (b) and (c) must be maintained.

(g) Sexualized Violence Prevention and Response Policy Training

Committee members (including alternate Hearing Panel members) who are selected to hear an appeal of a decision made under the Sexualized Violence Prevention and Response Policy will receive training in accordance with that policy.

4. Individuals with Expertise to Advise the Committee or Hearing Panel

The Chair of the Committee or a Hearing Panel may at any time appoint one or more individuals with pertinent expertise to inquire into and to advise or report on any question of fact or opinion relevant to any issue in the appeal, including issues involving disability, language, or cultural considerations.

5. Procedural Guidelines

- (a) The Committee shall follow procedural guidelines approved by Senate that govern the conduct of hearings. The Committee shall use the Academic Appeal procedural guidelines for appeals on matters involving the application of academic regulations and requirements, and the Non-Academic Appeal procedural guidelines for appeals of the President's decision to impose non-academic discipline.
- (b) The Hearing Panel has the authority to depart from the approved procedural guidelines in order to ensure procedural fairness and natural justice with regard to an appeal.
- (c) The Committee may, where a majority of all the members of the Committee agree, recommend to the Senate the amendment of the procedural guidelines from time to time in light of experience.

6. Time Limit for Filing an Appeal

Normally, an Appellant must file a Notice of Appeal with the University Secretary within two (2) months of the date of the final decision, action, or treatment being appealed. If the Notice of Appeal is not filed within this period of time, the Appellant must provide reasons for the delay in the Notice of Appeal and in exceptional circumstances the Committee Chair may consider whether the reasons warrant an extension of the time limit.

7. The Decision of a Hearing Panel is Final

The decision of a Hearing Panel is final and no appeal lies to the full Senate Committee on Appeals or to the Senate.

8. Re-opening of an Appeal

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

9. Annual Report to Senate

- (a) The Committee's annual report to Senate shall contain the following information:
 - (i) the number of appeals that have been heard and decided since the last report to Senate;
 - (ii) a summary of each appeal that has been decided, prepared in a manner that is not likely to disclose the identity of the Appellant, the Respondent, or individual instructors, and that includes:
 - (1) the decision, act, or treatment that was the subject of the appeal;
 - (2) the grounds or reasons for the appeal;
 - (3) the remedy or relief sought by the Appellant;
 - (4) the disposition of the appeal by the Hearing Panel; and
 - (iii) the number of appeals that are pending where no decision has been rendered.
- (b) If the Hearing Panel or the Committee has found any university policy, regulation, procedure, or practice, including these Terms of Reference, that appears to need review and revision, the annual report of the Senate Committee on Appeals may recommend appropriate action.

Approved and Revised by Senate:

May 20, 1982

May 4, 1983

October 7, 1992

October 8, 1997

January 12, 2000

October 4, 2000

May 7, 2004

April 3, 2009

October 7, 2011

December 6, 2013

January 5, 2018



PROCEDURAL GUIDELINES FOR ACADEMIC APPEALS

PREAMBLE

The purpose of these Procedural Guidelines is to provide guidance to Hearing Panels and the Parties to an appeal involving the application of academic regulations or requirements.

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

DEFINITIONS

In these Procedural Guidelines:

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

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

“Committee” means the Senate Committee on Appeals.

“Document” includes emails, letters, medical certificates, written opinions, and digitized information.

“Hearing Panel” is defined in the Senate Committee on Appeal’s Terms of Reference.

“Party” means an Appellant or Respondent.

“Respondent” means the Dean or other person or body whose final act, decision, or treatment is the subject of an appeal.

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

“University Secretary” means the University Secretary and includes a person designated by the University Secretary.

The singular of any term includes the plural.

PROCEDURAL GUIDELINES

1.0 NOTICE OF APPEAL

1.1 Prerequisite to Filing an Appeal

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

graduate calendars, or by the Student's faculty, including:

- (a) asking for a review of an assigned grade under the Academic Regulations published in the university's undergraduate and graduate calendars;
- (b) appealing a decision of a committee of a department, school, or faculty to the department, school, or faculty, as the case may be; and
- (c) appealing a decision of a department, school, or faculty to the Dean of the faculty.

