



TEMERTY FACULTY OF MEDICINE UNIVERSITY OF TORONTO

GUIDELINES FOR PROCEDURE - FACULTY OF MEDICINE APPEALS COMMITTEE

1 Membership

Chair, 14 faculty members (including 2 Vice Chairs), 4 learners - one each from the Undergraduate Medical Program, Medical Radiation Sciences Program, Physician Assistant Program, and Postgraduate Medical Programs.

2 Quorum

The Chair or a Vice Chair, and six (6) members, at least one of which will be a learner.

3 Function

- a) To hear appeals of decisions of Faculty Council's Boards of Examiners, and to make rulings on such appeals that are binding and final, subject to an appeal to the Governing Council.
- b) To recommend to Council changes to policies and procedures with respect to petitions and appeals by learners.
- c) To generate and disseminate recommendations arising from appeals.
- d) To report to the Council at least annually on its activities and decisions.

4 Acceptable Grounds for Appeal

Appeals may only be based on grounds that the decision was unreasonable because:

- a) Faculty regulations and procedures were not followed; or
- b) Relevant evidence was not taken into consideration when the decision was made; or
- c) The decision could not be supported by the evidence which was considered when it was made.

5 Procedures to File an Appeal and Pre-Appeal Procedures

a) *Notice of Appeal*

A learner wishing to appeal a decision of a Board of Examiners in the Faculty must notify the Faculty Affairs Officer in writing of the intention to do so **not more than 30 days after receiving written notice of the decision to be appealed.**

NOTE: All intervals are in calendar days. Periods ending on a weekend or holiday will extend to the first following working day

b) **Informal Consideration**

As soon as mutually convenient, within 30 days of giving Notice of Appeal, and prior to filing the Statement of Appeal (see 5d below), the appellant must meet with the appropriate Vice Dean or Vice Dean's designate to discuss the proposed appeal in an effort to resolve the matter. The meeting is confidential to the appellant and its content will not be disclosed subsequently. Electronic recording of the Informal Consideration meeting is prohibited. This is an essential element of the process and the appeal will not proceed until after this meeting; appellants who do not arrange to meet with the Vice Dean (or designate) will be considered to have withdrawn the appeal. Delay on the part of the Vice Dean will not affect the appellant's right to appeal. The appellant and the Vice Dean (or designate) are each permitted to bring one support person to observe the meeting. This person is not permitted to participate.

There are three potential outcomes at this stage:

- i. the appellant withdraws the appeal
- ii. the Vice Dean (or designate) learns new information that may affect the decision of the Board of Examiners and refers the matter back for reconsideration
- iii. the appeal proceeds.

c) **Confirmation of Appeal**

After meeting for Informal Consideration the appellant has a maximum of 14 days to **confirm** with the Faculty Affairs Officer, in writing, if they intend to proceed with the appeal.

d) **Statement of Appeal**

The appellant must provide the Faculty Affairs Officer with a written Statement of Appeal, which includes the grounds for the appeal, any supporting documentation, and a clear statement of the desired resolution.

NOTE: 1 The Statement of Appeal must be filed within 30 days after filing the

Confirmation of Appeal. Failure to file within 30 days will be considered abandonment of the appeal, and the appeal will not be considered further. The Chair or Vice Chair may, in their discretion, extend this time limit at the request of the appellant.

2 Appellants have the right to legal counsel or other representative at

appeal hearings. If, at their own expense, the appellant wishes to appear with legal counsel or other representative, they should so inform the Faculty Affairs Officer at the time they submit their Statement of Appeal. Failure to do so may result in delay of the hearing to permit the program to engage and brief their own legal counsel.

e) **Faculty Response**

The Faculty Affairs Officer will confirm receipt of the Statement of Appeal and supporting documentation and provide a copy of such to the Faculty Representative (who is the appropriate Vice Dean or delegate). In response to the appellant's Statement of Appeal the Faculty Representative will provide a **Faculty Response** and supporting documentation.

This material should be filed with the Faculty Affairs Officer no longer than 30 days following the receipt of the appellant's Statement of Appeal. The Chair or a Vice Chair may, in their discretion, extend this time limit at the request of the Faculty Representative.

The Faculty Affairs Officer will confirm receipt and forward a copy of the Faculty Response and supporting documentation to the appellant.

f) ***Scheduling of Appeal***

The Faculty Affairs Officer will schedule the appeal in consultation with the appellant and the Faculty Representative. The Chair or a Vice Chair will determine a time allocation for the hearing, including the time allocation for the appellant and Faculty Representative within the course of the hearing.

g) Once the appeal is scheduled, and time allocated, the Faculty Affairs Officer will write to the appellant to:

- i. Inform the appellant of the date, time and place of the hearing of the appeal, and the time allocated for the hearing;
- ii. Inform the appellant that they may appear in person with or without legal counsel or other representative, call evidence, examine witnesses and present arguments in person or by counsel;
- iii. Inform the appellant that, should they not attend the hearing as notified, the Committee may proceed in their absence, and the appellant will not be entitled to any further notice of the proceedings, except for notice of the decision of the Committee.

h) ***Faculty Representation***

The Faculty Representative will be invited to attend or send a delegate to the hearing. The Faculty Representative has the right to be represented by legal counsel and may call evidence and present arguments in person or by counsel.

