



## **GUIDELINES FOR PROCEDURE - FACULTY OF MEDICINE APPEALS COMMITTEE**

### **1 Membership**

Chair, 14 faculty members (including 2 Vice-Chairs), 4 students - 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 student.

### **3 Function**

- a) To hear appeals of Undergraduate students, Postgraduate students, students in the Medical Radiation Sciences Programs and students in the Physician Assistant Professional Degree Program of the Faculty of Medicine against decisions of Council and its Standing committees and Boards, 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 students.
- 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 student 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 student 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 student and its content will not be disclosed subsequently. This is an essential element of the process and the appeal will not proceed until after this meeting; students who do not arrange to meet with the Vice-Dean or Vice-Dean's designate will be considered to have withdrawn the appeal. Delay on the part of the Vice-Dean will not affect the student's right to appeal.

There are three potential outcomes at this stage:

- i. the student 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 student has a maximum of 14 days to **confirm** with the Faculty Affairs Officer, in writing, if he/she intends to proceed with the appeal.

d) ***Statement of Appeal***

The student must provide the Faculty Affairs Officer with a written Statement of Appeal, setting out the grounds for the appeal, together with any supporting documentation.

**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 his/her discretion, extend this time limit at the request of the student.

**2 Students have the right to legal counsel at appeals.** If the student wishes to appear with legal counsel, he/she should so inform the Faculty Affairs Officer at least 21 days prior to the scheduled date for the appeal hearing. Failure to do so may result in delay of the hearing to permit the program to engage and brief legal counsel.

e) ***Faculty Response***

The Faculty Affairs Officer will provide a copy of the Statement of Appeal and supporting documentation to the Faculty Representative (who is the appropriate Vice Dean or delegate). In response to the student'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 student's Statement of Appeal. The Chair or a Vice-Chair may, in his/her discretion, extend this time limit at the request of the program.

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

f) ***Scheduling of Appeal***

Following the receipt of the Statement of Appeal, the Faculty Affairs Officer will schedule the appeal in consultation with the student and the Faculty Representative. The Chair or a Vice-Chair will review the Statement of Appeal and determine a time allocation for the hearing, including the time allocation for the student 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 student to:

- i. Acknowledge receipt of the Statement of Appeal,
- ii. Inform the student of the date, time and place of the hearing of the appeal, and the time allocated for the hearing;
- iii. Inform the student that he/she may appear in person with or without legal counsel, call evidence, examine witnesses and present arguments in person or by counsel;
- iv. Inform the student that, should she/he not attend the hearing as notified, the Committee may proceed in her/his absence, and the student 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 student and the Faculty Response and supporting documentation to each member of the Appeals Committee, to the student and her/his counsel, and to the Faculty Representative and her/his 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 the 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 student and Faculty.
- b) The hearing will be held in camera unless the student 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 student and legal counsel, the Faculty Representative and legal counsel, and the witness presenting evidence at the time. Other witnesses will wait outside the hearing room.
  - Open sessions will be open to all of the above, other witnesses, and other members of the university.
  - The Appeals Committee may decide to move from open to closed session if deemed necessary to protect a witness.
- 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 student and Faculty Representative.
- e) The student 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 her/his counsel, will be given the opportunity to question the student and any witnesses called by the student.
- g) After the presentation by the student, 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 student and her/his counsel, will be given the opportunity to question the Faculty Representative and any witnesses called by the Faculty. The student will be provided the opportunity to lead the reply.
- i) Members of the Committee will be given a final opportunity to question the student, the Faculty Representative, and any witnesses.
- j) The student, or the student’s counsel, 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 Secretary (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 student and/or counsel on the working day after the day on which the decision is made.

The reasons for the decision will be sent to the student within 14 days of the date of the decision. Copies of the decision and reasons will be sent to the Chair of the Board or committee whose decision was appealed, and to the Faculty Representative.

## **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 student(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 student of their right to appeal to the Academic Appeals Board of the Governing Council. To do this the student should consult the Secretary, Academic Appeals Committee, Office of the Governing Council concerning the preparation and submission of such an appeal.