1.2 Filing Notice of Appeal

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

1.3 Time Limit within which Notice of Appeal must be filed

Normally, a Notice of Appeal must be filed with the University Secretary within two (2) months of the final decision, action, or treatment being appealed. The University Secretary shall determine whether a Notice of Appeal has been filed within the stipulated period. Where a Notice of Appeal is not filed within the stipulated period, the Appellant may provide written reasons that seek to excuse the delay in filing the Notice of Appeal. In exceptional circumstances the Committee Chair may determine that an extension is warranted, otherwise the Committee Chair shall deny the appeal.

1.4 Content of Notice of Appeal

An Appellant shall submit a completed Notice of Appeal form obtained from the University Secretary, which shall include:

- (a) the final decision, action, or treatment that is being appealed including the date of the decision and name of the Respondent, and a copy of the decision if it was provided in writing;
- (b) a summary of the background to the appeal including details of any previous reviews, appeals, or remedies that have been pursued and exhausted by the Appellant;
- (c) a summary of the reasons and grounds for the appeal;
- (d) a statement of the remedy or relief sought;
- (e) any provision, regulation, or policy on which the Appellant relies;
- (f) whether the Appellant seeks an in-person hearing or is satisfied with a hearing based solely on the written materials;
- (g) any key Documents and a list of those Documents that are relevant to the Appellant's appeal; and

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

2.0 JURISDICTION OF THE COMMITTEE AND COMPOSITION OF THE HEARING PANEL

2.1 Pure Appeal Only

The Committee hears appeals based on the record of the original decision and any other relevant Documents that the decision maker considered. The Committee does not re-hear matters, and will only consider new evidence to the extent necessary to hear an appeal under section 2.2(e).

2.2 Grounds for Appeal

A Student may only appeal on one or more of the following grounds:

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

2.3 Role of the Chair of the Senate Committee on Appeals

- (a) The Committee Chair shall expeditiously review each Notice of Appeal and shall determine whether the appeal is within the Committee's jurisdiction.
- (b) The Committee has jurisdiction to review decisions on matters involving the application of academic regulations or requirements. The Committee has no jurisdiction to consider a decision where the sole question in the Student's appeal turns on a question of academic judgment. The Committee also has jurisdiction to hear appeals from decisions of the President to suspend a Student or

deal summarily with any matter of Student discipline in accordance with section 61 of the *University Act*.

- (c) Where the sole question raised in the appeal turns on the exercise of academic judgment, the Committee Chair shall determine that the appeal is outside the Committee's jurisdiction and the Committee shall not consider it.
- (d) The Committee Chair may request that the Appellant or Respondent submit additional materials or information prior to making a final determination on jurisdiction.
- (e) The Committee Chair's determination on jurisdiction is final and there is no opportunity of further appeal before the Committee or the Senate.
- (f) If the appeal is within the jurisdiction of the Committee, the Committee Chair will determine whether the appeal shall proceed before a three (3) member or (5) member Hearing Panel in accordance with the Committee's Terms of Reference.

2.4 Role of the University Secretary

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

3.0 CREATING THE HEARING PANEL

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

4.0 RESPONSE BY THE RESPONDENT

4.1 Time for Delivering Response

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

4.2 Content of Response

The Response shall include the following information:

- (a) the Respondent's reasons for the decisions, acts, or treatment that were referred to in the Appellant's Notice of Appeal;
- (b) the response to matters contained in the Appellant's Notice of Appeal and a summary of the facts and evidence which the Respondent relies upon;
- (c) the determination sought by the Respondent;
- (d) any provision, regulation, or policy on which the Respondent relies;
- (e) whether the Respondent seeks an in-person hearing or is satisfied with a hearing based solely on the written materials;
- (f) any key Documents and a list of those Documents upon which the Respondent relies to support their Response, and attached copies of those Documents if they have not been supplied by the Appellant; and
- (g) a list of key Documents that the Respondent believes are in the possession of the Appellant and requests from the Appellant, and the reasons why such Documents are necessary.