i) ***Material for Hearing***

The Faculty Affairs Officer will distribute, on a confidential basis, a copy of the Statement of Appeal and any other material provided on behalf of the appellant and the Faculty Response and supporting documentation to each member of the Appeals Committee, to the appellant and/or their legal counsel or representative, and to the Faculty Representative and their counsel, at least seven days prior to the hearing.

j) ***Conflict of Interest***

Members of the Appeals Committee are responsible for reviewing the material for the hearing in advance, and, if appropriate, notifying the Faculty Affairs Officer and Chair or Vice Chair in the event of a potential conflict of interest.

k) ***Powers of Chair or Vice Chair***

The Chair or a Vice Chair is responsible for determining any pre-hearing issues that arise, including any dispute as to scheduling or pre-hearing compliance with these guidelines. Any request for such a determination will be made in writing to the Faculty Affairs Officer.

The Chair or a Vice Chair may, with the approval of the Dean, request a legal opinion on any matter relating to an appeal prior to the conclusion of the appeal.

6 Conduct of Hearing

- a) The purpose of the hearing is to assist the Appeals Committee in understanding the facts relevant to the appeal, and the basis for the appeal. It is not an adversarial trial between the appellant and Faculty. The Faculty Affairs Officer will record the hearing. No other electronic recording of the hearing is permitted.

- b) The hearing will be held *in camera* unless the appellant elects to have it in an open session.
- *In camera* hearings will be attended by only the Chair/Vice Chair, members of the Committee, the Faculty Affairs Officer, the appellant and legal counsel or representative, the Faculty Representative and legal counsel, and the witnesses presenting evidence. Either party may ask the Chair to have witnesses wait outside the hearing room until they are called upon to present their evidence.
 - Open sessions will be open to all of the above, all witnesses, other members of the university, and support persons for the appellant. Only the appellant, Faculty Representative, legal counsel or representatives, and witnesses will be permitted to speak during the proceedings. Any observers must remain silent or may be asked to leave the hearing.
 - The Chair may decide to move from open to closed session if deemed necessary.
- c) The hearing will be chaired by the Chair or a Vice Chair ("the Hearing Chair"). The Hearing Chair will decide any issue as to procedure or evidence at the hearing. The Faculty Affairs Officer will act as Secretary for the hearing.
- d) At the commencement of the hearing, the Hearing Chair will summarize the procedure for the hearing, and reaffirm the allocation of time provided for the hearing among the appellant and Faculty Representative.
- e) The appellant will make any statements relevant to the appeal and/or call any evidence and introduce arguments in support of the appeal.
- f) The members of the Committee, the Faculty Representative and their counsel, will be given the opportunity to question the appellant and any witnesses called by the appellant.
- g) After the presentation by the appellant, the Faculty Representative will present the evidence upon which the decision was made and may also call witnesses.
- h) The members of the Committee and the appellant and their counsel, will be given the opportunity to question the Faculty Representative and any witnesses called by the Faculty. The appellant will be provided the opportunity to lead the reply.
- i) Members of the Committee will be given a final opportunity to question the appellant, the Faculty Representative, and any witnesses.
- j) The appellant, or the appellant's legal counsel or representative, will be given the opportunity to make a final statement. The Faculty Representative or counsel will be given an opportunity to respond. The hearing will then be concluded.
- k) The Committee will proceed to consider and determine its decision on the appeal in closed session attended only by the Chair/Vice Chair, the Faculty Affairs Officer, and the members of the Committee present at the hearing. Where possible, the Committee's consideration and decision will take place immediately following the conclusion of the hearing.

7 Decision of the Committee

The Appeals Committee may:

- a) Uphold an appeal in whole or in part
- b) Reject an appeal, or
- c) Refer the case back to the Board or committee concerned.

The decision of the Committee will be by a show of hands, and will be determined by a majority of the members present. The Hearing Chair will vote only in the event of a tie. The Hearing Chair will, in consultation with the Committee, prepare reasons for the Committee's decision.

8 Notice of Decision and Reasons

The decision will be sent to the appellant and/or legal counsel or representative on the working day after the day on which the decision is made.

The reasons for the decision will be sent to the appellant within 14 days of the date of the decision. Copies of the decision and reasons will be sent to the Chair of the Board of Examiners whose decision was appealed, and to the Faculty Representative or legal counsel. The recording of the hearing will be destroyed once the decision and reasons have been sent.

9 Minutes

The minutes of the Appeals Committee will record only the date and time of the appeal, those present, a brief summary of the appeal, and the Committee's decision.

10 Report to Faculty Council

The Chair of the Appeals Committee will prepare annually a written report to be presented at Faculty Council summarizing the activities of the Committee and its decisions, without disclosing the name(s) of the appellant(s) involved, and any recommendations.

11 Appeal of Committee's decision

Decisions of the Appeals Committee are final and binding on the Faculty.

In the event that the appeal is rejected, the Chair will advise the appellant of their right to appeal to the Academic Appeals Board of the Governing Council. To do this the appellant should consult <https://governingcouncil.utoronto.ca/adfg> concerning the preparation and submission of such an appeal.