4.3 University Secretary to forward Response to Appellant

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

5.0 REPLY BY THE APPELLANT

5.1 Time for Delivering a Reply

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

5.2 Content of Reply

A Reply by the Appellant shall be confined to any additional information or Documents that may be necessary to respond to matters raised in the Respondent's Response.

5.3 University Secretary to Forward Reply to Respondent

The University Secretary shall forward a copy of the Appellant's Reply to the Respondent.

6.0 DOCUMENTS

6.1 Documents Distributed to the Hearing Panel

After the Appellant's Reply has been received or the time for filing the Appellant's Reply has expired, the University Secretary shall provide the

members of the Hearing Panel with copies of the Notice of Appeal, Response, and Reply (if any).

6.2 Documents Binder

In advance of the hearing, after the exchange of Documents is complete, the University Secretary will provide a complete set of information and Documents to each Party and to the Hearing Panel.

7.0 PRE-HEARING CONFERENCE

7.1 After all the Documents have been received and distributed to the Hearing Panel, the Hearing Panel Chair shall convene a pre-hearing conference of the Parties and the Hearing Panel. The purposes of a pre-hearing conference are to:

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

7.2 Synoptic minutes of the pre-hearing conference which record the expectations of the Hearing Panel with regard to the conduct of the appeal shall be made and distributed to the Parties.

7.3 At a pre-hearing conference, the Hearing Panel may make any order that will assist with the expeditious and fair hearing of the appeal.

8.0 NEW EVIDENCE

8.1 A Party may wish to introduce new evidence:

- (a) during an in-person hearing, from a Document or a witness; or
- (b) in the case of a hearing based solely on written materials, prior to delivering their final written argument.

8.2 In such cases, the Hearing Panel will not receive this new evidence unless

the evidence is relevant and cogent, and:

- (a) the Party could not reasonably have anticipated based on the Notice of Appeal, the Response, and the Reply that the evidence would be relevant to the appeal; or
 - (b) the Party could not, with reasonable diligence, have discovered the existence of the evidence.
- 8.3 Notwithstanding the absence of any of the factors in section 8.2, the Hearing Panel may, when it is satisfied that principles of fairness and natural justice favour the reception of the evidence, permit the evidence to be received.
- 8.4 Where the Hearing Panel decides to permit new evidence to be received, the other Party is entitled, upon request, to an adjournment of an in-person hearing or an extension of relevant deadlines in a hearing based solely on written materials, for a sufficient period to enable the Party to consider and respond to the new evidence.

9.0 APPEAL BASED SOLELY ON WRITTEN MATERIALS

9.1 Appeal Based Solely on Written Materials Unless Hearing Panel Determines Otherwise

Unless the Hearing Panel determines otherwise at the pre-hearing conference, all appeals heard by the Committee will proceed based solely on the written materials submitted by the Parties.

9.2 Considerations Involved in Hearing Panel's Determination

Normally the Hearing Panel will determine that an appeal shall proceed based solely on written materials submitted by the Parties, unless the circumstances of the appeal warrant that an in-person hearing be held. An in-person hearing is necessary where the Hearing Panel determines that:

- (a) there are issues of credibility in the appeal that can only be determined by calling persons to appear before a Hearing Panel;
- (b) for reasons of procedural fairness there are other circumstances involved in the appeal that require an in-person hearing;
- (c) the objective significance of the issue to one or both of the Parties, or the circumstances of one or both of the Parties, is such that an in-person hearing is required.

9.3 Delivery of Final Written Argument Where No In-Person Hearing

Where a Hearing Panel orders that an appeal be dealt with solely on the basis of written material submitted by the Parties, each Party has the option of delivering a final written argument with regard to why the appeal should be allowed or denied. A Party's final written argument may not raise new grounds of appeal or introduce new evidence that has not been referred to in the Notice of Appeal, Response or Reply. A Party's

final written argument must be delivered to the University Secretary within five (5) business of the Hearing Panel's order.

10.0 "IN-PERSON" HEARINGS

10.1 Date, Time and Place of In-Person Hearing

The University Secretary, after consulting the availability of the members of the Hearing Panel, the Parties, and their advocates including legal counsel, if any, shall set the date, time, and place for an in-person hearing and send a Notice of Hearing to the Parties and the members of the Hearing Panel. Unless all of the Parties agree to a shortened period of notice, there must be at least five (5) Business days between the date when the University Secretary sends the Notice of Hearing to the Parties and the date set for the commencement of an in-person hearing.

10.2 *In Camera* Hearing and Confidentiality

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

10.3 Presence of Parties and Witnesses During In-Person Hearing

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

10.4 Order of Witnesses, Questioning and Final Submissions

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

- (a) The Hearing Panel Chair invites the Appellant to make a brief opening statement (not exceeding 10 minutes) that outlines the issues in the appeal from the Appellant's perspective.
- (b) The Hearing Panel Chair invites the Appellant to present evidence that is relevant to the issues in the appeal. Witnesses who are called by the Appellant will be questioned in the following order:
 - (i) the Appellant may address questions to the witness;

- (ii) the Respondent may address questions to the witness;
 - (iii) the Appellant may address further questions to the witness that are limited to matters that have been raised for the first time in questions by the Respondent; and
 - (iv) members of the Hearing Panel may address questions to the witness.
- (c) After the Appellant has completed the presentation of the Appellant's evidence, the Hearing Panel Chair invites the Respondent to make a brief opening statement (not exceeding 10 minutes) that outlines the issues in the appeal from the Respondent's perspective.
- (d) The Hearing Panel Chair invites the Respondent to present evidence that is relevant to the issues in the appeal. Witnesses who are called by the Respondent will be questioned in the following order:
- (i) the Respondent may address questions to the witness;
 - (ii) the Appellant may address questions to the witness;
 - (iii) the Respondent may address further questions to the witness that are limited to matters that have been raised for the first time in questions by the Appellant; and
 - (iv) members of the Hearing Panels may address questions to the witness.
- (e) The questioning of witnesses is subject to the direction of the Hearing Panel Chair. The Hearing Panel Chair may refuse to permit a question to be answered by a witness when:
- (i) the question is not relevant to an issue in the appeal;
 - (ii) the witness has already answered the question or a similar question that has been addressed to the witness by the Party asking the question;
 - (iii) the question requests the witness to divulge information or communications that are privileged, confidential or protected from disclosure by the Freedom of Information and Protection of Privacy Act; or
 - (iv) the Party asking the question is badgering the witness.
- (f) After Parties have presented their evidence, the Hearing Panel may invite other persons to attend the hearing and give evidence to the Hearing Panel. Such an invitation should only be made when:
- (i) the Hearing Panel believes that the evidence introduced by the Parties is insufficient to enable the Hearing Panel to

make a decision; and

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

10.5 Admissibility of and Weight Attributed to Evidence

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

10.6 Written Submissions

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

10.7 Recording of the In-Person Hearing of an Appeal

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

10.8 Adjournments

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

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

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

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

11.0 REPRESENTATION

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

12.0 ACCESS OF PARTIES TO WRITTEN MATERIAL

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

13.0 FAILURE TO COMPLY WITH PROCEDURAL GUIDELINES OR HEARING PANEL ORDER

Where a Party fails to comply with the Procedural Guidelines or an order of a Hearing Panel, the Hearing Panel may, after providing reasonable notice to the Party of the consequences of a failure to comply:

- (a) dismiss the appeal where the Appellant fails to comply; or
- (b) allow the appeal where the Respondent fails to comply.

14.0 MEMBER OF A HEARING PANEL UNABLE TO CONTINUE

Where a member of a Hearing Panel withdraws or is unable to serve because of a conflict of interest or other reason the remaining members of the Hearing Panel may continue and complete the hearing of the appeal provided that the Hearing Panel has a minimum of three (3) members. If the number of remaining Hearing Panel members is fewer than three (3), the Committee Chair will determine, depending on the circumstances and the stage of the appeal, whether it is necessary to dissolve the Hearing Panel and for the University Secretary to create a new Hearing Panel.

15.0 DECISION OF HEARING PANEL

15.1 Basis of Decision

In coming to its decision, a Hearing Panel shall limit its consideration to:

- (a) The Notice of Appeal, Response, and Reply and other Documents provided to the Hearing Panel by the Parties during the hearing process;
- (b) Testimony and other evidence submitted to the Hearing Panel during the hearing process if there was an in-person hearing; and
- (c) The calendar, academic regulations, University Policies, or policies approved by a Faculty or Department.

15.2 Motion

The Hearing Panel's decision shall be made by majority vote on a formal motion of the Hearing Panel. If the appeal is allowed, the Hearing Panel will then proceed to consider any orders or recommendations that may be necessary to implement the Hearing Panel's decision to allow the appeal.

15.3 Orders and Recommendations that a Hearing Panel May Make

- (a) A Hearing Panel may:
 - (i) Allow an appeal, and
 - (1) where the appeal relates to a decision or action, refer the subject matter of the appeal back to the Respondent or other appropriate person or body for review or reconsideration in accordance with the reasons of the Hearing Panel;
 - (2) where the appeal relates to the treatment of the Appellant, refer such treatment with recommendations for redress to the Respondent or other appropriate person or body with authority over the Respondent; or
 - (3) make any decision that the Senate could make with regard to the subject matter of the appeal;
 - (ii) Dismiss the appeal; or
 - (iii) Dismiss the appeal and make recommendations to the Respondent or other appropriate person or body.
- (b) The reasons of the Hearing Panel may contain recommendations with regard to:
 - (i) The process by which the matter should be reviewed or

reconsidered; and

- (ii) The factors that either should or should not be taken into account upon the review or reconsideration of the matter.

15.4 Notification of Hearing Panel's Decision Prior to Reasons

A Hearing Panel may notify the University Secretary of the Hearing Panel's decision with regard to an appeal and subsequently deliver the Hearing Panel's written reasons. The University Secretary shall communicate the decision and the written reasons to the Parties.

15.5 Confidentiality

All deliberations of a Hearing Panel are confidential. Members of a Hearing Panel shall not discuss the substance of an appeal outside hearings or meetings of the Hearing Panels.

15.6 Action Report by a Party

Where the Hearing Panel orders that a Party or another university official take an action as a result of the Hearing Panel's final decision, the Party or the university official is required to submit a written report to the Hearing Panel Chair within 30 days of the decision that confirms that the action has been taken or completed.

15.7 Report of Decision

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

Approved and Revised by Senate:

April 3, 2009

October 7, 2011

January 5, 2018



PROCEDURAL GUIDELINES FOR NON-ACADEMIC APPEALS

PREAMBLE

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

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

DEFINITIONS

In these Procedural Guidelines:

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

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

“Committee” means the Senate Committee on Appeals.

“Document” includes letters, emails, medical certificates, written opinions, and digitized information.

“Hearing Panel” is defined in the Senate Committee on Appeal’s Terms of Reference.

“Party” means an Appellant or Respondent.

“Respondent” means the person or body whose final act, decision, or treatment is the subject of an appeal.

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

“University Secretary” means the University Secretary and includes a person designated by the University Secretary.

The singular of any term includes the plural.

PROCEDURAL GUIDELINES

1.0 NOTICE OF APPEAL

1.1 Filing Notice of Appeal

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

1.2 Time Limit within which Notice of Appeal must be filed

Normally, a Notice of Appeal must be filed with the University Secretary within two (2) months of the final decision, action, or treatment being appealed. The University Secretary shall determine whether a Notice of Appeal has been filed within the stipulated period. Where a Notice of Appeal is not filed within the stipulated period, the Appellant may provide written reasons that seek to excuse the delay in filing the Notice of Appeal. In exceptional circumstances the Committee Chair may determine that an extension is warranted, otherwise the Committee Chair shall deny the appeal.

1.3 Content of Notice of Appeal

An Appellant shall submit a completed Notice of Appeal form obtained from the University Secretary, which shall include:

- (a) the final decision, action, or treatment that is being appealed including the date of the decision and name of the Respondent, and a copy of the decision if it was provided in writing;
- (b) a summary of the background to the appeal;
- (c) a summary of the reasons and grounds for the appeal;
- (d) a statement of the remedy or relief sought;
- (e) any provision, regulation, or policy on which the Appellant relies;
- (f) whether the Appellant seeks an in-person hearing or is satisfied with a hearing based solely on the written materials;
- (g) any key Documents and a list of those Documents that are relevant to the Appellant's appeal; and
- (h) a list of key Documents that the Appellant believes are in the possession of the Respondent and requests from the Respondent, and the reasons why the Documents are necessary.

2.0 JURISDICTION OF THE COMMITTEE AND COMPOSITION OF THE HEARING PANEL

2.1 Pure Appeal Only

The Committee hears appeals based on the record of the original decision and any other relevant Documents that the decision maker considered. The Committee does not re-hear matters, and will only consider new evidence to the extent necessary to hear an appeal under section 2.2(e).

2.2 Grounds for Appeal

A Student may only appeal on one or more of the following grounds:

- (a) that a procedural error occurred of sufficient magnitude that it may reasonably be seen to have affected the fairness of the

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

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

2.3 Role of the Chair of the Senate Committee on Appeals

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

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

2.4 Role of the University Secretary

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

3.0 CREATING THE HEARING PANEL

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

4.0 RESPONSE BY THE RESPONDENT

4.1 Time for Delivering Response

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

4.2 Content of Response

The Response shall include the following information:

- (a) the Respondent's reasons for the decisions, acts, or treatment that were referred to in the Appellant's Notice of Appeal;
- (b) the response to matters contained in the Appellant's Notice of Appeal and a summary of the facts and evidence which the Respondent relies upon;
- (c) the determination sought by the Respondent;
- (d) any provision, regulation, or policy on which the Respondent relies;
- (e) whether the Respondent seeks an in-person hearing or is satisfied with a hearing based solely on the written materials;
- (f) any key Documents and a list of those Documents upon which the

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

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

4.3 University Secretary to forward Response to Appellant

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

5.0 REPLY BY THE APPELLANT

5.1 Time for Delivering a Reply

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

5.2 Content of Reply

A Reply by the Appellant shall be confined to any additional information or Documents that may be necessary to respond to matters raised in the Respondent's Response.

5.3 University Secretary to Forward Reply to Respondent

The University Secretary shall forward a copy of the Appellant's Reply to the Respondent.

6.0 DOCUMENTS

6.1 Documents Distributed to the Hearing Panel

After the Appellant's Reply has been received or the time for filing the Appellant's Reply has expired, the University Secretary shall provide the members of the Hearing Panel with copies of the Notice of Appeal, Response, and Reply (if any).

6.2 Documents Provided to Parties

In advance of the hearing, after the exchange of Documents is complete, the University Secretary will provide a complete set of information and Documents to each Party and to the Hearing Panel.

7.0 PRE-HEARING CONFERENCE

- 7.1 After all the Documents have been received and distributed to the Hearing Panel, the Hearing Panel Chair shall convene a pre-hearing conference of the Parties and the Hearing Panel. The purposes of a pre-hearing conference are to:

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

8.0 NEW EVIDENCE

- 8.1 A Party may wish to introduce new evidence:
- (a) during an in-person hearing, from a Document or a witness; or
 - (b) in the case of a hearing based solely on written materials, prior to delivering their final written argument.
- 8.2 In such cases, the Hearing Panel will not receive this new evidence unless the evidence is relevant and cogent, and:
- (a) the Party could not reasonably have anticipated based on the Notice of Appeal, the Response, and the Reply that the evidence would be relevant to the appeal; or
 - (b) the Party could not, with reasonable diligence, have discovered the existence of the evidence.
- 8.3 Notwithstanding the absence of any of the factors in section 8.2, the Hearing Panel may, when it is satisfied that principles of fairness and natural justice favour the reception of the evidence, permit the evidence to be received.
- 8.4 Where the Hearing Panel decides to permit new evidence to be received, the other Party is entitled, upon request, to an adjournment of an in-

person hearing or an extension of relevant deadlines in a hearing based solely on written materials, for a sufficient period to enable the Party to consider and respond to the new evidence.

9.0 APPEAL BASED SOLELY ON WRITTEN MATERIALS

9.1 Appeal Based Solely on Written Materials Unless Hearing Panel Determines Otherwise

Unless the Hearing Panel determines otherwise at the pre-hearing conference, all appeals heard by the Committee will proceed based solely on the written materials submitted by the Parties.

9.2 Considerations Involved in Hearing Panel's Determination

Normally the Hearing Panel will determine that an appeal shall proceed based solely on written materials submitted by the Parties, unless the circumstances of the appeal warrant that an in-person hearing be held. An in-person hearing is necessary where the Hearing Panel determines that:

- (a) there are issues of credibility in the appeal that can only be determined by calling persons to appear before a Hearing Panel;
- (b) for reasons of procedural fairness there are other circumstances involved in the appeal that require an in-person hearing;
- (c) the objective significance of the issue to one or both of the Parties, or the circumstances of one or both of the Parties, is such that an in-person hearing is required.

9.3 Delivery of Final Written Argument Where No In-Person Hearing

Where a Hearing Panel orders that an appeal be dealt with solely on the basis of written material submitted by the Parties, each Party has the option of delivering a final written argument with regard to why the appeal should be allowed or denied. A Party's final written argument may not raise new grounds of appeal or introduce new evidence that has not been referred to in the Notice of Appeal, Response or Reply. A Party's final written argument must be delivered to the University Secretary within five (5) business days of the Hearing Panel's order.

10.0 "IN-PERSON" HEARINGS

10.1 Date, Time and Place of In-Person Hearing

The University Secretary, after consulting the availability of the members of the Hearing Panel, the Parties, and their advocates including legal counsel, if any, shall set the date, time, and place for an in-person hearing and send a Notice of Hearing to the Parties and the members of the Hearing Panel. Unless all of the Parties agree to a shortened period of notice, there must be at least five (5) Business days between the date when the University Secretary sends the Notice of Hearing to the Parties and the date set for the commencement of an in-person hearing.

10.2 *In Camera* Hearing and Confidentiality

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

10.3 Presence of Parties and Witnesses During In-Person Hearing

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

10.4 Order of Witnesses, Questioning and Final Submissions

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

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

- (i) the Respondent may address questions to the witness;
 - (ii) the Appellant may address questions to the witness;
 - (iii) the Respondent may address further questions to the witness that are limited to matters that have been raised for the first time in questions by the Appellant; and
 - (iv) members of the Hearing Panels may address questions to the witness.
- (e) The questioning of witnesses is subject to the direction of the Hearing Panel Chair. The Hearing Panel Chair may refuse to permit a question to be answered by a witness when:
- (i) the question is not relevant to an issue in the appeal;
 - (ii) the witness has already answered the question or a similar question that has been addressed to the witness by the Party asking the question;
 - (iii) the question requests the witness to divulge information or communications that are privileged, confidential or protected from disclosure by the *Freedom of Information and Protection of Privacy Act*; or
 - (iv) the Party asking the question is badgering the witness.
- (f) After Parties have presented their evidence, the Hearing Panel may invite other persons to attend the hearing and give evidence to the Hearing Panel. Such an invitation should only be made when:
- (i) the Hearing Panel believes that the evidence introduced by the Parties is insufficient to enable the Hearing Panel to make a decision; and
 - (ii) the Hearing Panel has given the Parties notice of its intention to invite other witnesses and has given the Parties an opportunity to make representations to the Hearing Panel about the proposed invitation.
- (g) The Hearing Panel Chair will invite the Appellant to make a final submission (normally limited to 20 minutes) with regard to the disposition of the appeal.
- (h) The Hearing Panel Chair will invite the Respondent to make a final submission (normally limited to 25 minutes) with regard to the disposition of the appeal.
- (i) The Hearing Panel Chair will invite the Appellant to respond (normally limited to five minutes) to the Respondent's submission.

10.5 Admissibility of and Weight Attributed to Evidence

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

10.6 Written Submissions

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

10.7 Recording of the In-Person Hearing of an Appeal

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

10.8 Adjournments

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

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

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

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

11.0 REPRESENTATION

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

12.0 ACCESS OF PARTIES TO WRITTEN MATERIAL

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

13.0 FAILURE TO COMPLY WITH PROCEDURAL GUIDELINES OR HEARING PANEL ORDER

Where a Party fails to comply with the Procedural Guidelines or an order of a Hearing Panel, the Hearing Panel may, after providing reasonable notice to the Party of the consequences of a failure to comply:

- (a) dismiss the appeal where the Appellant fails to comply; or
- (b) allow the appeal where the Respondent fails to comply.

14.0 MEMBER OF A HEARING PANEL UNABLE TO CONTINUE

Where a member of a Hearing Panel withdraws or is unable to serve because of a conflict of interest or other reason the remaining members of the Hearing Panel may continue and complete the hearing of the appeal provided that the Hearing Panel has a minimum of three (3) members. If the number of remaining Hearing Panel members is fewer than three (3), the Committee Chair will determine, depending on the circumstances and the stage of the appeal, whether it is necessary to dissolve the Hearing Panel and for the University Secretary to create a new Hearing Panel.

15.0 DECISION OF A HEARING PANEL

15.1 Basis of Decision

In coming to its decision, a Hearing Panel shall limit its consideration to:

- (a) The Notice of Appeal, Response, and Reply and other Documents provided to the Hearing Panel by the Parties during the hearing process;
- (b) Testimony and other evidence submitted to the Hearing Panel during the hearing process if there was an in-person hearing; and
- (c) The calendar, academic regulations, University Policies, or policies approved by a Faculty or Department.

15.2 Motion

The Hearing Panel's decision shall be made by majority vote on a formal motion of the Hearing Panel. If the appeal is allowed, the Hearing Panel will then proceed to consider any orders or recommendations that may

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

15.3 Orders and Recommendations that a Hearing Panel May Make

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

15.4 Notification of Hearing Panel's Decision Prior to Reasons

A Hearing Panel may notify the University Secretary of the Hearing Panel's decision with regard to an appeal and subsequently deliver the Hearing Panel's written reasons. The University Secretary shall communicate the decision and the written reasons to the Parties.

15.5 Confidentiality

All deliberations of a Hearing Panel are confidential. Members of a Hearing Panel shall not discuss the substance of an appeal outside hearings or meetings of the Hearing Panels.

15.6 Action Report by a Party

Where the Hearing Panel orders that a Party or another university official take an action as a result of the Hearing Panel's final decision, the Party or the university official is required to submit a written report to the Hearing Panel Chair within 30 days of the decision that confirms that the action has been taken or completed.

15.7 Report of Decision

- (a) The Hearing Panel shall provide reasons for its decision in a

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

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

Approved and Revised by Senate:
January 5, 2018